Crow Shields Bailey PC
Reaching beyond the numbers.

Beyond the Numbers

A Crow Shields Bailey PC News Publication

Fall 2012

Crow Shields Bailey PC 25 Years of Service

CLIENT SPOTLIGHT

(L to R) Seated: Harwell Coale, Gil Dukes; Standing: Mark Kirkpatrick, John Crowley

Founded by Senior Partner, Harwell E. Coale, Jr., the Mobile firm of Coale, Dukes, Kirkpatrick & Crowley, P.C. has been serving clients throughout Alabama since 1992. The firm's four partners, Harwell E. Coale, Jr., Gilbert F. Dukes, III, R. Mark Kirkpatrick, and John J. Crowley, Jr., each of whom have a Masters Degree in Taxation from New York University, take pride in providing quality, cost-effective legal services that meet each client's specific needs.

The firm's primary goals are to help its clients alleviate the stress of dealing with complicated tax matters, to advise and protect businesses, and to create estate plans that meet each family's objectives. The firm helps its clients with all types of tax matters such as business and personal tax planning, tax audits, IRS administrative proceedings and tax litigation. The firm assists businesses with contract negotiations and business formation. On the estate planning front, the firm works to devise a plan that fits each family's financial situation and philosophical goals, and each lawyer is well versed in drafting wills and trusts, protecting assets, and devising strategies for transferring assets with a minimum of taxes.

Harwell Coale and Gil Dukes are members of the American College of Trust and Estate Counsel, an association of lawyers who are skilled and experienced in the drafting of wills, trust agreements and other estate planning documents, as well as areas such as estate and trust planning, estate administration, and wealth transfer tax planning. Harwell and Gil also perform all types of general business work for closely-held companies and their owners. Gil also serves as a member of the Board of Trustees of the American Institute on Federal Taxation.

Mark Kirkpatrick has been certified as an Estate Planning Law Specialist by the Estate Law Specialist Board, Inc., is past president and a member of the board of the Tax Section of the Alabama State Bar Association, and currently serves on the Estate Planning Law Specialist Board, the ABA approved organization that manages the certification of attorneys as estate planning specialists and the committee that manages the certification of other disciplines as Accredited Estate Planners. Mark maintains an active practice in the estate planning and trust and estate litigation areas, and is active in representing clients in the mergers and acquisitions area on different types of transactions, with five currently active stock or asset deals pending.

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Newsletter Contributors
Kenny Crow
Deborah Fisher
John Shields
Jenna Summersell

Guest Contributor
Celia J. Collins

Our Vision

Our firm's objective is to maximize our clients' wealth. We strive to be the premier accounting and consulting firm in our area by offering a complete range of quality services to our clients. We will employ only the best people and ensure outstanding training and long-term career opportunities.

Team Members

Audit Team

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Visit our website at: **CSBcpa.com**

Client Spotlight: Continued from Page 1

John Crowley not only assists clients with estate planning, estate and trust administration, and business law matters, but he also has years of experience advising and representing clients who are under examination by, or in litigation with, the Internal Revenue Service or Alabama Department of Revenue. John also has an active practice representing clients in the estate and trust litigation area.

CDKC has been a CSB client for several years, and before that a client of Dudley, Chateau & Cox, P.C. for over 20 years. About the merger of DCC with the CSB firm a few years ago, Harwell said "All of our partners knew the CSB partners quite well, as we had worked together for many years helping mutual clients with tax, business and accounting matters. And we also knew them through our combined involvement in community and professional organizations. So, we didn't have to introduce ourselves and the merger of the two firms was a very natural progression." Kenny Crow agreed, and added that "CSB is proud to be associated with a reputable firm such as CDKC and we are privileged to assist them with their accounting and tax needs."

For more information about Coale, Dukes, Kirkpatrick & Crowley, P.C., please visit www.cdkclaw.com. Or give them a call at 251-471-2625.

Bruce McCrory Named NRCA President

CSB client Bruce McCrory of Kiker Corporation will serve as President of the National Roofing Contractors Association (NRCA). Bruce is the secretary-treasurer, co-owner, chief operating officer and general manager of Kiker Corporation. He and his brother Don, Kiker's president, started Kiker Corporation in 1979 and they have been going strong since!

