

What's Been Happening



How to Hang a Shingle Lunch and Learn

In June, the 13th Circuit and the Professional Development Committee hosted a lunch and learn entitled "How to Hang a Shingle" at the Poinsett Club in Greenville. Guest speakers Dan Eller and Jennifer Breaux-Howe, two attorneys who have started successful law firms, spoke to the group about how to start a firm and the challenges you might face.



Young Lawyers and Summer Clerks Greenville Drive Game

Young lawyers and summer clerks of the Upstate got together to enjoy a Greenville Drive game on

Damages in Condemnation Cases

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issue—diminution of value resulting from upstream changes to the roadway configuration—*Powell* does not address or affect a landowner's right to recover other damages, including damages caused by changes in access to and from his property, which appear to remain compensable under South Carolina law.¹⁰ However, it remains to be seen whether the rule in *Powell* will be applied in such a manner that the government will be able to take private property without restoring the owner to as good a position as if their property had not been taken.

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July 28. The event was co-sponsored by the YLD and the Greenville Bar. There was a good turnout, and a great time was had by all.



Midlands Tech CLE

Over 36 young lawyers came out for the Midlands Tech CLE, making it one of the better attended YLD lunch CLEs. Special thanks to Bill Latham, a partner in the Columbia office of Nelson Mullins Riley and Scarborough, for putting on an informative and interesting CLE for the young lawyers of the Midlands.

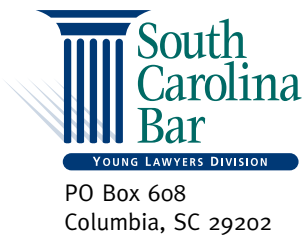
Habitat for Humanity Wills Clinics

This summer, young lawyers throughout the state participated in Habitat for Humanity Wills Clinics. The Wills Clinics are important events for Habitat homeowners as having a will is often a requirement before getting a home. In John's Island, nine attorney volunteers helped draft 15 wills and health care documents for

Habitat homeowners. In Columbia, 11 volunteers, including 10 young lawyers, helped provide wills and health care documents for 27 Habitat homeowners. At the York County Wills Clinic, six YLD volunteer attorneys helped draft wills and health care directives for 17 Habitat homeowners. The Habitat employee helping coordinate the York County clinic relayed a story of a homeowner who previously participated in a wills clinic and has since passed away. The employee indicated that the will made things much easier for the family and helped them keep



the Habitat home. The Mount Pleasant Wills Clinic was also a success; 14 YLD attorney volunteers helped draft wills and health care documents for 11 Habitat homeowners. Thanks to all the volunteers who made these events possible, and special thanks to Evan Guthrie who helped coordinate these events.



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Damages in Condemnation Cases: *SCDOT v. Powell* and Just Compensation



John P. Linton Jr.

The government has the power to take private property for public use provided that it compensates the owner for the fair value of that property. Stated otherwise, private property shall not be taken for public use without just compensation.¹ At first blush, the legal principle is simple:

the government must "put the owners in as good position pecuniarily as if the use of their property had not been taken. They are entitled to have the full equivalent of the value of such use at the time of the taking paid contemporaneously with the taking."²

In South Carolina, a landowner's legal right to compensation is evaluated under the statutory provisions of the Eminent Domain Procedures Act and case law.

By statute, South Carolina has defined just compensation as including "only the value of the property to be taken, any diminution in the value of the landowner's remaining property, and any benefits as provided in § 28-2-360 may be considered."³ The calculation of just compensation should be relatively simply: the landowner is entitled to the value of property taken under its most advantageous or profitable use⁴ and any diminution in value of the remainder parcel, less the value of "benefits to be derived from the proposed project."⁵

Yet, in many condemnation cases, the government and the landowner are

at odds over just compensation, particularly the damage, if any, to a remainder parcel after a taking. This "diminution in value" or "damage to the remainder" aspect of just compensation encompasses any type of diminution in value of the remainder property. Indeed, "[t]he different elements of damage to remaining land recoverable when part of a tract is taken are as numerous as the possible forms of injury."⁶ For instance, a landowner may even recover for damage to the property's view and breezes caused by the taking.⁷

