

KENNETH LEE CLEVELAND

EXPERIENCE PRACTICING LAW

September 1985 - Present: **Attorney** Cleveland & Cleveland, P. C., 2330 Highland Avenue South, Birmingham, Alabama 35205.

Duties and Skills - Represent clients in all phases of contested and uncontested legal proceedings. Preparation of complaints answers, motions, petitions, and discovery. Trial preparation and trial of civil litigation including interviewing witnesses, conducting depositions, examination of witnesses in court, preparation of jury charges, conducting opening statements, and conducting closing arguments in jury and non jury trials. Legal research and brief preparation for summary judgment, discovery, motion practice, and trial briefs. Preparation of post trial motions, notice of appeal, and requests for other post judgment or prejudgment appellate relief. Preparation of briefs with legal analysis and argument of legal positions to appellate courts and oral argument before appellate courts. Experience includes federal and state civil courts, bankruptcy courts, probate courts, patent and trademark prosecution. Transactional experience includes the preparation of deeds, wills, and contracts.

Notable Accomplishments:

E. R. G. v. E. H. G. __ U. S. __, 132 S. Ct. 1535, 182 L. Ed. 2d, 161, 80 U.S.L.W.3475 (2012). When the court requested a brief in opposition to the petition for certiorari, I was counsel of record responsible for the brief. The brief argued that the Alabama court correctly determined that the rights of parents under the Fourteenth Amendment rendered the grandparent visitation statute unconstitutional. The petition was denied.

Williams v. BellSouth Telecommunications, Inc., 373 F.3d 1132 (11th Cir. 2004). I represented Mrs. Williams in the district court and in the Eleventh Circuit as sole counsel. The brief asserted that ERISA participants were entitled to the heightened arbitrary and capricious standard of review under the facts in the case. The court applied the heightened standard and declared the methodology used for review for all participant claims under ERISA. This methodology remains in use.

Watts v. BellSouth Telecommunications, Inc., 316 F.3d 1203 (11th Cir. 2003). I represented Ms. Watts in the district court and in the Eleventh Circuit as sole counsel. The brief asserted that the summary plan description governed over conflicting language in an ERISA plan and that the language should be construed against the drafter. The court held that the language was ambiguous, construed it against the drafter, and determined that the claim was timely, as the language was construed to waive exhaustion of administrative remedies.

Henderson v. BellSouth Telecommunications, Inc., No. 00-15506 (11th Cir. March 16, 2001). I represented Mrs. Henderson in the district court and in the Eleventh Circuit as sole counsel. The brief argued that the Norris-LaGuardia Act did not preclude injunctions in ERISA actions even though they included employment disputes. The court held that because ERISA was a comprehensive scheme, the Norris-LaGuardia Act did not preclude injunctions in ERISA actions.

Wilson v. Jones, 251 F.3d 1340 (11th Cir. 2001). I along with co-counsel represented Ms. Jones district court and in the Eleventh Circuit. The brief asserted that a strip search of a DUI suspect, incident to placing such suspect in a general population facility and the policy allowing such searches for suspect held over night, violated the Fourth Amendment. The court held such searches violated the Fourth Amendment and would no longer be permitted (precluding the placement of such suspects in general population).

JURISDICTIONS ADMITTED TO PRACTICE LAW

Licensed to practice law in **Alabama** (1985) and before the **United States Patent and Trademark Office** (1986).

Admitted to practice in the **Supreme Court of the United States of America**, the **United States Court of Appeals for the Eleventh Circuit**, the **United States District Court for the Northern District of Alabama**, and the **United States District Court for the Middle District of Alabama**.

TEACHING EXPERIENCE

September 2002 - Present:

Adjunct Professor of Law, Birmingham School of Law, 231 South 22nd Street, Birmingham, Alabama 35233; Supervisor: Dean James Bushnell - 205-322-6122.

Duties are teaching Uniform Commercial Code, ancillary statutes, rules, and regulations (2002-present); Agency, Partnership and Limited Liability Entities (2011); and Civil Procedure (2011).

EDUCATION

J.D. University of Alabama School of Law

Tuscaloosa, Alabama - May, 1985 GPA 3.284/4.0 (top 30%)

B.S. in Mechanical Engineering, University of South Carolina

Columbia, South Carolina - May, 1982

ARTICLES PUBLISHED

Where to File - Birmingham or Bessemer Cut-Off? - by Charles Cleveland and Kenneth Lee Cleveland, published in the Birmingham Bar Association Bulletin, Fall 2005

CONTACT INFORMATION

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