Bruce has a long history in the roofing business and has served as president of the National Roofing Legal Resource Center (NRLRC) and president of the Subcontractors Association of Alabama. On the business and community front, he has served as president of the Better Business Bureau of South Alabama and president of the University of South Alabama National Alumni Association.

Bruce is married to Patricia McCrory and they have one daughter, Mary Lee.

CSB congratulates Bruce on this well-deserved appointment and we look forward to our continued relationship with Kiker Corporation. For more information, please visit them at www.kikercorp.com or call 251-661-1971.

Team Member news

Barb Frerman Celebrates 26 Years with CSB!

Our Gulf Shores Office Manager Barb Frerman celebrated her 26th anniversary with CSB on October 8. Barb is admired and respected by fellow team members and clients for her loyalty, dedication and professionalism. She has seen us through many changes over the years and been instrumental in the growth of our Gulf Shores office.

Barb is a devoted mother to her three children: Josh (Kathryn), Nicholas (Rachel) and Sarah. But everyone knows that her four grandchildren (Ava, Madeline, Andrew and Henry) occupy an extra special place in her heart. When she's not spending time with her family, babysitting her grandchildren or managing the Gulf Shores office, you will likely find Barb on the tennis court! Tennis has been a passion of Barb's for over 20 years and because of her love of the sport, her children gave her a trip to the U.S. Open in New York for her birthday this year.

CSB is fortunate to have Barb on our team and we look forward to another 26 years!

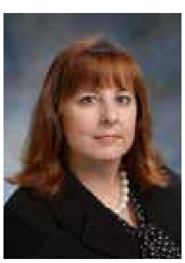
Kenny Crow

Kenny Crow received an invitation to serve on the Mobile Area Chamber of Commerce Board of Directors. Kenny currently serves on the Board of Advisors and is also involved in the Partners for Growth Initiative.

Promotions

Sherri Deighton

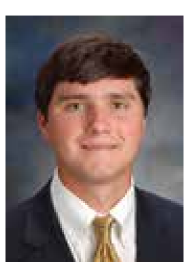
Sherri Deighton, CPA was promoted to Supervisor in January. Sherri has been a CSB team member for three years and is on our tax team. Prior to joining CSB, she was with a national accounting firm for six years and spent two years in private accounting.



Hope Hickman

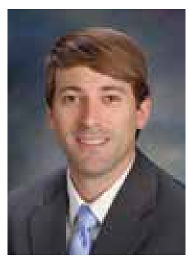
Hope Hickman, CPA was promoted to Senior Accountant in January. Hope has been with CSB for over three years and is on our audit team. Prior to joining CSB, Hope worked in private industry in San Francisco and Dallas before settling in Fairhope.

New Hires



Lott Brigham

Lott Brigham joined the firm on October 1. Lott is a graduate of St Paul's Episcopal School and received both a Bachelor of Science degree in Business Administration (Accounting and Finance) and a Master of Accounting degree from the University of Alabama. He recently passed the CPA exam and is on our audit team.



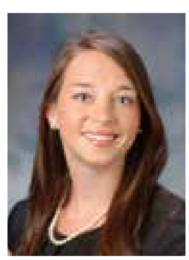
Ryan Damrich

We welcomed Mobile native ***Ryan Damrich***, CPA to the CSB team on October 1. Ryan attended McGill-Toolen Catholic High School, and received his Bachelors and Masters of Tax degrees from the University of Alabama. He has been working with a large regional accounting firm in Birmingham for the past five years. Ryan is a supervisor on the tax team.

Additionally, Ryan and Mandy Nicole Britt got engaged in September. They are planning a summer 2013 wedding.

Melissa LaFrenier

CSB welcomed ***Melissa LaFrenier***, CPA in March. Melissa received a Bachelor of Science degree in Business Administration (Accounting) from the University of South Alabama. She worked in the trust department of a local financial institution prior to joining CSB. Melissa is a member of our tax team.



Colleen Macon

Colleen Macon, CPA joined the CSB team in June. Colleen is a graduate of UMS-Wright Preparatory School and received a Bachelor of Science degree in Business Administration (Finance) from Auburn University in 2008. She has been working in industry for the past two years and is on our audit team.

CSB welcomed ***Jenna Summersell*** as our new Administrative Assistant in August. Jenna received a Bachelor of Science degree in Business Administration with an emphasis in Human Resource Management from the University of South Alabama in May.