Recently, in *SCDOT v. Powell*, the S.C. Court of Appeals ruled that diminution of value to a remaining parcel resulting from the closure of a nearby intersection was not recoverable, because while the taking of Powell's property was part of the same highway improvement project, the taking of Powell's property was not necessary for closure of the intersection.⁸ Powell argued that because the closure of the intersection was part of the same project as the taking of his property, he was entitled to recover the diminution in value to his property caused by the closure. However, the court ruled that damages to the remainder parcel are only recoverable if the diminution in value is caused by the portion of the project requiring the taking of that landowner's property, or as stated by the court: "the relevant question to consider is whether the taking of Powell's property was necessary for the intersection closure."⁹

Powell appears to represent the outward boundary of damages to the remainder. Other than the specific damages at

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YLD Nationally Recognized, Again!

At the ABA Annual Meeting on August 5 in San Francisco, the SC Bar YLD took home multiple national awards. The special recognition is a culmination of all the hard work and service put forth by young lawyers all across the state.



and Sidney Evering)

Outstanding Activities and Accomplishments

First Place - Comprehensive Programming
Broad range of programming conducted throughout the year (Officers: President Patrick Wooten, President-Elect Ryan Neville, Secretary-Treasurer Lindsay Joyner)

First Place - Newsletters
SC Young Lawyer (Co-Chairs: Carmel Matin and Jonathan Knicely)

Second Place - Diversity
"Diversity, Inclusion, and Leadership in Law" Lunch Series (Co-Chairs: Nichole Davis, Marguerite Willis

Division 2016 "Stars of the Year."

ABA Appointments

- YLD Secretary:** Tommy Preston Jr.
- ABA Board of Governors Nominee:** Edward Rawl
- Chair, Law Practice Committee:** Liam Duffy
- Member, Affiliate Assistance Team:** Lindsay Joyner
- Co-Coordinator, Public Service Project:** Adam Landy
- Vice-Chair, Business Law Committee:** John Langford
- Chair, Labor & Employment Law Committee:** Perry MacLennan
- Member, Disaster Legal Services Team:** Ryan Neville
- Liaison, Law Practice Division:** Elizabeth Palmer
- Member, Membership Board:** Jasmine Smith
- Member, Member Service Project Team:** Jasmine Smith
- Member, Public Service Team:** Ashleigh Wilson

Top 40 Young Lawyers and Star of the Year
Congratulations to Will Johnson, who received the 2016 American Bar Association "On the Rise - Top 40 Young Lawyers Award" and has been named one of six ABA Young Lawyers

(843) 727-2252.

Endnotes

¹ S.C. Const. art. I, § 13; see also U.S. Const., Amend. IV.
² S.C. Dep't of Transp. v. Faulkenberry, 337 S.C. 140, 148, 522 S.E.2d 822, 826 (Ct. App. 1999) (quoting Phelps v. United States, 274 U.S. 341, 344 (1927)).
³ S.C. Code Ann. § 28-2-370.
⁴ See City of N. Charleston v. Claxton, 315 S.C. 56, 431 S.E.2d 610 (Ct. App. 1993).
⁵ S.C. Code Ann. § 28-2-360.
⁶ S.C. State Highway Dep't v. Touchberry, 248 S.C. 1, 5, 148 S.E.2d 747, 749 (S.C. 1966) (quoting 4 Nichols on Eminent Domain, § 14.24, at 556). In Touchberry, the court explained as follows: "The special damages referred to in the above statutes relate to injury or damage to the remainder of the property from which a portion is taken. They would include any damage or any decrease in actual value of the remainder of the landowner's property which are the direct and proximate consequence of the acquisition of the right of way. In other words, as a general rule, special damages include all injuries or damages which cause a diminution in the value of the remaining property." *Id.* at 5, 148 S.E.2d at 748 (quoting

