



Summer 2016



# Beyond *the* Numbers

A Crow Shields Bailey PC News Publication

## CLIENT SPOTLIGHT



Owners Jack Summersell (left) and Brad Summersell (right)

Educators Resource, Inc. (ER) is the leading U.S. wholesale distributor of pre-K to 8 supplemental teaching materials. Brothers Jack and Brad Summersell, President and Executive Vice President respectively, carry on the legacy of their father Frank who founded ER's predecessor Mobile Pen Company in 1978. The Company has gone through two major transitions since its inception and is entering yet a third phase as it continues to grow and evolve.

### Phase One: Teacher Supplies Division

Frank truly stood out among his wholesaler peers across the country as a man who had the vision and ability to reinvent his business in advance of the collapse of the independent office products retail store channel. Out of that vision came ER's teacher supplies division in 1992, which Brad, fresh out of college, helped his father create. This segment of the company soon outgrew the office supplies division, which was languishing due to competition from the big-box office superstores Staples and Office Depot, both of which were absorbing the national and regional distribution functions into their overall retail operations. By the end of the 1990's, thanks to the teacher supplies offerings, ER had grown from its initial 7,500 square foot space to a 40,000 square foot distribution center. And still more space was needed! So in 2000, ER expanded its warehouse to 90,000 square feet and also welcomed Jack Summersell to the business. After a long and successful career, Frank retired in 2008.

#### Newsletter Contributors

Sherri Deighton  
Deborah Fisher  
John Shields  
Jenna Summersell  
Cindy Rathle

## 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

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### Phase Two: Internet Sales

The second major change came about much more gradually over the course of 15 years. And again, it was due to Frank's vision, whose long-time adage was "if there is technology out there available to make us better, we need to be using it".

ER positioned itself in 1997 as an early adopter of the new e-commerce fulfillment service, signing its first Internet retail customer that year by offering a drop-ship service. Through a substantial investment in technology including batch picking systems, power conveyor, and EDI/API integration applications, ER was able to integrate with e-commerce sites and process thousands of small orders efficiently.

This revolutionized the internal operations of the Company's distribution center and by 2011, the Company's business-to-consumer (B2C) fulfillment revenue exceeded its business-to-business (B2B) wholesale revenue for the first time. Today e-commerce fulfillment comprises a significant majority of the Company's sales, with over 20,000 products represented online by several hundred online retailer customers.

### Phase Three: Third-Party Fulfillment

Looking to take the family business into yet a new area of growth,

Jack and Brad established Order Fulfillment Company, LLC just last year. OFC is a provider of third party e-commerce fulfillment for Internet retailers in any product category who desire to outsource the physical distribution of their web orders.

As Jack puts it, "We looked at potential areas for new growth, and it became obvious that we needed to create a third party logistic (3PL) offering. Business-to-consumer Internet sales are growing in excess of 15% worldwide, and there is great demand for outsourced fulfillment in that arena. Thus far, over 200 million unique products have been outsourced to Amazon fulfillment centers alone by independent online retailers. We had all the competencies in place to transact the business with a few exceptions: namely pricing, selling, and billing, which we had to learn. We were accustomed to getting a margin on product with Educators Resource. With the new company, we are also billing for things like monthly storage and per-order shipping fees."

Educators Resource was a long-time client of McKean & Associates, and transitioned to Crow Shields Bailey when the firms merged in 2015. President Jack Summersell says, "This firm has been a wonderful asset to us through the years, and especially now with the new business. They have been a great resource to help us get the new entity up and running. We look forward to continuing our relationship with CSB for many years to come." #

# Keeping those White Collars Clean

Here's the Scoop on White Collar Overtime Exemption Rules...