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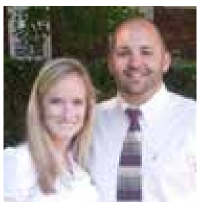
Interns

We had four interns help us out this Spring and Summer; two hailed from the University of Alabama, one from Auburn and another from The University of Georgia.

Summer intern Austin Nowlin (UGA)

Tax season interns Whitney Baker (AU), Chandler Gordon and Taylor Trent (UofA).

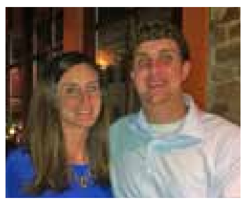
Engagements and Weddings



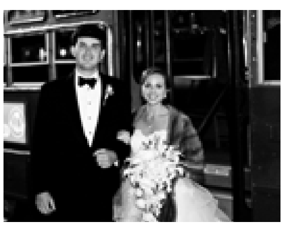
Sarah Frerman and Kelly Wheeler

Sarah Frerman got engaged to **Kelly Wheeler** in May. Their wedding will be in the fall of 2013 in Gulf Shores.

Alex Martin and ***Mallory Maurin*** got engaged May 12, 2012. They will be married on June 22, 2013 at the Cathedral Basilica of the Immaculate Conception.



Mallory Maurin and Alex Martin



Marshall and Allison Shields

Marshall Shields and ***Allison Smith*** were married in Birmingham last December. The couple have made their home in Mobile.

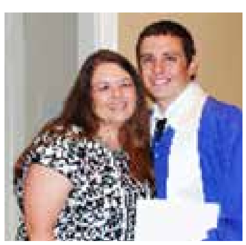
Births

Nicholas and ***Rachel Frerman*** welcomed Nicholas Henry Frerman on January 5, 2012. Baby Henry weighed 8 lbs, 7 ozs and was 21½ inches long.

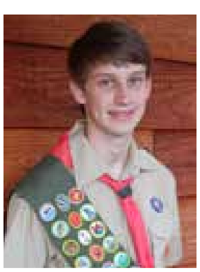
Madeline and Henry Frerman

CSB Kids

Tim Brothers graduated from Baker High School in May and is attending the University of South Alabama.



Jennifer and Tim Brothers



Nicholas O'Connor

Nicholas Joseph O'Connor, 16, the son of Guy and Katie O'Connor, earned Scouting's highest rank of Eagle Scout. Nicholas earned the rank of Eagle Scout after demonstrating leadership in his troop, completing the required 21 merit badges, completing an Eagle Scout service project, and passing his Eagle board of review. For his Eagle Project, Nicholas constructed an outdoor pergola on the grounds of the Shrine of the Holy Cross Catholic Church in Daphne, AL.The project involved demolition of an old structure, construction of a wooden pergola, and installation of pavers and landscaping. Nicholas is a member of Boy Scout Troop 87 in Daphne, AL.Troop 87 is sponsored by the Knights of Columbus Council 2737.

Nicholas is an honor roll student at McGill-Toolen Catholic High School. He is a member of the cross country team, Pro-Life Club, and Christ the King Lifeteen youth group.

Gina, Brian and Pudgy

Brian Russell graduated from the University of Alabama in May. Brian received a Bachelor of Science degree in Business Administration and has opened Core Fitness in Tuscaloosa (365corefitness.com). Core uniquely specializes in women's group fitness, with programs for all ages and fitness levels.

News Extras

Colleen Keleher shared these beautiful pictures from her summer family vacation in Maine. The first photo is the last time they all got together there 11 years ago; the second is this year in the same spot, missing grandparents but adding 3 more kids!

Keleher Family 2001

Keleher Family 2012

CSB family members enjoy an afternoon on the wharf

CSB had its annual Summer Outing in August at the home of Kenny and Marty Crow in Point Clear.

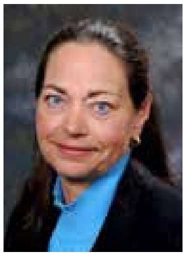
We can add and subtract... and run, bike and swim!