S.C. State Highway Dep't v. Bolt, 242 S.C. 411, 417, 131 S.E.2d 264, 266-67 (1963)).
⁷ See *id.* at 7, 148 S.E.2d at 749 ("It requires no argument to demonstrate that the value of a homesite may be impaired by the construction in proximity thereto of a highway at such an elevation as to obstruct view and favorable breezes."
⁸ S.C. DOT v. Powell, 415 S.C. 299, 781 S.E.2d 726 (Ct. App. 2015), *reh'g denied* 2016 S.C. App. LEXIS 18 (Feb. 19, 2016), *petition for cert.* filed March 21, 2016. It is worth noting that Powell is a direct condemnation case, meaning the government was physically taking a portion of the landowner's property. A different rule applies in inverse condemnation cases. See, e.g., Hardin v. S.C. Dep't of Transp., 371 S.C. 598, 641 S.E.2d 437 (2007).
⁹ See *id.* at 307-08, 781 S.E.2d at 730.
¹⁰ See S.C. State Highway Dep't v. Wilson, 254 S.C. 360, 175 S.E.2d 391 (1970); S.C. State Highway Dep't v. Allison, 246 S.C. 389, 143 S.E.2d 800 (1965) ("And that an obstruction that materially injures or deprives the abutting property owner of ingress or egress to and from his property is a 'taking' of the property for which recovery may be had. The fact that other means of access to the property are available affects merely the amount of damages, and not the right of recovery.")

YLD Spotlight: Tommy Preston Jr.

As a double Gamecock, graduating with a Bachelor's degree in Political Science and Government in 2007 and a Doctor of Law in 2011, Tommy has been ingrained in the South Carolina community throughout the past decade. Whether it be the implementation of Cocky's Reading Express or meeting with President Obama for "My Brother's Keeper," Tommy has proven to be a valuable leader in our community and tremendous asset to the South Carolina Bar. Tommy worked for four years in private practice before joining the Boeing Company in 2015 to work in-house.



with other lawyers across the state and nationally. I was able to generate business through these relationships, which is not common for associates. I was particularly amazed by the interaction young lawyers can have with the judiciary. Through my involvement in the SC Bar, I can genuinely say that some of

my greatest mentors are judges I've interacted with in the Bar—individuals like Chief Justice Toal, Judges Michelle Childs and Cliff Newman, among others.

How has being a lawyer influenced your ability to give back to the community? I often say, I like being a lawyer, but I love being able to help others. In addition to my involvement in the SC Bar YLD, I am also active in the ABA YLD. This organization gives me the opportunity to participate in service activities with peers around the country. Whether it's encouraging young people to vote, trying to prevent domestic violence and school bullying, or supporting the homeless, it has been extraordinarily rewarding to interact with like-minded people to have a much broader impact on society.

What advice do you have for young lawyers who want to get more involved in the Bar and community activities? Fundamental to being a lawyer is the notion of serving the public. We can all get consumed with our day-to-day jobs, but I speak from experience when I say, you will find more value in your work if you also give time and energy to serving others. Also, don't limit your service to the Bar. I am currently the youngest person in the history of the University of South Carolina to serve as Alumni Association President and by virtue of that position, a member of the University's Board of Trustees. I believe lawyers provide great insight and value in many different areas.

How were you able to manage and balance your obligations in private practice with your YLD involvement? First, I had and still have an employer that understands that YLD involvement is important to me. Additionally, it makes me better at what I do professionally. In terms of balancing, I think you have to set priorities and be a good time manager. I never lose track of my family and work obligations, but always make sure that I carve out time for the YLD.

What drove you to help start Cocky's Reading Express? As an undergraduate student at USC, I was exposed to the fact that SC had the third highest illiteracy rate in the country. I could not believe that statistic. I had lived in my own little bubble assuming that kids grew up the same way that I did. I felt obligated to help address this issue. I literally came up with the idea in my dorm, and never would have imagined that the program would be such a hit. We're 10 years old this year and have given over 115,000 books to kids across the state. The YLD has been a huge part of expanding the program over the years.

What were some of the difficulties you faced in the beginning of Cocky's Reading Express? In what ways were you able to overcome those difficulties? The biggest difficulty early on was trying to manage the popularity of the program. The program started as a week-long road trip throughout the state during a college winter break. When we came back in January, we had over 100 requests from schools to come visit their students. As the program grew, the more requests we got. Until the SC Center for Children's Books and Literacy took over the program, it was just a group of students running this operation. Now we have full-time staff, coordinated and trained volunteers, and more resources.