## How the Revised White Collar Overtime Exemption will Impact Your Business. An Overview of White Collar Exemption.

Although the Fair Labor Standards Act requires a covered employer to pay employees federal minimum wage for all hours worked and overtime at time and a half for all hours worked over 40 in a work week, certain "white collar" employees have historically been exempt from those requirements. Recognized exemptions include executive, administrative, and professional employees and outside sales persons. Whether an employee meets these legal classifications is determined by an analysis of duties, rather than job title. Executive employees must have a primary duty of management of an enterprise or of a recognized department, customarily and regularly direct the work of two or more employees and have authority to hire, fire or make recommendations regarding those decisions. An Administrative employee must perform primarily office or non-manual work directly related to the management or general business operations of the employer or customers and exercise discretion and independent judgment with respect to matters of significance. A Professional employee is one who performs work requiring advanced knowledge of science or learning customarily acquired by a prolonged course of specialized intellectual instruction.

To qualify for exempt status, an employee meeting the duties test for the exempt category must also meet the required salary tests. The employee must be paid on a set salary or fee basis under which deductions are not made for tardiness, less than full day absences, etc. and must meet the minimum earnings requirement set by law. From 2004 through present, the minimum earnings requirement has been \$455 per week or \$23,660 annually. Certain Highly Compensated Employees (HCE) who are non-production employees are subject to a



Celia Collins, Attorney

relaxed duties test if they earn \$100,000 or more a year.

### *Background of Changes*

In 2014, the President directed the Department of Labor to redefine which white collar workers would be protected by the minimum wage and overtime requirements of the FLSA. In July 2015, the proposed revised regulations were released and subject to a public comment period. Almost 300,000 comments were received in this sixty-day comment period. A final rule was issued by the Department of Labor Wage and Hour Division on May 18, 2016. The rule becomes effective for all subject employers on December 1, 2016.

### *What's Changed?*

The most dramatic change is the increase of the minimum salary level from \$23,660 to \$47,476 annually (weekly pay of \$913). Effective Thursday, December 1, 2016, any salaried employee paid less than \$913 per week, will be eligible for overtime for every hour worked over forty (40) hours in the work week, regardless of job title or duties. (Lawyers and teachers not included.) Perhaps the only positive change in the new rule is that up to 10% of the minimum salary can be met by "non-discretionary" bonuses,

incentive pay or commissions which are paid at least quarterly. A non-discretionary bonus is one that is promised or outlined per a specified formula such as a production bonus, quality bonus, retention bonus etc. Gratuitous bonuses cannot be utilized, to meet the salary level. The employee must receive at least 90% of the minimum weekly salary or \$821.70, which equates to \$42,728 annually. If at the end of each quarter, the total eligible bonuses and commissions paid are at least \$1,187 the employee remains exempt. For any quarter in which the employee falls below that minimum, the short fall must be paid in the first pay period of the next quarter or the employee must be paid overtime.

For "Highly Compensated Employees", the minimum salary has been increased from \$100,000 to \$134,000. They must be paid a set salary of at least \$913 per week (\$47,476 annually) but the remaining amount can be paid in commissions, non-discretionary bonuses, or end of the year catch up payments and those payments can be made at any time during the year.

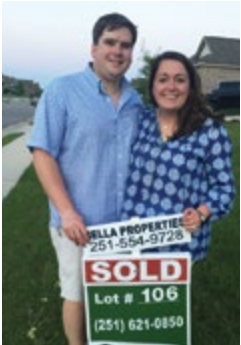
The minimum salary levels will now be automatically adjusted every three years beginning January 1, 2020. The Department of Labor will publish a new minimum level at least 150 days before the effective date calculated on the 40th percentile of weekly earnings of full time non-hourly workers in the lowest wage census region as reflected in the Bureau of Labor Statistics Cost of Wage and survey data for the second quarter of the year preceding the update. The Highly Compensated Employee level will be based on the 90th percentile of weekly earnings data for full time non-hourly workers nationally.

### *Options*

Employers may comply with the new rule by raising the salary of any otherwise exempt employee to meet the \$47,476 level by December 1 or reclassify the

Continued on Page 7

# Team Member



Andrew & Jenny

**Andrew Bailey, CPA** joined CSB in May as a Senior Accountant on our tax team. Andrew specializes in high net-worth individuals, closely-held businesses and family limited partnerships, estate, trust, and gift taxation and planning and business valuations. He is married to **Jenny Speir Bailey** of Fairhope and they now reside in Daphne.



