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G. Todd Butler

Robert "Chip" Davis

Scott Davis

Anthony L. Farese

Victor Israel Fleitas

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Counsel in the Courtroom: A Lawyer's Perspective



G. Todd Butler, Robert "Chip" Davis, Scott Davis, Anthony L. Farese, Victor Israel Fleitas, Gary Friedman, Tom Levidiotis, Dave Bell, Tim Lindsay, Casey Lott, Merrill Nordstrom, Robin Taylor, Jim Waide, and Rachel Pierce Waide

COUNSEL IN THE COURTROOM: A LAWYER'S PERSPECTIVE

G. Todd Butler¹

I first met Chief Judge Aycock when I was in law school. She had been nominated by the President but not yet confirmed. Her down-to-earth demeanor immediately stood out and calmed the nerves of an anxious young man.

Over the years, I've been fortunate to practice in the Northern District with frequency. I've also observed Judge Aycock's leadership on the court and among the Bar.

Without a doubt, Judge Aycock is deserving of her success. She is smart, fair, and treats EVERYONE with respect. Federal judgeships wield immense power, but Judge Aycock has remained humble and approachable. She is an outstanding judge and an even better person. I'm thrilled the *Mississippi College Law Review* is honoring her with this tribute.

Robert "Chip" Davis²

The first time I met Judge Aycock, she was running for Circuit Judge in the First Judicial District. I have been practicing before her ever since. An attorney, or a litigant in Judge Aycock's courtroom can always count on her to be professional, firm, and prepared. She treats every lawyer as with the respect she would wish to have were she practicing. She treats every litigant with dignity regardless of the circumstances. She treats every case as though it were the most important one on her docket.

Above all of this, though, Judge Aycock will always follow the law. Always. I just don't know what else one could expect from a judge. We are fortunate to have her.

^{1.} G. Todd Butler is a partner at Phelps Dunbar, LLP, focusing on appellate litigation, constitutional law, and labor and employment. He is a 2008 graduate of MC Law with 13 years of law practice (one of which was spent clerking).

^{2.} Robert "Chip" Davis graduated from the University of Mississippi School of Law in May of 1996. Chip practices in Chancery, Circuit, and Federal Court.

Scott Davis³

It is my honor to submit these comments regarding Judge Sharion Aycock. As one of the public defenders in this district, I have the pleasure of appearing in Judge Aycock's court regularly. She is an immensely respected jurist, and for good reason. Her dedication to the rule of law is matched by her fair treatment of the people, parties and attorneys alike, who come before her court. It is always apparent to me that Judge Aycock really works to view the cases before her from all reasonable angles, and to reach as informed and reasoned decisions as she can – not simply in order to reach the correct legal outcome, but also for the general well-being of the people involved.

Outside of regular court proceedings, it has also been my pleasure to participate in this district's reentry program, which Judge Aycock has led since its inception several years ago. In addition to her seemingly endless duties as Chief, Judge Aycock has given significant time and energy to the voluntary program, which is designed to provide increased treatment and accountability for individuals who may be at high risk of recidivism. It is highly emotional work, and I greatly admire Judge Aycock for her willingness to take on the burden of leading this program, because I know that it has changed the lives of many of its participants.

As Chief Judge of the district, she has set a tone for work ethic, civility, and collegiality that feels unique, particularly considering how much adversity is built into the system. During the pandemic, her leadership, driven by deep concern for the health and safety of all, has been a steadying influence. From a professional perspective, she has high expectations of others, which makes better lawyers of those who appear in her court. It remains my privilege to practice before Judge Aycock, and I greatly appreciate her continued leadership in the Northern District.

^{3.} M. Scott Davis has practiced law in Mississippi for eleven years since graduating from the University of Mississippi School of Law in 2009. Scott has served as an Assistant Federal Public Defender in Oxford, Mississippi since 2014. He has served over 10 years in the Federal Public Defender's Office, first serving as a research/writer with the Federal Public Defender's office in Gulfport from 2010 to 2014.

Anthony L. Farese⁴

There are too few words to adequately express the profound impact that Judge Sharion Aycock has had on the practice of law in Mississippi. I have had the privilege and honor to appear before Judge Aycock when she served as a Circuit Court Judge in the First Judicial District of Mississippi and as the Chief Judge in the United States District Court of Mississippi for the Northern District.