You spent a number of years in a large law firm before going in-house at Boeing. What persuaded

you to make that change in your career? Working at Nexsen Pruet was a dream come true for me. I assumed I would build my career there. Then, this Boeing opportunity presented itself. Not only am I supporting our company's Government Operations division, I am part of a team responsible for overseeing Boeing's relationships with South Carolina. I am playing a role in shaping our company's future in the state and building long-term partnerships. This job gives me an opportunity to do the work I was trained to do while also helping my home state in a strategic way.

How does working in-house compare to working in a law firm setting? Everything is different. Not only do you have to learn the substantive work you have to do, but you also have to understand the business. I'm literally learning how to build and sell airplanes. The greatest part of the job is that you only have one client, the company, and you don't have to bill hours anymore.

Do you have any advice for young lawyers who may want to make the switch to in-house counsel? Definitely get private practice experience first, but working for a company gives you a wonderful quality of life. I can't say enough about how great it is being in-house.

Is there anything else you would like to share? Yes. One fact some folks might not know is that I was recently elected Secretary of the American Bar Association's Young Lawyers Division. In 2018, I will be the National Chair. This is an extraordinary honor for our state and me personally. What's even more exciting is another SC Young Lawyer, Edward Rawl (also at Boeing), will be serving as the National Young Lawyer member on the ABA's Board of Governors. So, we will have two SC young lawyers as national officers in addition to the number of other South Carolinians in various ABA YLD positions. I credit people like William Hubbard, Pamela Roberts, Rebecca Roser and Will Johnson, who paved the way for young lawyers from SC to serve nationally.

Letter from the President



Dear Young Lawyers:

I hope this issue of *SC Young Lawyer* finds everyone enjoying the last bits of the summer and early parts of the fall. If

you did not know, the South Carolina Bar fiscal year began on July 1, 2016 and runs through June 30, 2017. I am sorry to be the bearer of bad news, but for this time period, you all will have to put up with me as I strive my hardest to keep our award-winning organization on course and do my best to improve upon the work done by Immediate Past President Patrick Wooten. Thankfully, I have had the opportunity to learn from Patrick firsthand throughout the last few years, and I have the assistance of our amazing leadership team consisting of the Committee Chairs, Circuit Representatives, President-Elect Lindsay Joyner and Secretary-Treasurer Ashleigh Wilson.

Before I get to the plans for this Bar year, though, I am honored to share some wonderful news from the American Bar Association Annual Meeting in San Francisco where the SC Bar YLD was recognized as the Overall Outstanding Affiliate, which in other words kind of means that the ABA YLD thinks there is no better YLD organization in the entire country than right here in South Carolina. This is a testament to Patrick Wooten's leadership and Lindsay Joyner's putting together an incomparable application for the award. In addition to this overall recognition, your YLD received first place awards for its comprehensive membership programs and public service events as well as first place in the advocacy for overall diversity. Instrumental in all these awards was Past President Will Johnson, who was also individually recognized as a Star of the Year and member of the 2016 class of "Top 40 Young Lawyers on the Rise."

In terms of YLD activities that have already taken place in our

state this Bar year, the Diversity Committee hosted a discussion on Interacting with Law Enforcement: Your Rights and Your Safety, which was heavily attended. Jill Rothstein, along with the Professional Development Committee, hosted a Lunch and Learn CLE on the various aspects of trust accounting, including the IOLTA rule and RULE 417. The Courthouse Keys Committee hosted Justice John C. Few and Judge D. Garrison Hill for an informal conversation on their life experiences. Each of these events were great opportunities to be engaged with other young lawyers and gain useful knowledge. Try to take a couple of minutes to read the YLD e-newsletter that goes out every other week, and make an effort to attend/participate in those announced events, which we hope you will enjoy.

On a personal note, my wife and I recently welcomed our second daughter into the world, and now the only chance I have of ever winning another argument will be in the courtroom. I am incapable of describing how much I appreciate their love and support as I do my best to make each of you proud to be a member of the YLD. I cannot encourage each of you enough to become engaged by contacting our amazing Bar Liaison Kimberly Snipes to serve on a committee, volunteer for a service project or attend a membership event. This is your organization, and involvement in it will enhance your fulfillment with the practice of law by giving back to the public, enjoying membership benefits, making lifelong friends and building upon your professional network.