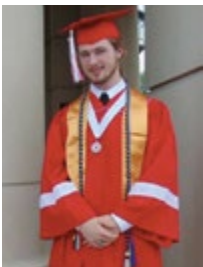
Bailey Blackwell at "The Herndon Climb" annual rite of passage for plebes to become MIDN 4C.

**Bailey Blackwell**, grandson of Jo Chateau, somewhere near bottom of pyramid of bodies, became "A plebe, no more" after the 1:12:10 time it took for his class to achieve the cover replacement. Jo enjoyed a great family week in Annapolis with the Herndon Climb, Color Parade of entire Brigade, Blue Angels and Commissioning.

La Nette Caskey's granddaughter, **Bryce**, competed in a dance competition in Las Vegas at Hollywood Vibe

2016. Her dance team "Surprise" won 1st place in the Nationals on Saturday, July 2nd. They participated with over 113 dance schools.

La Nette's grandson **Zac** graduated from Theodore High School on May 19, 2016. He will be attending USA in the fall. His major is music and he will be in the JAG marching band.



Zac Caskey

In May, 2016, **Ensign William Pierce Chilton** received an award from Capt. D. M. McCall, USN, Retired, for highest honor in his completion of the US Navy's Nuclear Power Training Command

Program in Groton, Ct. Pierce, Jo Chateau's grandson, is now deployed to serve on the Nuclear Powered Submarine, USS Greenville, based in Pearl Harbor, Hawaii.



Bryce Caskey



Pierce Chilton

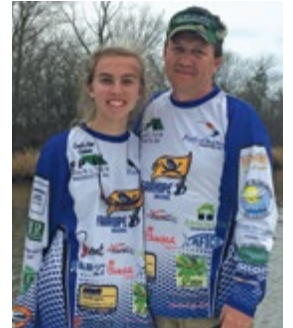


Virginia Charlotte Dicks

Joey and Colleen Dicks welcomed daughter **Virginia Charlotte** on April 10th at 7:23 p.m. She weighed 7 lbs., 6 ozs. and was 21 inches.

**Emilie Ann Eastman**

and her partner, freshmen at Fairhope High School, participated in bass tournaments across the state finishing the year 90th out of 321. They earned enough points to be the first team from Baldwin County to qualify for the AL High School State Championship tournament! The tournaments are organized by B.A.S.S./ Bassmasters.



Scott Eastman & daughter Emilie Ann Eastman



Abby Roveda

Audit team member **Abby Roveda** passed the difficult CPA exam in December. Additionally, Abby and husband David are expecting their first child in August.

**SAVE THE DATE!**  
(See page 7 for details.)

**Bradley Russell**, son of Gina McKellar,

graduated in May 2016 from LSU with Bachelors of Science in Petroleum Engineering.



Bradley Russell

John and Therese Shields have two new grandchildren from daughter, **Laura (James)** and son, **Henry (Hayden)**. For Sarah Shields, John's mother, this makes great grandbaby number nine!



Henry and baby Mary Foster Shields



Laura Shields Brangle and Sarah "Noo Noo" Shields with baby Julia Brangle

# news



Lady Anna Dudley at Mardi Gras Queen's Coronation with Grandmother, Jo.



Christmas time at the U S Naval Academy with MIDN Bailey Blackwell and Stella Blackwell to attend the USNA Glee Club's performance of the "Messiah" with members of the Metropolitan Opera and accompanied by the Annapolis Symphony Orchestra.



Lauren, Landon and David Cameron volunteering for the Animal Rescue Foundation (ARF).



Elizabeth and Caroline Ernest enjoying their Disney family vacation in June.



Mardi Gras Day fun with Queen Mary Ball. Vann and Connor Diaz, Jo Chateau's great grandsons.



