



Trial Warriors: Mississippi

Mississippi Maestros

In judicial hellholes, litigation managers need a short list of trial warriors with proven track records and local expertise. These four Mississippi maestros have both—and much more.

By Ari Kaplan



Reuben Anderson

ILLUSTRATION BY RICK WHIPPLE, VICKI PRENTICE ASSOCIATES INC.

REUBEN ANDERSON

Partner, Phelps Dunbar LLP,
Jackson

A witness to history, Reuben Anderson is a legal icon in the southern United States. “When I started practicing law in 1967, there were just five African-American lawyers in the state,” he recalls. Reportedly the first African-American graduate of the University of Mississippi Law School, he was also the state’s first African-American Supreme Court justice.

“Reuben Anderson has an excellent reputation in all areas of society. He is accepted at every level, as a gentleman and as an excellent attorney.”

—ED BUELOW, CHAIRMAN OF THE MISSISSIPPI STATE TAX COMMISSION

IN BRIEF

This issue’s trial warriors are:

- Reuben Anderson
- John Banahan
- Katherine Kerby
- Mark Tyson

“The most enjoyable time in my profession was the first five years as a civil rights lawyer for the NAACP,” he says. “We pretty much integrated most of the schools and public places in Mississippi.” Formerly the Jamie L. Whitten chair of law and government at the University of Mississippi and president of the Mississippi Bar Association, Anderson now serves as a board member for many of his clients. “Serving on these boards gives me an opportunity to know and meet some great people,” says the former marathon runner.

Areas of Practice: Commercial litigation, regulatory and governmental matters, tort litigation

Career Victory: In *Alexander v. Holmes County*, the U.S. Supreme Court declared that the time for all deliberate speed had ended and ordered school districts throughout Mississippi to be desegregated immediately. This case, in which Anderson was deeply involved, changed the method and timing of desegregation in the state. The court's holding that the constitutional rights of children should not be delayed still inspires Anderson to this day.

Recent Victory: In January 2003, Anderson, who still tries several complex cases annually, successfully defended one of the state's leading surgeons, who was accused of medical malpractice. The plaintiff died as a result of surgery concerning a pulmonary embolism, and despite a high-profile African-American adversary who had not lost a case in a decade and millions of dollars at stake, Anderson prevailed. "It was one of those cases I had to try because my client had not done anything wrong," he says.

Key Clients: ChevronTexaco Corporation, Wyeth, Altria Group Inc., Mississippi Valley Gas Company, General Motors Corporation, Ford Motor Company, and Atlantic Richfield Company

Client Comment: "Reuben Anderson has an excellent reputation in all areas of society," says Ed Buelow, chairman of the Mississippi State Tax Commission. "He is accepted at every level, as a gentleman and as an excellent attorney." Buelow recounts a contract dispute with a software company in which

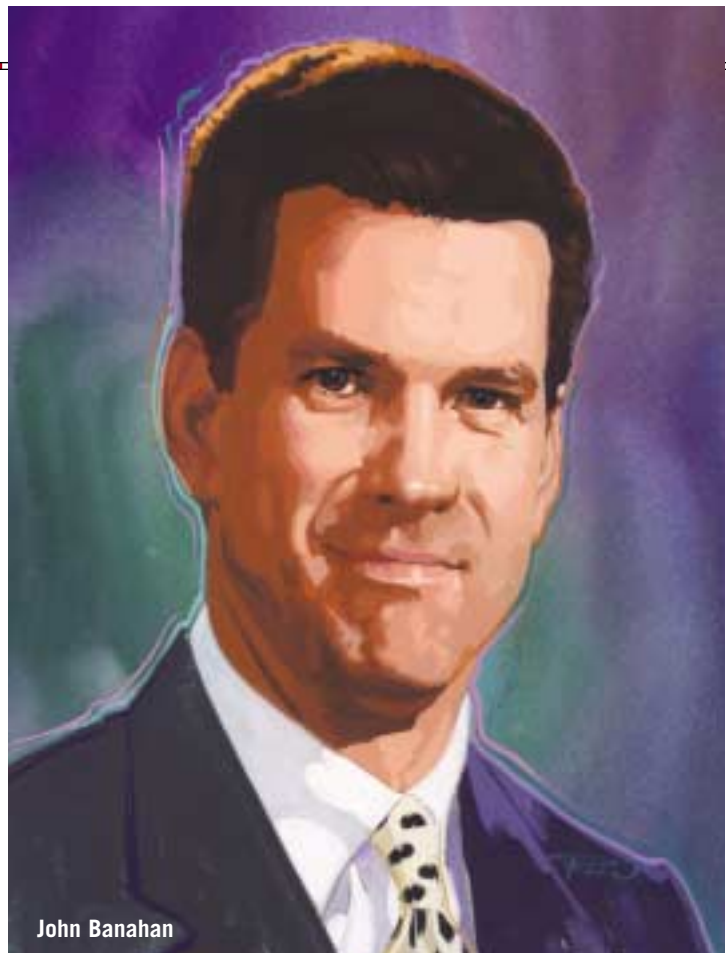
Anderson represented his agency as the plaintiff. "I believe that the \$474 million verdict was the largest civil award in the history of Mississippi at the time," he says. "Reuben was perfect for the case that we had. He is a very stately individual, both in appearance and in his mannerisms. I would absolutely seek his services again."

