

**RECENT DEVELOPMENTS
IN MISSISSIPPI LAW**
16TH ANNUAL YEAR-IN-REVIEW "UPDATE" COURSE

JULY 2010

THE LAW ACCORDING TO
PEANUTS[®]



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A Note from Billy Newman

Why Peanuts?

Five years ago, Keith and I decided that the somber mood that typically prevails at most CLE seminars should be attacked head-on with a little light-heartedness. After hours of giddy discussion with the staff at *Barristers*, we concluded that the best way to lighten the mood at our seminars – without diminishing the delivery of serious information -- was to construct a funny theme around which the discussion could take place. The result that first year was *The White Collar Comedy Tour*. Attendees at the *Recent Developments* seminars that year were treated to an embarrassing array of photographs of me and Keith dressed up like some of the guys from the Blue Collar Comedy Tour.



The following year, we were *The Blues Brothers of CLE* (with Keith and I pulling off, I think, credible impersonations of Akroyd and Belushi). In 2008, the course was presented as *Mayberry CLE*. I dressed up like Barney Fife, and Keith was Sheriff Andy Taylor. (I have to admit that, as fervent fans of *The Andy Griffith Show*, we both had more fun than anyone in the audience!) Last year brought *Gilligan's Island CLE* with Keith decked out as the Skipper. And me? Well, once again I was cast as the dunce – Gilligan.

Choosing a different theme from popular culture each year presents a problem, however. The lawyers who attend the *Recent Developments* seminars each year range in age from 25 to 70. It is virtually impossible to find two characters from the movies and TV who resonate with people in all generations. However, the *Peanuts* theme this year hopefully pulls it off. Everyone is somewhat familiar with Charlie Brown and Snoopy. Charles M. Schulz began publishing the comic strip in 1950, and the last original strip ran in newspapers across the world on February 13, 2000 – one day after Schulz died. Peanuts (a name Schulz hated, by the way) holds virtually every record in the books. It is indisputably the most widely published and most popular comic strip in history.

When I was five, my dad gave me my first Peanuts book, and I have been hooked ever since. Beyond my family (and my obsessive study of the American presidency), there's probably nothing else that has been as consistent a presence in my life as the Peanuts gang. Over the last four decades, I have voraciously read and collected dozens of books containing most of the 18,000 strips penned by Schulz over the years. For me, the intricate manner in which Schulz developed his wonderful cast of characters is intensely interesting.

For those of you who are not big fans of Peanuts (or who simply are not that familiar with it), please allow me to share the following thoughts about the strip:

- While the characters are popular with children, the strip was intended for adults. After all, most kids totally miss the humor of “psychiatric help”, “theological differences”, or “fanaticism in governmental affairs.”
- Peanuts books and other products still sell in the millions every year, and the appeal is worldwide. When my oldest son returned from a semester in Barcelona last year, he brought me a Peanuts book translated and published in the Catalan language.
- In 1969, the astronauts of Apollo 10 named their lunar module “Snoopy” and their command module “Charlie Brown.”
- The strip is responsible for a number of catchphrases that have become part of our everyday language - for example, “security blanket,” “good grief!” and “blockhead.” Even the name Charlie Brown has become synonymous with lovable loser.
- A few years ago, when a publisher began compiling and publishing – in chronological order – every single Peanuts strip (two years of strips per volume), celebrities of all kinds lined up to write tributes and introductions for each volume. Some of the tributes thus far have come from Walter Cronkite, Whoopi Goldberg, Garrison Keillor, Billie Jean King, and Robert Smigel (the guy who created “Triumph the Insult Dog” for *Saturday Night Live*).

So, while the main purpose of today’s seminar is to give you an overview of the important new law of the last twelve months (and to get you six hours of CLE credit), I hope the inclusion of many classic Peanuts strips in the seminar manual will effectively illustrate some important points and bring a chuckle to those who share my enthusiasm. For those of you who are not aficionados of the strip, perhaps the sample strips in the manual will cultivate at least a little appreciation for the genius of Charles Schulz.

Many thanks for your attendance today!



Recent Developments in Mississippi Law

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The Law According to Peanuts®

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WILLS & ESTATES & REAL ESTATE



CASE LAW

1. ***“Delivery” of promissory note to wife before divorce was complete inter vivos gift, even though note payments to wife were not to start until after decedent’s death.*** *Estate of Laughter v. Williams*, No. 2008-CA-00719-SCT (Sept. 24, 2009) (Desoto Co.).

This case primarily involved the issue of “which will governs.” Two wills were found after the decedent’s death. One will primarily benefitted the decedent’s ex-wife, and the other will, executed later and close to the decedent’s death, benefitted the decedent’s sister. The chancellor granted summary judgment in favor of the sister and upheld the validity of the second will. The chancellor further rejected the notion by the ex-wife that the transfer of a promissory note to her by her then husband, before their divorce and his subsequent death, was not an asset of the estate, but instead, an *inter vivos* gift.

The Mississippi Supreme Court reversed both of the chancellor’s holdings and held that a genuine issue of material fact existed as to whether the decedent had the testamentary capacity when he executed the second will and whether the sister had a confidential relationship with the decedent and unduly influenced him in executing the second will. In making those determinations, the Court noted that of first impression in Mississippi was the issue of whether an attempt through a will to devise property one does not own is sufficient to question one’s testamentary capacity. The Court stopped short, however, of answering that question but did recognize that other jurisdictions have commonly held that it does not show testamentary incapacity. *Id.* at 10 n. 7.

Further, the Court concluded that the decedent’s delivery of the promissory note to the wife before their divorce and his death made the *inter vivos* gift complete. In doing so, the Court acknowledged that another question of first impression in Mississippi existed in the case, namely whether an attempted *inter vivos* gift of a promissory note is defeated if