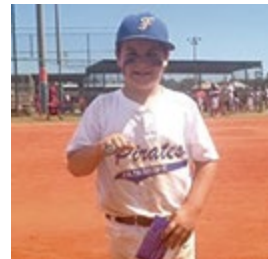
"An Easter gift to Mimi" much prettier than chocolate eggs! William Claiborne Wiggins, III, Jo Chateau's great grandson.



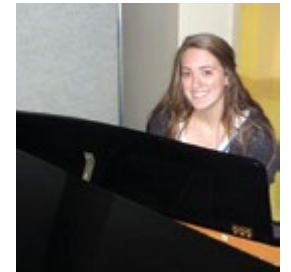
Landon and Lauren Cameron on his first ride at Disney (it was a dino ride, he LOVED IT!)



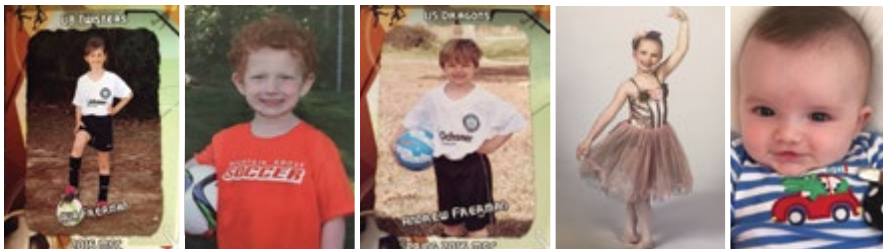
Amy Schoppert (orange sunglasses) enjoying Auburn football! Amy was accepted into the Graphic Design program at Auburn, Spring 2016.



Jonah Daughtery's travel ball team "The Fairhope Pirates" won a baseball tournament in Orange Beach. They also participated in the World Series in Gulfport, MS June 22-25.



Stella Blackwell, Jo Chateau's granddaughter, performed as a pianist and vocalist in her Spring 2016 Music Recital with her rendition of "Someone Wants You" from the Broadway Musical - Dr. Jekyll & Mr. Hyde. Stella, a rising junior honor student, is also a member of her high school varsity swim and track teams.



Barb Frerman's grandchildren have had a busy summer! L to R: Ava, Henry, Andrew and Madeline Frerman and baby, Cole Wheeler, son of Kelly and Sarah Frerman Wheeler.



Jamison Daughtery's dance recital "Red Carpet Ready" opening number, KB Danz.

## A Special Thanks from Rian Turner & Family...



The Turner Family

The Turner Family sincerely thanks CSB for their tremendous support this year in our March for Babies fundraiser for the March of Dimes. With your support, we were the Top Fundraising Family Team for Mobile/Baldwin County and in the Top 5 for the entire state of Alabama. My wife, Jackie, was also listed as the Top Individual Fundraiser for Mobile/Baldwin County and in the Top 10 for the state. This cause is very personal to us since

our son, Robinson, was born at 26 weeks weighing just 11b, 7oz and 12 inches long due to my wife having severe preeclampsia and HELLP Syndrome. He spent 96 days in USA's Children's and Women's NICU and actually came home on his original due date. The March of Dimes is pivotal in their research for premature infants and we are huge supporters of their efforts. Thank you for helping us fight prematurity.

**CROATIA**



# Congratulations & Bon Voyage, Ann Broughton!



After 30 years of public practice, we congratulate Ann Broughton on her well-deserved retirement! Ann graduated from the University of Arkansas in 1985 with a Bachelor's degree in Accounting. In 1986, she moved to Mobile and joined McKean & Associates, P.A., and was promoted to Partner in 1994. Over the years, she helped McKean establish an excellent reputation in our community by building strong relationships with her clients. Fellow McKean Partner, Cindy Rathle said, "Ann and I have had an amazing journey together. I wish her all the best in this new phase of her life."