JOHN BANAHAN
Partner, Bryan, Nelson,
Schroeder, Castigliola &
Banahan, Pascagoula

John Banahan's self-described blue-collar approach to practicing law has taken him to verdict in almost 150 jury trials over the past two decades. "My first year in practice, I completed more jury trials (14) than I have in any other year in practice, and that was in addition to two appearances before the Mississippi Supreme Court," he recounts. Banahan, who tries an average of six cases per year on the Mississippi coast, enjoys analyzing new fact patterns and working with different people, but it's the jury that keeps him going. "I still get that tightness in my stomach every time the jurors walk in and the court clerk reads a verdict. It's a great feeling."

Practice Areas: Medical malpractice and extra-contractual insurance defense

Career Victory: In a five-day trial defending State Farm Insurance Companies against a bad-faith arson claim in federal court, a jury not only returned a verdict for his client in one hour but



John Banahan

ILLUSTRATION BY RICK WHIPPLE, WICKI PRENTICE ASSOCIATES INC.

"[John] is very effective with a jury. You can see the jurors focusing all of their attention on each syllable he utters."

—ISABEL VIDAL, COUNSEL,
STATE FARM INSURANCE COMPANIES

also awarded the full amount requested on a counterclaim. The case was significant for Banahan not only because his client was pleased, but also because it reaffirmed his faith in the judicial process. "I trust juries and believe our system works. Attorneys and judges become somewhat jaded over time, but a jury takes a fresh look at the facts of each case," he says.

Recent Victory: In October 2003, Banahan and a colleague successfully represented two surgeons in a wrongful death medical malpractice claim with \$2 million at stake. They convinced a jury that there was no basis for the claim that either surgeon failed to diagnose a bowel injury and peritonitis following an elective laparoscopic hernia repair. "The case was tough because the family of the dece-

dent was very well respected in the community and eight of the decedent's nine adult children were in the courtroom through six days of trial," he notes. "We and the doctors were gratified to receive a quick and unanimous defense verdict."

Key Clients: State Farm Insurance Companies, Farm Bureau, Medical Assurance Company of Mississippi, The Doctors Company, Merchants & Marine Bank, OMS National Insurance Company, and Brown & Williamson Tobacco Corporation

Client Comment: "John's demeanor and general approach to the practice of law make him especially pleasant to work with—he genuinely enjoys all facets of litigation," says Isabel Vidal, counsel in the corporate law department at State Farm Insurance Companies in Bloomington, Illinois. As Mississippi litigation counsel for the company, "he is very effective with a jury. You can see the jurors focusing all of their attention on each syllable he utters. They love him," she says.

KATHERINE KERBY
Managing Partner, Gholson, Hicks & Nichols, Columbus

When not volunteering to support economic development projects for her region or restoring her 1833 antebellum home, Katherine Kerby is in a courtroom somewhere in northern Mississippi. "I started in the courtroom as soon as I joined the firm in 1982 and have been

there since," says the seasoned litigator. For Kerby, the control and management of the case from inception until completion are critical. With an 85 percent success rate on summary judgment, she highlights that "continuous hands-on litigation is a priceless education." In 2003, Kerby won at least three cases of first impression on summary judgment. "Testing previously unaddressed areas of law is rewarding," notes the winner of the Defense Research Institute's 2002 and 2003 awards for significant contributions to the defense bar.

Practice Areas: Public entities, civil trial practice, civil rights, employment, constitutional torts defense, governmental liability,

"While we have six or seven approved defense attorneys in that area, I seek out Katherine's services because of her success rate. She has been indispensable for us."

