

# MG&C NEWS

Winter 2007

McAngus Goudelock & Courie, LLC & MG&C Consulting

Dear MGC Clients and Friends,

Welcome to the initial newsletter of the MGC Multi-Practice Group. Our group consists of a talented and experienced team of legal professionals in practice areas including real estate, probate and estate planning, appellate advocacy, regulatory, and business and transactional matters. Our group also works closely with MGC Consulting, our full-service government relations team. At MGC, our goal is to provide clients with innovative solutions to diverse legal and business challenges.

MGC operates on the principle that building solid relationships is essential to ensure the most effective representation. We stay in constant contact with clients so that they can remain active informed participants in their matters. Hopefully, our new quarterly newsletter will help further our goal of keeping clients actively informed about issues affecting their legal and business interests.

We hope you find our newsletter informative. We look forward to your input and suggestions.

Sincerely,  
Jay Courie

(President of MG&C law firm and MG&C Consulting)

## Steve Benjamin Joins MG&C



The new year brought fun and exciting change to Steve Benjamin. In January 2007, Steve closed his law practice and joined McAngus Goudelock & Courie law firm. His areas of practice include commercial transactions, municipal finance, government procurement, and general business matters. Steve is admitted to practice

before all state courts in South Carolina, the U.S. District Court, Federal District of South Carolina and the United States Court of Appeals for the Fourth Circuit. In addition to his responsibilities with the firm, Steve works closely with the firm's governmental affairs group, MG&C Consulting.

In January 1999, South Carolina Governor Jim Hodges appointed Steve to the Governor's Cabinet. The South Carolina Senate

unanimously confirmed his appointment as Director of the South Carolina Department of Probation, Parole and Pardon Services on March 2, 1999.

Steve served as Chief Executive of the 950-employee, \$43 million state law enforcement agency. He resigned his Cabinet appointment on September 1, 2001 and served as the Democratic nominee for the Office of South Carolina Attorney General in the General Election of 2002, raising over \$1.1 million and receiving over 44% of the general election vote.

Prior to accepting his Cabinet appointment, Steve served as Regional Manager of Public Affairs for International Paper Company, where he managed the company's legislative and public affairs activities in South Carolina, North Carolina, Georgia, and Virginia.

Prior to joining International Paper, Steve was Manager of Corporate Affairs at Carolina Power & Light Company, where he handled legislative activities in South Carolina, North Carolina and the District of Columbia and served as an Associate in the Administrative and Regulatory practice at another law firm in Columbia, South Carolina, where his practice emphasized legislative, health care, and state procurement matters. Steve has served as an assistant prosecutor in South Carolina's 4th Judicial Circuit.

Steve received his Bachelors Degree in political science from the University of South Carolina in 1991, and his J.D. Degree from the University of South Carolina School of Law in 1994. While attending USC, he was involved in numerous extracurricular activities. He served as Student Government President and as President of the Student Bar Association in the School of Law.

The South Carolina Bar Association named Steve a co-recipient of the 2001 Young Lawyer of the Year and he is a recipient of the 2000 Compleat Lawyer Award given by the University of South Carolina School of Law.

Steve has been recognized by *The State Newspaper* (Columbia, SC) as one of the 20 Business Leaders Changing Columbia (2005) and one of the 2005-2006 "10 Top Movers and Shakers" to watch in Government and Politics.

In 1999, the National Bar Association named him the National Young Lawyer of the Year. Steve is the recipient of the Lincoln C. Jenkins, Jr. Award given by the Columbia (SC) Urban League for accomplishments as a young professional and was featured as one of *Ebony Magazine's* 30 Leaders of the Future.

## MG&C Events Near You!

MG&C Holiday Gala and Oysters & Cocktails Event  
Columbia, SC



## MG&C Primary Practice Areas

With offices strategically located across North and South Carolina, MG&C is well positioned to serve clients throughout both states and beyond, in the following areas:

### **Administrative & Regulatory**

Representing clients before Agencies and Administrative Law Judges in matters including healthcare, energy, procurement, and professional licensing.

### **ADR**

Providing alternative dispute resolution services to third parties and representing clients in mediation and arbitration proceedings.

### **Appellate Advocacy**

Providing ongoing counsel and representation throughout the appeals process including assistance with strategies, preparation of briefs, and participation in oral arguments.

### **Banking & Financial**

Representing financial institutions and creditors in commercial transactions, bankruptcy proceedings, and commercial litigation.

### **Business Formation**

Assisting businesses in developing organizational planning strategies and drafting Articles of Incorporation, Partnership Agreements, Buy/Sell Agreements, and other corporate documents.

### **Captive Insurance**

Delivering assistance in the development and licensing of captive insurance programs as well as providing legal counsel and services to captives-in-formation and established Boards of Directors and Insurers.

### **Construction**

Representing clients in construction matters including contract review, negotiation, and litigation.

### **Employment**

Representing employers and management in matters including discrimination claims, "employment at will" issues, wrongful discharge, and related issues, as well as providing counsel on development of workplace policies and other complex issues.