CSB's Azalea Trail Run Team

CSB Triathlon Team

Health Care Reform – What Employers Should Do Now

Guest contributor Celia J. Collins, attorney at Johnstone, Adams, Bailey, Gordon & Harris, LLC



Celia J. Collins

While the Supreme Court has spoken, the future of health care reform remains uncertain depending on the results of the November election. The possible scenarios include: (1) Obama wins, Democrats retain control of the Senate – no change; (2) Obama wins, Republicans take control of the Senate – efforts to repeal will ensue likely resulting in compromise; (3) Romney wins, Democrats retain control of the Senate – Romney will appoint agency leadership who will modify health care reform through their regulatory power, expect some change; (4) Romney wins, Republicans control Senate – eventual total re-haul of health care reform. Any changes to the Affordable Care Act (ACA) will be delayed until after the President and Congress are installed in late January. Employers need to start preparing now to comply with those requirements becoming effective the last quarter of 2012 and the early part of 2013.

Upcoming Deadlines

September 23, 2012 - Distribution of Summary of Benefits and Coverage (SBC).
For any open enrollment period or new hire enrollment process on or after September 23, 2012 employers must distribute a four-page summary of benefits and coverage. This will be likely prepared by carriers for fully-insured plans or plan sponsors or TPA's for self-insured plans but the employers remain responsible for the distribution.

January 1, 2013 - Change in Pre-Tax Flexible Spending Contributions.
Beginning the first day of the first plan year following January 1, 2013, cafeteria plans must limit employee pre-tax health flexible spending account salary reduction contributions to no more than $2,500.00 per participant. Now is the time for employers to amend their plan documents and enrollment forms to comply with the new limit.

January 2013 - 2012 W-2 Forms.
Beginning in 2013, employers which issued more than 250 Form W-2's in 2011 must report the value of employer sponsored health insurance coverage on Form W-2. Begin calculating your total benefit values and discussing the reporting process with your payroll company.

March 1, 2013 - Distribute Notice of Exchange Option.
Employers will be required by March 1, 2013, to distribute to employees notices of the existence of the State Exchange and options of obtaining health care through an exchange. The Department of Health and Human Services should be issuing guidance and templates to assist employers in accomplishing this requirement.

July 31, 2013 – Comparative Effectiveness Research Fee.
Employers who sponsor self-insured health plans will be required to pay a "comparative effectiveness research" (CER) fee of $1.00 times the average number of covered lives (employees and dependents) for each plan year. Self-insured plans are required to complete IRS Form 720 and submit the fee to the IRS by July 31, 2013. (The fee increases to $2.00 for subsequent years and ends for plan years after October 1, 2019).

Looking Ahead

Assuming the Affordable Care Act is not modified, beginning January 1, 2014, employers with 50 or more employees will face the pay or play mandate and must offer a certain level of coverage at an "affordable" premium rate to all full-time employees or risk penalties. Employers must provide "minimum essential" health coverage to their full-time employees. Further, the employer's health plan must be "affordable" in that the employee portion of the premium for single coverage cannot exceed 9.5% of an employee's annual wages. Employers should begin analyzing their health insurance benefits programs and policies to determine changes necessary to comply and/or whether it is more cost effective for them to simply pay the penalty.

Employers with 200 or more employees will be required to automatically enroll all "full-time" employees. A full-time employee is defined as an employee who averages 30 or more hours a week regardless of their status. In many companies, part-time and flex employees who average 30 hours per week are not provided benefits because of their job status. Employers should review their benefits eligible job classifications as well as their payroll records to determine if they have employees in this category and make necessary changes by re-classifying the employees to a benefit eligible position or hiring additional part-time workers and managing the part-time employees' hours to minimize the number of employees averaging 30 or more hours a week in a three-month period.

Finally, the Department of Labor has initiated an audit program to determine compliance with the initial requirements of health care reform. Now is the time for employers to audit their records to ensure that their health plan documents have been amended for insurance market reforms which have already taken effect and that the required participant notices have been distributed. Any documentation errors or omissions found should be immediately corrected.

Stay Tuned

The agencies involved in managing and regulating ACA are slowly issuing the guidances, regulations and notices necessary for employers to fully comply with the Act. Employers should be vigilant in watching E-letters and other industry alerts for the publication of this information which is vital to full compliance.

For further information or questions contact Celia Collins at cjc@johnstoneadams.com

Dear Tax Man

Dear Tax Man,
Hello. My name's Forrest. People call me Forrest. I live in Greenbow, Alabama.