One of my favorite quotes about judges is as follows:

"Judges, like people, may be divided roughly into four classes: judges with neither head nor heart—they are to be avoided at all costs; judges with head but no heart—they are almost as bad; then judges with heart but no head—risky but better than the first two; and finally, those rare judges who possess both head and a heart—thanks to blind luck, that's our judge."⁵

Truly, Judge Aycock is one of the rare judges with a head full of knowledge and a heart of compassion. She understands all parties involved in criminal cases. To put it frankly, she does her job right. Judge Aycock is fair, and she listens without reproach to the arguments of prosecutors and criminal defense attorneys alike. She looks to the rule of law for guidance and adheres to the principles of justice in every decision she makes.

I am a criminal defense attorney, so I often find myself defending those who are in dire circumstances and who look to the system for absolution. Judge Aycock appreciates the burden that criminal defense attorneys face. I can recall a few cases in which the odds were stacked against me, but Judge Aycock did not rebuff my arguments. Rather, she is interested in the defendants that appear in front of her on a personal level and is always respectful of them. She ensures that due process is at the forefront of everyone's minds. At times, Judge Aycock can be strict, but she does so with a purpose: she takes her job seriously. She wants the best outcome for all parties involved. No one can ask for anything greater. I appreciate Judge Aycock's capabilities, both as a practitioner and as a member of our nation's judiciary. I consider myself fortunate to appear

^{4.} Anthony L. "Tony" Farese is a criminal defense attorney at Farese, Farese & Farese, P.A. in Ashland, Mississippi where he serves as the President of his family firm. He has practiced law there for over 35 years. He received a Bachelor's of Public Administration degree in 1983 from the University of Mississippi and a Juris Doctor in 1985 from the University of Mississippi School of Law.

^{5.} Robert Traver, ANATOMY OF A MURDER 313-14 (1958).

before her because I know that she will attempt to do the right thing, no matter the pressures she undoubtedly faces daily.

Judge Aycock serves as a wonderful example for young lawyers and lawyers who have practiced for years. We should all seek to emulate her integrity, respect for the judicial process, and reverence for the rule of law. Throughout her vast career and her contributions to the courts at the federal level, Judge Aycock has remained as approachable as she was when she first served as the Itawamba County Prosecuting Attorney. She is a trailblazer, having become the first woman to be the Chief Judge for the federal court system in Mississippi. She made strides for women, but she inspires us all to do better than yesterday. Judge Aycock has accomplished so much in her career, all while remaining devoted to her husband, beloved son and grandchildren. Judge Aycock is a force to be reckoned with in the best possible way. She is one of the great ones.

Victor Israel Fleitas⁶

When asked to share some thoughts regarding my experiences with Chief United States District Judge Sharion Aycock I readily accepted. The easy part? Saying yes. The hard part? Putting down on paper those anecdotes which convey some sense of the subject which does justice to them and the truth. Complicating matters is the ephemeral nature of remembrance of past events.

Appreciating these challenges what follows are these lawyers' vague remembrances of two, out of many encounters, which though perhaps not entirely accurate in the retelling remain entirely true to the spirit in which they shaped the writer's perception of the subject. The first encounter spoke to her character and fairness. The second to her commitment to the task at hand and subordination of the self in consideration of others.

Admittedly, prior to her election as a Circuit Judge for the First Judicial District, I knew little more about attorney Sharion Aycock than her name. Our practice areas didn't bring us into contact with one another and we resided and practiced in different counties. I knew she was tall, lovely, with a warm smile and a friendly temperament. I knew she was married to Randy. I knew that I enjoyed visiting with both of them anytime we held one of our First Judicial District Bar Association soirees.

^{6.} Victor Israel Fleitas of Victor I. Fleitas, P.A., was admitted to practice law on April 23, 1996, after graduating Cum Laude from the University of Mississippi School of Law in December 1995.

My first memorable encounter occurred not long after she announced her candidacy for the office of Circuit Judge. As it were, I ran into Sharion at a small function in Tupelo, on the second floor of what is now Kermit's Soul Kitchen on Main Street. Sharion faced a contested election with an appointed incumbent facing the voters for the first time. No small order. What she determined to do took guts.