Ann also played a major role in our merger with McKean in September of 2015. After many conversations with Ann and Cindy, we discovered our goals, values, and cultures aligned, and that joining our firms would help us to better serve our

clients and team members. Ann's and Cindy's leadership and the positive attitudes of all team members ensured an almost seamless transition. As Kenny Crow said at our team meeting this summer, "It seems like we've all been working together for years." We thank Ann for her many years of dedication to McKean & Associates, P.A. and for helping to make our merger a success. She was a joy to work with and will be missed by all.

Ann has had an exciting couple of months since her retirement. In June, she and Ron Boston were married at St. Matthews Catholic Church in Mobile. They are spending the summer in Breckenridge, Colorado and plan on spending the fall in Italy and Croatia. We wish Ann the very best in the years to come. It looks like she is already planning to "Live it up"!

## IMAGINE Leadership Conference: *A huge success!*

CSB hosted our inaugural IMAGINE Leadership conference for college sophomores and juniors on May 12-13. During the two-day conference, students had the opportunity to interact with the CSB team, hear presentations from a dynamic group of speakers and learn about the importance of values, vision and voice in their personal and professional lives. Accounting students from across the state attended the conference and were inspired

by our four outstanding guest speakers— Mayor Sandy Stimpson, Dr. Grant Zarzour (Orthopaedic resident and co-founder of the Fuse Project), Pete Peters (Principal at Financial Strategies) and Taylor Norton (President of South Shore Insurance).

Our first conference was a huge success and we look forward to making it an annual event.



Sandy Stimpson, Mayor of Mobile, and Kenny Crow



Leadership students and CSB facilitators Ryan Damrich, Kenny Crow, John Gafford, Kirsten Sokom and Nikki Allen

## White Collar Exemptions • Continued from Page 3

employee to non-exempt and pay overtime for hours worked over 40. Reclassification will require that the employer maintain accurate work hour records for the employee.

Which course to take is a budgetary decision that will require careful analysis and planning. Employers should review the salary levels and duties of current exempt employees. An employee not meeting the requisite duties test should be reclassified. If the employee meets the duties test but is below the new salary minimum, companies should analyze how often they work overtime and estimate annual overtime hours. An accurate estimate of annual overtime hours may be rendered difficult since most exempt employees do not keep time or record after-hours time. Analysis will require an estimate of any remote time spent such as 6 am phone calls from employees reporting sick and calling other employees to take their place.

After collecting this information, an employer must determine the cost of compliance. For an employee earning close to \$47,660 who works a fair amount of overtime, raising their salary would make sense. For an employee at the lower end of the current minimum salary level, such as \$35,000, who barely works overtime, assuming the risk of occasional over time is more appropriate. Employers may need to review specific job responsibilities and workloads and reassign some duties from employees who may be reclassified as nonexempt in order to reduce company overtime costs.

### *What to do Now*

The implementation of any salary increase or reclassification to nonexempt may have an impact on morale. Employees who have long been managers are likely to resent being reclassified to hourly status and being required to “punch a clock”. If colleagues in similar positions are treated differently, the employee who is reclassified rather than bumped up may view their failure to receive a salary increase as a discriminatory decision. Companies should accordingly give due consideration to communicating the changes to the employees and carefully explaining the reasons why.

Companies need to be revising policies and processes over the next months in order to have a system in place for recording and maintaining accurate time records for reclassified employees to accurately capture off duty or remote time and to have the ability to effectively manage overtime. Reclassified employees and their supervisors should be trained on time keeping and overtime issues.

The Department of Labor has estimated that 4.2 million white collar workers will be affected by the final rule and predicts the impact will increase to 5 million within the next 5 years. Employers now have a matter of mere months to undertake careful analysis and decision-making and implement necessary changes to job status, payroll and employment policies to insure compliance. #

*Celia Collins is a partner with Johnstone, Adams, Bailey, Gordon & Harris, LLC where her practice is primarily focused on labor and employment law. Ms. Collins is a frequent speaker to professional and business groups and nationally published author on employment issues.*

**SAVE  
THE  
DATE**

**CSB 30th  
Anniversary  
Celebration!**

**Thursday  
9.29.2016**

**GulfQuest National  
Maritime Museum**

**5:30-8:00 pm**



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