Being as how I started a shrimp business down in Bayou La Batre a few years back with my good friend Lieutenant Dan, I got lots of money. You see, the Lieutenant took that shrimp money and got us invested in some sort of a fruit company. Mostly apples far as I can tell. After he did that, I got a call from him saying we don't have to worry about money no more. And I said that's good. One less thing. Seems all I got to do now is cut grass when I feel like it and walk out to my mail box ever so often and get me an apple check.

So when Lieutenant Dan told me them folks in Washington was planning on taking more of our fruit money, I said that don't sound right. You know, seeing as how the Lieutenant and me, we worked mighty hard making that money, with a lot of long days on the water in the heat and hurricanes and what not. And funny thing, I don't recollect getting any help from them folks in making that money.

Now I'm not a smart man…but I know what money is. And I thought about what Mama always said: "Forrest, stupid is what stupid does." And right off I started thinkin' how stupid it was to let the guvment get their hands on my fruit money. So from now on, every time one of them apple checks makes its way to my mail box, I'm gonna carry it straight to that big ol' oak tree in the back yard and bury it right there next to my Jenny. That way, won't nobody know where it is and they can't steal it. That's my plan.

Now Lieutenant Dan, when I told him 'bout my plan and all, he got that crazy look in his eyes and let out a howl. But me, I don't think it's funny, not one bit. And that's all I have to say about that.

Sincerely,
Forrest G.

Dear Forrest,
Your fruit money may well be in jeopardy, and you're not the only one concerned about the upcoming "Medicare Surtax" that could add an additional tax burden on the investment income of certain taxpayers. Some earned income and even medical deductions could take a tax hit as well.

Now I'm not going to take Lieutenant Dan's side completely. Your burial plan may have some merit. Just don't get your hopes up too high. Remember that about seven score and 7-plus years ago our southern forefathers devised similar plans, burying silver and other fruits of their labor to hide it from the Yankee invaders. But General George T. Sherman thwarted our eastern neighbors' efforts in his fiery "march to the sea" through Georgia and South Carolina, looting and burning all he could find. Or so I'm told. Just be mindful of our history and remember it sometimes repeats itself.

Forrest, the tax that concerns you came about as a part of the 2010 Healthcare Act. Since many of the Act's provisions weren't effective until 2013, which seemed a long way away at the time, and since many thought the law or at least parts of it would be repealed, we didn't worry about it much for awhile. Now though, since the Supreme Court upheld the entire law this summer… well, now it's time to worry.

Here are highlights of a few tax provisions contained in the 2010 Healthcare Act:

Higher Medicare taxes on high-income taxpayers. High-income taxpayers will be hit with a double whammy: a tax increase on wages and a new levy on investments.

Higher Medicare payroll tax on wages. The Medicare payroll tax is the primary source of financing for Medicare's hospital insurance trust fund, which pays hospital bills for beneficiaries who are 65 and older or disabled. Under current law, wages are subject to a 2.9% Medicare payroll tax. Workers and employers pay 1.45% each. Self-employed people pay both halves of the tax (but are allowed to deduct half of this amount for income tax purposes). Unlike the payroll tax for Social Security, which applies to earnings up to an annual ceiling ($110,100 for 2012), the Medicare tax is levied on all of a worker's wages without limit.

Under the provisions of the new law, which takes effect in 2013, most taxpayers will continue to pay the 1.45% Medicare hospital insurance tax, but single people earning more than $200,0000 and married couples earning more than $250,000 will be taxed at an additional 0.9% (2.35% in total) on the excess over those base amounts. Employers will collect the extra 0.9% on wages exceeding $200,000 just as they would withhold Medicare taxes and remit them to the IRS. Companies won't be responsible for determining whether a worker's combined income with his or her spouse makes them subject to the tax. Instead, some employees will have to remit additional Medicare taxes when they file income tax returns, and some will get a tax credit for amounts overpaid. Self-employed persons will pay 3.8% on earnings over the threshold. Married couples with combined incomes approaching $250,000 will have to keep tabs on both spouses' pay to avoid an unexpected tax bill. It should also be noted that the $200,000/$250,000 thresholds are not indexed for inflation, so it is likely that more and more people will be subject to the higher taxes in coming years.