Sharion greeted me warmly, as she always does, shook my hand, looked me straight in the eyes and asked for my support in the upcoming judicial election. Most honest lawyers will tell you they hope for the Earth to swallow them up at moments like these. Most sober-minded attorneys offer kind platitudes of genuine or feigned support and then make a non-reportable campaign contribution to each of the judicial candidates in that race. As Her Honor will readily attest, this writer is an idiot.

I remember telling Sharion what I really thought. I told her that I thought it good that she was running for circuit judge because I felt the judiciary, the Bar, and society would benefit from more female circuit judges. Make no mistake about it, once upon a time male-chauvinism ran rampant throughout the Bar. I am old enough to have heard from several of my female colleagues about more than one senior partner or judge sending them to fetch some coffee or treating them in a dismissive manner. I am old enough to have seen it.

I then told Sharion that I knew her opponent well even from my early days as an attorney and fully intended to support him in the race. I wished her well in her race and thanked her for having the courage to put herself out there.

She smiled warmly and thanked me for giving her an honest answer even if it was not the answer she might have wanted. I knew then she would make an outstanding Circuit Judge and improve the judiciary. She won handily.

Since that time, I have appeared before Circuit Judge Sharion Aycock and District Judge Sharion Aycock more times than either of us care to remember. Not once since our long-ago conversation did I ever worry or feel that any decision she rendered was based on anything other than her honest conviction for what the facts and law of each case I brought before her required. Shaped by a long-forgotten conversation at the very beginning of what is now a long and distinguished career as a judge, to my mind, her character and fairness as a jurist are unmatched.

My second memorable encounter took place at another beginning. I found myself, at that time, in the midst of a civil jury trial before then Circuit Judge Sharion Aycock. Opposing me in that case were Bill Murphree, former Circuit Judge Frank Russell, and Jak Smith. Little did they know they were outnumbered on this occasion.

Word on the street was that President Bush was considering nominating Judge Aycock to fill a vacancy on the bench for the United States District Court for the Northern District of Mississippi. nomination and confirmation would mark her as the first female District Judge in the history of the Northern District. A big deal!

As the trial got underway, Judge Aycock met with the attorneys at the bench to apologize in advance for the fact that she might be called away during the trial to attend to a hoped-for and highly anticipated call from the President of the United States. We unanimously congratulated her in advance and assured her there was no need for her to apologize. The truth was we were excited for her as well and damned impressed at her unfailing commitment to her work as a judge.

At some point in that trial, the call came, and Judge Aycock excused herself to attend to that momentous call. She returned to the bench visibly relieved, happy, and humble but no less committed to attending to the matter at hand. Judge Aycock allowed herself only a brief moment at the bench to accept our heartfelt congratulations, before apologizing to the jury for the delay, pressing on and finishing the trial.

From my vantage point, I saw a judicial officer demonstrating a remarkable and commendable work ethic, a commitment to the task at hand, and a genuine sense of humility in subordinating her moment to the requirements of a trial, the parties, counsel, and above all the jurors who gave of their time in the performance of their civic duty.

I pray these two vignettes offer the reader some insight into the person who fills the black robe. I am grateful the vicissitudes of fate granted me the opportunity to practice law where I do and to be able to share these experiences with you. On my behalf and on behalf of my many colleagues who have appeared before her, I offer my thanks to Judge Aycock for her graciousness, fairness, work ethic, her consideration to the parties, attorneys, and jurors, her even judicial temperament, her outstanding court staff, and above all her commitment to getting the work of a judge done in the right way.

God willing, I look forward to many more years of appearances before Her Honor. I wish her good health and continued soundness of judgment in the years to come as she renders her rulings ever mindful of her constitutional duties on behalf of the People and the Republic that we both cherish.

Gary Friedman⁷

I recently retired after 35 years of practice. I had the pleasure of knowing Judge Aycock in her role as a city attorney before she went on the bench. She was down to earth then and remained so after receiving a federal appointment. Chief Judge Aycock was among the best judges before whom I was privileged to practice. I found her to be bright, efficient, and, most important, fair. I hold Chief Judge Aycock in high regard and am pleased to see the Law Review honoring her with a tribute edition.

Tom Levidiotis⁸

"Job One" for a good judge is protecting the record from lawyers who sound like fools.

Sharion Aycock is nothing if not a good, which is to say, long-suffering, judge. Now, don't hold me to this as a direct quote, but what I recall her saying was:

"I know you're respectful, but if you say that one more time, I'm going to slap you."

