

Atlanta Business Chronicle - September 15, 2008

<http://atlanta.bizjournals.com/atlanta/stories/2008/09/15/story11.html>



Friday, September 12, 2008

Firm newcomer makes debut in top state court

Atlanta Business Chronicle - by [John Manasso](#) Staff writer

Following in the steps of firm history, second-year associate Chris Giovinazzo of **Bondurant, Mixson & Elmore LLP** marked his Sept. 8 courtroom debut inside an impressive site — the Georgia Supreme Court.

Emmet Bondurant, one of the firm's founders and one of the most respected attorneys in the state, argued his first case before the U.S. Supreme Court — in 1962 when he was 26.

In comparison to Giovinazzo, who is six years older than that, Bondurant was a relative babe.

"If they didn't think I could do a top-notch job, it wouldn't have happened," said Giovinazzo, who is a graduate of Atlanta's Westminster Schools, **Yale University** and **Harvard Law School**.

Bondurant, Mixson & Elmore, which has only 26 attorneys, handles some of Atlanta's biggest civil litigation cases.

Giovinazzo wrote his first motion to dismiss just four months on the job. In comparison, young associates at large firms might spend several years learning before they get to author their own briefs or argue cases.

Giovinazzo said he likes the firm's idea that, "If we hire you, you're ready to do anything a lawyer does," he said.

On a pro bono basis, the firm is representing neighbors of Ashford Park, who have challenged the **Georgia Public Service Commission** (PSC) on how it grants **Georgia Power Co.**'s ability to locate electrical substations.

In May 2007, Georgia Power announced plans to build a substation on land zoned residential amid a residential neighborhood to help support nearby hospitals — **Saint Joseph's Hospital, Northside Hospital** and **Children's Healthcare of Atlanta at Scottish Rite**. Fourteen months later, the project was complete and on line.

The PSC said it does not have jurisdiction over where Georgia Power can place substations — granting virtually absolute authority to the utility to build wherever and whenever it wants, according to the case.

The commission argues that it has not violated its mission, as it allows Georgia Power to build

“just and reasonable facilities” and that the case is moot because the substation is complete and on line.

The state Supreme Court session began at 10 a.m. on Sept. 8 and Giovinazzo’s case was scheduled as fourth out of four for that session. Halfway through the session, Chief Justice Leah Ward Sears ordered a brief recess. In the hallway outside the courtroom, Giovinazzo admitted to nerves but said that was true of everyone.

His opposition got to argue first. Assistant Attorney General Daniel Walsh argued for 12 minutes on behalf of the PSC and then **Troutman Sanders LLP**’s William Droze, a practicing lawyer for 21 years who represented Georgia Power, argued for the next eight minutes.

Walsh reserved his final two minutes for rebuttal.

In addition to doing all of the research and writing the briefs, Giovinazzo had prepared for the argument with two 45-minute “moot” sessions in which fellow lawyers at the firm grilled him to prepare him for the justices’ questions.

“The moot bench may be harder than the reality, which is what you want,” said partner John Floyd.

In the moot sessions, his fellow attorneys allow him to make his argument for 10 minutes before interrupting with questions.

One minute into the real thing, Justice George Carley began a series of questions about legal precedents. In particular, Carley asked about a case involving the city of Buford, which passed a law preventing the creation of a substation 500 feet from a residence. The Georgia Supreme Court struck it down, saying only the PSC could regulate Georgia Power.

“I think it’s great he interrupted one minute in,” Giovinazzo said. “You want to be talking about what the justices are interested in.”

With all of the justices’ questions answered, Giovinazzo completed his argument in the opposite order for which he had prepared: questions first, then prepared argument.

He argued that the PSC’s “denial of jurisdiction is not an exercise of discretion.”

The neighbors simply want the PSC to accept that it has jurisdiction so that opponents of proposed substations in the future will have a mechanism to challenge how Georgia Power and the PSC goes about its process.

Giovinazzo said his firm receives calls about once every week or two from people throughout the state who are fearful of Georgia Power putting a substation near their home. Among those who objected to the placement of the substation are a state representative, the mayor of Chamblee, the superintendent of the DeKalb County Schools and 500 neighbors.

All in all, he thought it went well.

“We got to say what we wanted to say,” he said.

Reach Manasso at jmanasso@bizjournals.com

All contents of this site © American City Business Journals Inc. All rights reserved.