Sincerely,

Irish "Ryan" Neville
Wills Massalon & Allen LLC

Committee Feature: YLD Diversity Committee

The YLD's Diversity Committee advocates and supports diversity and inclusion in the South Carolina legal community with the goal of facilitating opportunities for YLD members to grow in their own understanding of diversity and endorsing equality of opportunity for all. The committee promotes a broad definition of diversity and seeks to create a dialogue through programs and resources that enhance knowledge and encourage thoughtful consideration of diversity issues that affect all members of the South Carolina Bar.

As most of us are aware, Summer 2016 was plagued with media coverage featuring citizens' fatal encounters with police and shocking deadly attacks on law enforcement. With emotions running high, the Diversity Committee felt the time was ripe for a discussion on the legal aspects of how to appropriately, and safely, interact with law enforcement. A lunch series covering this topic was hosted by the committee this past July at the South Carolina Bar Conference Center. Cynthia Hardy, radio and television host of OnPoint!, was the moderator for the event. In addition, the committee carefully selected a discussion panel made up of four community leaders: Lt. Curtis Wilson of the Richland County Sheriff's Department; Rick Hubbard, Solicitor-Elect for the Eleventh Judicial Circuit; Susan Kuo, Associate Dean for Diversity and Inclusion and Professor of Law at USC School of Law; and James Shadd III of Shadd Law Firm, LLC. The panelists were chosen

Stars of the Quarter

Alicia Bores
Jessica Christophillis
Liam Duffy
Evan Guthrie
Teckla Henderson
Sandra Moser
Cashida Okeke
Paige Ornduff
David Paavola
Dyllan Rankin
Trista Shigley



based upon their contributions and experience in their individual fields of law enforcement, prosecution, legal academia and criminal defense.

Initially, the attendees enjoyed their traditional barbeque lunch catered by Nonnah's, intently listening to the panelists describe recommendations for what to do and what not to do, should you be pulled over by a cop for a traffic violation. A detailed explanation was also given for those who are concealed weapons carriers.

Audience members also posed questions to the panelists regarding the alleged police misconduct in the shootings that occurred in North Charleston, Columbia, Baton Rouge, Falcon Heights and many other places around the country. The panelists cautioned attendees to not jump to conclusions based upon small snapshots of cellphone video broadcast by the media, but also acknowledged that cellphone video is helping police departments identify "bad apples" who might not have otherwise been known. The meeting further covered a discussion on when deadly force by law enforcement is justified. YLD members were also invited to join a training session with the Richland County Sheriff's Department so they could act out real life scenarios where deputies make life and death decisions in the pursuit of criminal suspects.

Following the panel discussion, YLD attendees were asked to complete a questionnaire regarding their experience at the event. Some of the responses suggested diversity topics for future lunch series, such as

"parenthood and the practice of law," "how to overcome implicit bias in the legal system" and "why a diverse workplace is the best workplace." Others praised the open and honest discussion and knowledgeable panelists, but overall, every attendee felt the event was beneficial and most requested that more programs on diversity matters be scheduled for even longer segments. The Diversity Committee is excited to meet this need for the YLD and plans to host another lunch series soon!

For more information regarding the Diversity Committee or to learn how to participate in an upcoming lunch series, please contact Committee Chair Teckla Henderson at thenderson@scalc.net.

Call for Nominations

The Young Lawyers Division of the South Carolina Bar invites nominations for its positions of President-Elect, Secretary-Treasurer, Out-of-State Representative and Even-Numbered Judicial Circuit Representatives. These positions will become available June 30, 2017. For eligibility requirements, see the YLD Bylaws, available on the YLD website at www.scbar.org/SCBar-Groups/Young-Lawyers. To nominate yourself or someone else for a position, please submit a nomination letter to Kimberly Snipes at kimberly.snipes@scbar.org. **The deadline to submit nominations is October 28, 2016.**