"Begging the Court's pardon, Your Honor?"

"If you say, 'very respectfully, your honor,' one more time, I'm going to find you in contempt. We have a lot to do here today and every time you say that just keeps us here a little longer."

Early in my career I learned what we, meaning the lawyers who practiced in the Northern District, really had on other jurisdictions was a kind of collegiality, lawyers to lawyers, and judges to lawyers, almost unique in this age. If you think about it, we are all there for the same reason. Everybody has a job to do and judges (and the sharper lawyers) are keenly aware of what that record is sounding like.

We had selected a jury for the last five of two dozen defendants in a 63-count drug conspiracy case. Most everybody had pleaded guilty and

^{7.} Gary Friedman graduated from the University of Mississippi School of Law in 1982. Gary practiced law for 37 years and retired in 2019.

^{8.} Tom Levidiotis, a graduate of University of Mississippi School of Law, was admitted to practice law in Mississippi in 1992 and Florida in 1993. Tom lives and practices in Oxford, mostly solo, with brief, generally unsuccessful, attempts at holding jobs.

we were left to try the stragglers. Nobody was having much fun that day, least of all the judge, whose job included keeping the lawyers from assaulting each other in front of the jury. Judge Aycock was, and is, the most lawyer-friendly judge I practice before, and maybe the smartest. She needed to be that day.

The lead prosecutor was AUSA Scott Leary. Scott is a big handsome Irishman with a beautiful wife, herself a lawyer, seven kids, and a bit of a short temper. His role as pater familias made the phrase, "it's not always about you" his most frequent utterance. I knew Scott from church and thought the world of his family, but he let me get to him far too easily. Finding ways for him to lose his cool in front of the jury was one of the few things I had to work with. Hence, the "very respectfully" business. Leary hated it worse than Judge Aycock.

Three days into taking proof, I got a call about midnight from Mr. Leary. He'd just learned a witness who'd testified against my client had bragged to a cellmate that she'd lied on the stand. The government would have to dismiss the count against my client.

The next morning, in chambers, Scott explained it to the judge. Rather than dismiss without prejudice and try my client alone, the government made the proverbial offer she couldn't refuse. She pleaded to a misprision count before they brought the jury in.

What kind of a country do we live in where the prosecutor wakes the defense lawyer in the middle of the night to tell that his case has just fallen apart? I, who should have been awake sweating my client's nonexistent defense, was sleeping like a baby. But the prosecutor, who had been breathing fire in front of the jury, wakes me up to tell me my client is in lots less trouble.

Answer: a pretty neat country.

And what kind of a judge presides over such a trial, where a defendant is cut loose, or at least cut slack, with grace, and only threatens to find an obstreperous lawyer in contempt?

A pretty neat judge.

Dave Bell⁹

My friend and fellow lawyer Tom Levidiotis called me one afternoon and gleefully told me that a judge had just threatened to hold him in contempt of court. That a judge might threaten Mr. Levidiotis with contempt did not surprise me. More than any other lawyer I know, he can find that seam and flirt with crossing it. Neither did it surprise me that he sounded like a child who'd just left the circus. He treasures such moments of infamy.

What did surprise me was that the judge who'd made this threat was Judge Sharion Aycock. She's as lawyer-friendly as a judge gets, and no lawyer in her courtroom ever thinks anything akin to contempt. "Yeah," he said, "she told me that she was going to hold me in contempt if I said 'very respectfully' one more time." Other lawyers may've reacted differently, but this was the highlight of Mr. Levidiotis' day.

A couple of weeks later, I was due for a hearing in Judge Aycock's court. Her courtroom deputy called me to schedule it. She suggested a date, and I was available. I said to her, "That is Halloween. Should I wear my Tom Levidiotis mask?" She laughed, and that was that. I do actually possess a Tom Levidiotis mask. One Halloween season it stared at me from a shelf at Fred's as though Tom was glaring at me. Its prominent eyebrows and mustache were ghoulishly similar. Put the mask on, make a Levidiotis gesture, and say something outrageous or Eddie Haskell-like and you get a laugh from all who know Tom.

To my surprise, not ten minutes later, I get a return call from Aberdeen. "Yes," Judge Aycock's courtroom deputy says, "wear your Tom Levidiotis mask."