### **Litigation**

Representing businesses and individuals in all aspects of litigation including pre-suit investigation and analysis, pre-trial discovery, alternative dispute resolution, and trials. Our litigators handle matters involving products liability, premises, commercial concerns, consumer issues, auto torts, and insurance.

### **Probate & Estate Planning**

Offering comprehensive estate planning, tax and probate services to individuals, personal representatives, families, and closely held businesses as well as beneficiaries, charities, and creditors of estates.

### **Real Estate**

Representing owners and developers in purchase and sale transactions, development projects, financing, leasing, regulatory, and related issues.

### **Workers' Compensation**

Providing counsel to employers, self-insured entities, and insurance carriers in all aspects of workers' compensation, occupational disease, and Federal claims, including the Longshore and Harbor Workers' Compensation Act.

### **MG&C Consulting**

A full-service governmental relations group that facilitates successful interactions between clients and all levels of government. We represent clients before legislative and regulatory bodies, assist to establish valuable business contacts, develop bid proposals, and coordinate public outreach and media relations.

## *Workers' Comp Reform: A Legislative Priority for 2007*

By: *Mike LeFever*

Governor Sanford, the business community, and House and Senate leaders have made reforming the state's workers' compensation system a legislative priority for the second year in a row. After experiencing average premium increases of 47.3% over the past three years, small and large businesses alike are looking for relief from the escalating cost of doing business in the Palmetto State.

In 2006, the fight to reform the system was led by Gov. Sanford and the Civil Justice Coalition, a diverse group of organizations including the State Chamber of Commerce, the National Federation of Independent Businesses, and other business and professional organizations.

Following a report by the Governor's Workers' Compensation Reform Task Force, the House Labor, Commerce, and Industry Committee worked diligently during the 2006 session of the General Assembly to craft a bill that addressed the system's most significant cost drivers. In a tense and extended debate on the House floor, the committee's efforts were amended to the point that the reformers could no longer support the bill, and it died in the Senate Judiciary Committee.

With the prospect of another double-digit rate hike looming in 2007, Senator Glenn McConnell (R-Charleston), chairman of the Senate Judiciary Committee, formed an ad hoc Workers' Compensation Subcommittee and named Senator Larry Martin (R-Pickens) to chair the effort. Because of the importance and complexity of the problem, the subcommittee began work in August. To date the subcommittee, which includes Senators Jim Ritchie (R-Spartanburg), Brad Hutto (D-Orangeburg) and Joel Lourie (D-Richland), has met six times. Senator McConnell and Senator Gerald Malloy (D-Hartsville) also have attended the meetings.

It is the expressed intention of the Workers' Compensation Subcommittee to draft a bill for the consideration of the full Judiciary Committee early in the 2007 legislative session. After listening to months of testimony, the subcommittee appears to have narrowed its focus to the following issues: more accountability and oversight of the Lost Cost Multiplier, a significant portion of the premium equation; reducing the impact of the Second Injury Fund, legislative redress of the Brown, Tiller, and Dodge decisions, tougher penalties for fraud, limiting repetitive trauma awards, and adopting standards that make awards fairer and more consistent and predictable.

As the Senate Judiciary Committee moves forward with its workers' compensation reform agenda in advance of the 117th General Assembly, Speaker of the House Bobby Harrell (R-Charleston) and LCI Committee Chairman Harry Cato (R-Travelers Rest), building off of last year's experience, are equally committed to finding a solution to the spiraling cost of workers' compensation insurance. While the final outcome is in doubt, there is no doubting the level of interest that this issue will receive from South Carolina lawmakers in 2007.

## *It's Okay To Be Sorry*

The New South Carolina Unanticipated  
Medical Outcome Reconciliation Act

By: *Mary Margaret Hyatt*

Apology laws are an increasingly proactive solution to growing medical malpractice costs and tort reform proposals. With the passage of 2006 Act Number 373, South Carolina joined a majority of other states that have adopted or are considering apology laws.

South Carolina's apology law, referred to as the South Carolina

Unanticipated Medical Outcome Reconciliation Act, or the 'I'm Sorry' law, allows health care providers, their employees or representatives, to make any "statements, affirmations, gestures, activities, or conduct expressing benevolence, regret, apology, sympathy, commiseration, condolence, compassion, mistake, error, or a general sense of benevolence" to patients, their family members or representatives, following an unanticipated outcome of medical care without the admissibility of the expressions as evidence in any subsequent civil proceedings. Under South Carolina's Act, the expressions cannot be construed as a statement of culpability or an admission against the health care provider's interest. To qualify for the Act's 'immunity,' the statements must be made during a designated meeting scheduled by the health care provider and the patient, or their representatives, to discuss the unanticipated outcome.