—BRUCE DONALDSON, TORT LIABILITY CLAIMS MANAGER, MISSISSIPPI TORT CLAIMS BOARD

ity, public officials, and insurance defense

Career Victory: While proud of her record in high-profile cases, it is the sealed resolutions that are most significant to Kerby: "Those are the cases that you resolved in your client's best interest, but that the plaintiff insists be sealed to avoid disclosure to fellow members of the plaintiffs' bar." She recently defended a Fourth Amendment tort class action that alleged illegal arrest procedures involving 9,000 claims in north Mississippi. While this case settled for less than \$100,000, it had the potential of setting a record verdict for the plaintiffs in the region.

Recent Victory: When defense lawyers in Mississippi think of trench warfare, they think of tort reform. In 2002, as president of the Mississippi Defense Lawyers Association, Kerby drafted and submitted tort reform legislation that passed in generally the same form in which it was submitted. And in early 2003, she obtained, for the first time, passage of the procedures to secure an independent medical exam in Mississippi, the only state for 17 years that did not have such a right.

Key Clients: Cash Distributing Company Inc. (Anheuser-Busch Companies Inc.'s distributor for north Mississippi); Columbus Marbleworks; Lauren Constructors; and the cities of Columbus, Starkville, Booneville, Eupora, and New Albany. "Look at a map of north Mississippi; if it is a public entity, chances are very high that at some point I have



Katherine Kerby

ILLUSTRATION BY RICK WHIPPLE, VICKI PRENTICE ASSOCIATES INC.

done some work for them,” Kerby says.

Client Comment: Bruce Donaldson, tort liability claims manager for Mississippi’s Tort Claims Board—for which Kerby has handled approximately 10 cases in the past decade and is currently defending three to four cases—seeks her advice for matters pending in her venue on a regular basis. “We will use her in northern Mississippi whenever we can. While we have six or seven approved defense attorneys in that area, I seek out Katherine’s services because of her success rate,” he says. “She has been indispensable for us.”

MARK TYSON

Partner, McGlinchey Stafford PLLC, Jackson

Understanding and evaluating a client’s objectives at the outset of each matter have been the hallmarks of Mark Tyson’s success. The former law clerk to the chief justice of the Mississippi Supreme Court says that he enjoys finding solutions to complicated problems. “I like a challenge of facing novel questions of law and ultimately obtaining a favorable result by making a new argument,” says the financial services strategist. He describes his work as “cutting edge” with implications far beyond the borders of Mississippi. As a result, creativity and flexibility are key. “In order to do the best possible job for the client, you need to tailor your style to the particular situation,” he says.



Mark Tyson

“Plaintiffs’ lawyers respect and fear [Mark] because he is honest with them, but they know that he will go to the mat to represent our interests.”

—JILL CENTELLA, SENIOR COUNSEL,
BANK ONE CORPORATION

Practice Area: Consumer financial services litigation

Career Victory: Bank One Corporation financed the purchase of satellite dishes for a number of consumers and was sued by about 50 of them in 1999 (which swelled to more than 100 before the case was resolved) for allegedly failing to disclose the terms of the financing under the Truth in Lending Act. Based on a change in the terms of Bank One’s relationship with its customers mandating prospective litigants to seek arbitration prior to the filing of the lawsuit at issue, Tyson was successful in compelling all of the claimants to pursue their cases for \$1 million in compensatory damages and \$100 million in punitive damages before an arbitrator. Notably, not a single plaintiff did so after the U.S.

ILLUSTRATION BY RICK WHIPPLE, VICKI PRENTICE ASSOCIATES INC.

District Court for the Southern District of Mississippi published its decision. “I don’t think that anyone had successfully compelled arbitration in that situation before,” he says proudly.

Recent Victory: Tyson recently represented an auto finance company sued in state court for, among other claims, race-based pricing with respect to automobile loans. Minority customers alleged that they were being charged higher interest rates than nonminority customers. Although no specific amount for actual and punitive damages was pled, there was substantial liability for his client. Tyson was able to remove the case to federal court under the Equal Credit Opportunity Act while simultaneously compelling half of the plaintiffs to seek arbitration.

Key Clients: Bank One, Discover Financial Services Inc., and Bank of America Corporation

Client Comment: Jill Centella, senior counsel at Bank One in Chicago, has worked on about 25 cases with Tyson. “He has a good sense of humor, especially in a litigious place like Mississippi,” she says. “He is smart and has a lot of creative solutions to complicated problems. Best of all, though, plaintiffs’ lawyers respect and fear him because he is honest with them, but they know that he will go to the mat to represent our interests.”

Ari Kaplan is an attorney and freelance writer based in New York. E-mail him at ari@arikaplan.net.