Medicare payroll tax extended to investments. Under current law, the Medicare payroll tax only applies to wages. Beginning in 2013, a

Medicare tax will, for the first time, be applied to investment income. A new 3.8% tax will be imposed on net investment income of single taxpayers with adjusted gross income (AGI) above $200,000 and joint filers with AGI over $250,000 (unindexed). Net investment income is interest, dividends, royalties, rents, gross income from a trade or business involving passive activities, and net gain from disposition of property (other than property held in a trade or business). Net investment income is reduced by properly allocable deductions to such income. However, the new tax won't apply to income in tax-deferred retirement accounts such as 401(k) plans. Also, the new tax will apply only to income in excess of the $200,000/$250,000 thresholds. So if a couple earns $200,000 in wages and $100,000 in capital gains, $50,000 will be subject to the new tax.

Net Investment Income Considerations.
Generally, trade or business income passed through from an S Corporation or Limited Partnership is subject to the 3.8% Medicare Surtax if the owner does not "materially participate" in the activity. There are seven tests to determine if one materially participates, with perhaps the most common one being a required participation of at least 500 hours in the business in a year to qualify as a material participant. However, all of the tests should be carefully reviewed.

Rents received directly or by a Pass-through entity are generally subject to the 3.8% Surtax unless you qualify as a "Qualified Real Estate Professional" under Internal Revenue Code Section 469(c)(7) and you materially participate.

Retirement plan distributions from qualified plans such as 401(k)s, 403(b)s, and IRAs are not considered investment income. However, such distributions could increase your adjusted gross income over the $200,000/$250,000 threshold and subject you to the Surtax on net investment income.

Any income subject to the 2.9% self-employed Medicare Tax is not considered investment income subject to the Surtax.

Tax-exempt interest income is also not considered investment income for purposes of the Surtax, making it more attractive when compared to the after-tax return on taxable investment income.

Floor on medical expenses deduction raised from 7.5% of AGI to 10%. Under current law, taxpayers can take an itemized deduction for unreimbursed medical expenses for regular income tax purposes only to the extent that those expenses exceed 7.5% of the taxpayer's AGI. The new law raises the floor beneath itemized medical expense deductions from 7.5% of AGI to 10%, effective for tax years beginning after Dec. 31, 2012. The AGI floor for individuals age 65 and older (and their spouses) will remain unchanged at 7.5% through 2016.

There you have it, Forrest. Depending on how the political winds blow, future legislation could modify this tax law. Or maybe not. Who knows? The tax law is like a box of chocolates. You never know what you're gonna get. But there comes a time when you've got to put the past behind you before you can move on. And since this tax now appears to be right around the corner, we need to deal with it as best we can.

My friend, I suspect that's not the answer you want. But unfortunately, that's all I have to say about that.

Sincerely,
Tax Man

The BP claims process won't go away; it just seems to have a life of its own.

CSB has been assisting clients in filing claims since shortly after the Deepwater Horizon Well exploded in the Gulf on April 20, 2010. The process of filing claims has changed significantly since Ken Feinberg's Gulf Coast Claims Facility (GCCF) was replaced by a new Settlement Agreement on June 4, 2012.

The Settlement Agreement is 1,022 pages long and contains key changes to the claims process. Perhaps most significantly, a claimant no longer must prove that losses were a direct result of the oil spill. Additionally, the loss computation is now uniform for all claimants and eliminates inconsistencies that we experienced in dealing with the GCCF.

Claimants must be located in Louisiana, Mississippi, Alabama or parts of Florida. For a loss of income claim, causation is proved by showing a decline in revenue for any consecutive three-month post-spill 2010 period compared to the same three months in a prior "benchmark" year - 2007, 2008 or 2009. Next, the claimant must demonstrate an increase in income for 2011 over 2010.

Besides loss of income claims for mature businesses, there are provisions for start ups, failed businesses, loss-of-use and enjoyment of personal property, personal property damage, medical payments and even certain sales of property that occurred post-spill 2010.

We have devoted many team members to the BP claims process including Alex, Trey, Morgan, Melissa, Colleen, Austin, Gaines, John, Gina and Kenny. It looks like BP will continue to inject significant money into our local economy and we believe our firm will participate in the claims process for another year or more. We're rewarded by knowing that we helped many individuals and businesses in the claims process, some of whom might not have survived without compensation from BP.

If you need more information or think you might qualify as a BP Claimant, please drop by, call us, or contact Alex Martin at alexm@csbcpa.com.

Crow Shields Bailey PC
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