The South Carolina General Assembly expressly indicated in the statute its support of encouraging communication between health care providers and patients, especially in cases of unanticipated outcomes, and limiting the admissibility of such communications in civil actions. "This makes sense," says Senator Joel Lourie, one of the 'I'm Sorry' law bill sponsors. "From South Carolina's perspective, this is an opportunity to encourage open dialogue between health care providers and patients. The research has shown that when implemented properly, it helps eliminate less meritorious cases from being filed, while helping to expedite the settlement process in those cases that justify legal action. It really promotes a more cooperative spirit amongst all the parties."

In contrast to some states that mandate prompt, formal disclosure of any errors to patients and state authorities, South Carolina's law allows for permissive disclosure between providers and patients. The 'immunity' provided by South Carolina's 'I'm Sorry' law, however, is not absolute. Because the law only protects communications and actions made in a "designated meeting," statements or actions expressing benevolence, regret, apology, condolence, mistake, or error made by a health care provider that are not part of the designated meeting may still be admissible as evidence. The law also does not otherwise affect the South Carolina Rules of Evidence, so statements made by a provider to a patient or patient's family immediately after a medical outcome, such as in the patient or waiting room after surgery or just following an emergency-type treatment situation, do not appear to qualify for 'immunity.'

The 'I'm Sorry' law does not provide a guarantee that disclosure and communications between providers and patients will not result in medical malpractice actions. The law does, however, provide flexibility to providers should patients proceed with malpractice actions. Under the law, defendants in medical malpractice actions may choose to waive the inadmissibility of statements and actions made in designated meetings with patients. Providers and their legal counsel may decide that it is to their benefit to have apologies and expressions of grief brought into court if a malpractice lawsuit is initiated. Studies show that a sympathetic defendant who the jury perceives as having done the right thing is a lousy target in the courtroom.

At recent graduation ceremonies for the State University of New York's Downstate Medical Center, its president, John LaRosa, offered some advice to graduates: "'I'm sorry.' Say the words. Mean them. And move on." While the 'I'm Sorry' law may not be a panacea, it is a step toward restoring communication in the provider-patient relationship, and hopefully, a step toward decreasing medical malpractice costs.

## Legislative Preview

The South Carolina General Assembly convened its 2007 Legislative Session on January 9th. Members of the MG&C Consulting team will maintain a constant presence at the State House, serving as the "eyes and ears" for our clients as the session unfolds. While as many as 2,500 bills are typically introduced in any two-year session, we anticipate the following issues will top the agenda under the State House dome this year:

- Workers' Compensation Reform
- Governor Sanford's proposal to restructure state government
- Tax initiatives, including a possible increase in the cigarette tax
- Economic Development and Job Creation
- Infrastructure investment in the state's colleges and universities
- Education initiatives, including the expansion of Kindergarten to at-risk 4-year-olds statewide and a modified version of the Governor's school voucher proposal
- Legislation to extend the availability of the Barnwell Nuclear Waste Disposal Facility
- Energy issues, including Speaker Harrell's Hydrogen Research proposal as well as efforts to establish a study of the implications of natural gas drilling off of South Carolina's coast
- Judicial reforms, including efforts to strengthen the state's Drunk Driving Laws and a crackdown on Gang activity

[mgclaw.com](http://mgclaw.com) or [mgcconsulting.com](http://mgcconsulting.com)  
Check out our newsletter online

## DID YOU KNOW?



Hope Lanier, a member of MG&C Consulting, was the big winner on Wheel of Fortune in June 2004. Her final puzzle was *It's No Joke; And it wasn't*. That puzzle was worth \$40,000 in the bonus round.

## Websites of Interest

CHECK THESE OUT!

### [www.scstatehouse.net](http://www.scstatehouse.net)

For information on current bills and access to the SC Code and Regulations, visit this website.

### [www.richlandonline.com/departments/probate/guardianship.asp](http://www.richlandonline.com/departments/probate/guardianship.asp)

A properly executed Durable Power of Attorney will prevent the need for a costly court appointed Conservator. Visit this website for more details about a Conservator.

### [www.zillow.com](http://www.zillow.com)

Visit this website to search for residential real estate, find the prices of homes, and even post a home for sell.

### [www.irs.gov/individuals/index.html](http://www.irs.gov/individuals/index.html)

Check out this link from the Internal Revenue Service to file your taxes online, print tax forms with instructions, or to research new tax laws.

[mgclaw.com](http://mgclaw.com)

RALEIGH, NC 27622  
919-719-8200

PO Box 30516  
Suite G-02

5400 GLENWOOD AVE.  
RALEIGH

864-239-4000

GREENVILLE, SC 29602  
PO Box 2980

Suite 300

75 BEATTIE PLACE

GREENVILLE

843-534-0101

CHARLESTON, SC 29402  
PO Box 877

Suite 200

78 WENTWORTH STREET  
CHARLESTON

704-643-6303

CHARLOTTE, NC 28230  
PO Box 30307

Suite 700

6302 FAIRVIEW ROAD  
CHARLOTTE

803-779-2300

COLUMBIA, SC 29211  
PO Box 12519

Suite 300

700 GERVAIS STREET  
COLUMBIA