At the appointed moment, I entered Judge Aycock's courtroom with her on the bench and with me in my mask. I approached the bench, stopping a few feet short of it, and said, "Very respectfully, Your Honor."

The wonderfully affable Judge Aycock laughed and snapped my picture—which she later widely circulated.

^{9.} A graduate of the University of Mississippi School of Law, David O. Bell was admitted to practice in 1975. Now semi-retired, he presently serves as the Lafayette County Youth Court Referee.

Tim Lindsay¹⁰

I have had the privilege of practicing before Judge Aycock as well as the honor of getting to know her and her husband when she is away from the bench. Judge Aycock is one of those individuals that exemplifies the highest degree of dignity and professionalism no matter the environment or circumstances. Aside from a keen judicial intellect, Judge Aycock has a wonderful sense of humor that can disarm even the most antagonistic attorney in the courtroom and provide for an entertaining conversation outside the courtroom.

Judge Aycock's success as a judge and mentor can be seen through her former clerks who are now successful practicing attorneys. I have had the opportunity to work with two of her former clerks (Kristi Johnson and Blythe Lollar) and both came into the practice ready to hit the ground running. Indeed, one (Kristi Johnson) is now a federal district judge herself.

Simply put, Judge Aycock is a tremendous asset to our judicial system as well as positive influence for our legal profession.

Casev Lott¹¹

I can say that it has been an honor and privilege to practice before Judge Aycock. Her intelligence and judicial temperament are second to none. When I began practicing law in 2005, Judge Aycock was a circuit court judge in the First Judicial District, where I primarily practiced. She was always very courteous and patient with me and other young lawyers. She has always had the unique ability to be firm yet courteous, understanding and compassionate. I've both won and lost battles in Judge Aycock's courtroom, but I never left her courtroom feeling as though I didn't get a fair shake. Socrates aptly described the essential qualities of a good judge: "To hear courteously; to answer wisely; to consider soberly; and to decide impartially." Judge Aycock unquestionably checks all those boxes.

^{10.} Tim Lindsay has practiced exclusively in the area of labor and employment law since 1987 and possesses extensive experience in defending public and private employers against claims involving a wide variety of state and federal labor and employment laws. Tim is employed at Butler Snow and graduated from the University of Mississippi School of Law in 1984.

^{11.} Casey Lott has practiced law for fifteen years since graduating from the University of Mississippi School of Law. Casey is the owner and managing partner at Langston & Mott, PPLC.

Merrill Nordstrom¹²

Judge Aycock is an exceptional judge. Her sense of fairness, her integrity, and her civility are unparalleled. Judge Aycock's love for the law is infectious. It is evident in how she conducts her courtroom and through her writings that the practice of law is the noblest of professions and that we as lawyers are here to serve the public good. As a woman, a wife and a mother it has been an honor to practice before her and to receive helpful tips along the way on balancing the work family paradigm.

Robin Taylor¹³

I am honored to be invited to offer a brief tribute to Judge Aycock. I have had the privilege of practicing before Judge Aycock, as well as the pleasure of witnessing her warm mentoring relationship with her former law clerks, Kristi Johnson and Blythe Lollar. Judge Aycock's accomplishments, wisdom and warmth are a tremendous inspiration to me.

She has an astute intellect with a model judicial temperament. She exhibits the highest degree of integrity and professionalism, while maintaining her authenticity and sense of humor. Judge Aycock adeptly controls her courtroom and treats attorneys and parties with respect and dignity. On more than one occasion, Judge Aycock has aptly and patiently curtailed my overly-thorough questioning of a witness by looking over her glasses and instructing me to move my questioning along—I am sure to the delight of the jury.

I salute Judge Aycock, a wonderful judge and role model.

^{12.} Merrill Nordstrom is an Assistant Federal Public Defender for the Northern District of Mississippi. Merrill graduated law school in 2002 and has been practicing law for nearly 18 years.

^{13.} Robin Taylor is a member of Butler Snow's litigation department and practices within the Labor and Employment group. With approximately 20 years of litigation experience, Robin regularly counsels businesses in all aspects of employment law and has served as lead counsel in cases in Mississippi, Alabama and Tennessee. Robin graduated cum laude from Tulane University School of Law in 2000.

