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LAW

Bar Association approves formation of appellate law section

By **CLAY CHANDLER** | STAFF WRITER

clay.chandler@msbusiness.com

The Mississippi Bar Association recently approved the formation of an appellate law section.

It marks the Bar Association's 16th section, and those behind it say it will benefit those who practice appellate law as a specialty, and those in need of an appellate lawyer.

Michael Bentley, who mostly represents civil defendants on appeal for the appellate division of Jackson firm Bradley Arant Boult Cummings, said he was part of a group that formally petitioned the Bar last November to form an appellate section. Appellate law deserves to be recognized as its own specialty, he said, because it requires its own approach.

"Arguing an appeal is a totally different skill-set than arguing at trial. More and more these days, clients, especially those with a significant point of law or who are involved in high-dollar cases, want somebody new to take a cold, hard look at it. A lot of times trial lawyers are wedded to different things in the case, and that's not bad. They have to be like that to be effective."

David McCarty, a Jackson lawyer who mainly represents civil plaintiffs on appeal, was part of the formal petition group, and echoed Bentley's assertion that appellate law has carved out enough of a niche that it deserves

recognition as a separate specialty.

"Appeals is one of the oldest types of law practice we have in the state," McCarty said. "It used to be pretty common for lawyers in rural areas to send appeals to Jackson law firms, just because they had a close physical proximity to the court. And that used to be really expensive.

"Of course, that changed with the arrival of the Internet. And, until fairly recently, other than a few very high-echelon lawyers, many of which are outside the state, it has not been looked at as a separate practice."

The bar associations in Alabama, Tennessee and Louisiana have already formed appellate sections. Mississippi's will formally launch July 31, when Bentley, McCarty and those interested in becoming a part of the new section will meet at the Bar Association's Jackson headquarters to set bylaws and elect officers.

Bentley said the section will provide a means of formal communication between appellate lawyers and appellate judges, in an effort to "hash out good and bad practices, and to get a better idea about what judges like and what they're not very fond of. We also hope it will lead to growth in pro bono appellate cases. A lot of times, a plaintiff or a defendant doesn't have the money to pay for an appeal, so they have to live with a judgment they were hit with at the trial level.

Even a plaintiff, if they're awarded a huge judgment at the trial level, has a keen interest in preserving that judgment on appeal."

Bentley and McCarty each said the practice of appellate law has grown the past 20 years or so, but has really taken off the past few years as the economy shrank and lawyers had to diversify their specialties.

"It's also because of lawyers like David, who are convincing other trial lawyers to let him handle the appeal," Bentley said. "Appeals are incredibly important, probably more so than they have been, for the plaintiff and the defendant."

How the new section will benefit businesses and individuals in need of an appellate attorney is pretty simple to understand, McCarty said.

"First of all, this should help you find somebody who can actually fix your problems. It's just like if you had a Mercedes, you can go to a shade tree mechanic and they might do a good job. But you know if you go to the Mercedes place, where that's all they work on, you're going to get the best kind of care. This will give you a finite pool of people who do it. We have tons of lawyers now, but we have to be better about helping our populace assess the right type of lawyer for their problem."