Jim Waide¹⁴

I have known Judge Aycock since she was a practicing lawyer in Fulton, Mississippi. She had a reputation as a lawyer of high integrity and extraordinary work habits. Both clients and other attorneys knew she could be trusted, and they recognized both her skill and her willingness to work hard. Judge Aycock has carried those character traits with her to the federal bench.

As a judge, she never fails to exhibit kindness toward litigants, jurors, and lawyers. She is patient, in even the most stressful circumstances, and she is determined to reach the right result. Despite a heavy caseload, she is eager to allow all parties to make thorough arguments. She never makes attorneys feel rushed or as if they are an inconvenience to her. She is genuinely interested in others' perspectives.

I am always happy to be in her courtroom, as I know she will treat my clients with respect. Regardless of the outcome of any trial, all of the participants leave with an abiding respect for Judge Aycock. I count myself fortunate to be able to try cases before her and to call her my friend.

Rachel Pierce Waide¹⁵

I initially met Judge Aycock when she was a practicing attorney. On a professional level, I knew of her stellar work ethic, and I met her satisfied clients. Her work product spoke for itself. I also saw her socially. She was involved in local bar activities and was constantly finding ways to give back to her community. While she was deeply engaged in legal matters, she was also well rounded. She was committed to her family and to the place in which she lived. Her work did not define her.

She was then, and is now, also committed to the places where she was educated. A graduate of Mississippi State University with a bachelor of arts in economics, she remains a loyal bulldog and is eager to assist the

^{14.} Jim Waide, a native of Clay County, Mississippi, is the founder and a current shareholder of Waide & Associates, P.A. A graduate of West Point High School and Millsaps College, Waide spent three years in the United States Marine Corps, including one year as a forward observer in Vietnam. Waide was awarded the Bronze Star for his service in combat. After discharge from the Marines as a Captain, he graduated from Tulane Law School.

^{15.} A native of Aberdeen, Mississippi, Rachel Pierce Waide is a shareholder in Waide & Associates, P.A., where she focuses her practice on civil litigation, including employment law, personal injury, and medical malpractice. Rachel graduated from Mississippi University for Women, summa cum laude, with a Bachelor of Arts in English and received her juris doctor, magna cum laude, from the University of Mississippi School of Law.

university in its endeavors. After graduation from MSU, she attended the Mississippi College School of Law, where she finished second in her class and served as co-editor of the law review. You will never hear about those accolades from Judge Aycock, though. She moves through life with a quiet grace and with little fanfare.

I was excited when she was elected as a circuit judge in our judicial district. Those of us who practiced before her on the circuit bench often complimented her by referring to her as a "lawyer's judge." She never forgot the rigors of the practice. She was not quick to deny requests for enlargements of time, and she understood the need for rescheduling and continuances. I was fortunate enough to handle motion hearings before her and to try cases with her on the bench. She worked diligently, and she kept the docket moving at a rapid pace. At the same time, though, she never made the litigants or attorneys feel rushed. She gave each case equal time and attention. She had a genuine skill for making every litigant feel important and heard.

The move to the federal bench did not change Judge Aycock. A lifetime appointment might have caused her to work at a slower pace, but Judge Aycock seemed recommitted to the task at hand. As Chief Judge, she is overseeing the construction of a new federal courthouse in Greenville, Mississippi, and is in the midst of the remodeling of the federal courthouse in Aberdeen, Mississippi. Those projects are time-consuming and detailed-oriented, but they never manage to distract her from the cases on her docket. Regardless of how much additional work she faces, she nevertheless meets deadlines and maintains a joyful disposition.

Judge Aycock is perfectly suited for a career on the bench. Her demeanor is calm and engaging, and she believes in the pursuit of justice. She puts time and effort into each of her rulings; I am convinced that she endeavors to reach the right result in every case she is called upon to decide. Our judicial district, our state, and our nation are fortunate that she is willing to serve in that demanding role.

At the end of each trial, Judge Aycock leaves the bench and walks down into the courtroom. She greets each attorney and litigant personally. No matter how the case is decided, she never fails to compliment the lawyers in front of our clients. She likely has no idea how much those few words mean to all of us. Win, lose, or draw, no one leaves her courtroom feeling as if he or she did not get a fair shake from Judge Aycock. I am pleased she is a part of our judiciary, as practicing in her courtroom is a joy. I am, however, more grateful that she is my friend.