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MAGAZINE

A portrait of Joe D. Whitley, a middle-aged man with grey hair, wearing a dark pinstriped suit, a white shirt, and a blue patterned tie. He is standing in front of a window with horizontal blinds. The background is slightly blurred, showing an office setting.

Joe D. Whitley

Baker Donelson
Former & First General Counsel,
Department of U.S. Homeland Security

ATTORNEY OF THE MONTH

★ ALL-STAR ISSUE ★

a legal giant

By Jan Jaben-Eilon

When Joe Whitley was in the sixth grade in Columbus, Georgia, Juvenile Court Judge Aaron Cohn (now deceased) came to speak to an assembly at his school about how the legal system can be compassionate, and help young people change their behavior from bad to good. “I was so impressed with his remarks, that it greatly influenced me to become a lawyer,” Whitley recalls, noting that his parents, who were immersed in academia, wanted him to become a teacher or a minister. Whitley’s father was president at the time of what is now Columbus State University.

Fast forward to when Whitley’s own son was 6 years old. “He told me that he’d never be a lawyer because he could never wear – to him, uncomfortable – shoes every day like mine. He wanted to work in more relaxed footwear,” Whitley recalls. Now his son practices workers’ compensation law in Atlanta. His daughter is an artist living in New Orleans, he adds proudly. “She is the family’s right-brained child,” he jokes, comparing her to his son, the lawyer. Whitley gives his wife, Kathy, a high school English teacher, credit for their children’s success.

However, Whitley’s son’s shoe comment was not off base. Filling Whitley’s big shoes would be a challenge for anyone. Whitley joined the Atlanta office of Baker, Donelson, Bearman, Caldwell & Berkowitz PC in September 2014, to chair its government enforcement and investigations practice. It was a perfect fit for an attorney whose wide-ranging career included not only private practice, but several positions within the U.S. Department of Justice (DOJ). “I moved to this tremendous firm – number 31 on the Fortune top 100 best places to work list – with over 650 lawyers with diverse skill sets in banking, securities, health care and corporations that complement my background and capabilities perfectly,” he acknowledges.

Reflecting on his career trajectory, Whitley recalls that before he graduated with a degree in political science from the University of Georgia, he got diverse career advice: one professor suggested he become a diplomat at the State Department; a second

professor recommended that he become a public administrator; the third professor suggested law. Heeding his professor’s direction, Whitley attended the University of Georgia Law School.

After launching his career with a well-known firm in Columbus, Georgia, Whitley became an assistant district attorney in the Chattahoochee Judicial Circuit only a couple of years after law school. Later, he served as U.S. attorney in the Middle (Macon) and Northern (Atlanta) Federal Districts of Georgia, after appointments by former Presidents Ronald Reagan and George H.W. Bush. As for his experience in the Columbus District Attorney’s Office, Whitley said, “I developed a strong work ethic in the law firm and at the district attorney’s office. I learned how to try a case. No one is born knowing how to try cases.” Whitley also served as a deputy assistant attorney general in the criminal division of the Department of Justice and as acting associate attorney general, the third-ranking position at the DOJ.

In 2003, Whitley was appointed by President George W. Bush as the first general counsel of the U.S. Department of Homeland Security (DHS), the highest ranking legal official in DHS. He served under Secretary Tom Ridge and Secretary Michael Chertoff, before returning to private practice.

“At the time it seemed like a detour in my career,” Whitley explains. “It was an honor to be asked by the White House to serve in this position. Everyone who had previously served in the government at the time wanted to go back to the government to help out



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after 9/11. It was not financially prudent for me, but I had a chance to be there when DHS was being pulled together. I learned a lot about legal and policy issues associated with customs, immigration, disaster relief, maritime matters and transportation security. Much of what I do today as a lawyer is influenced by what I did at DHS.”

As general counsel at DHS, Whitley was responsible for providing legal advice to more than 180,000 employees and the supervision of 1,800 lawyers, in agencies, directorates and offices that comprised DHS. He was responsible for the creation of a single general counsel’s office in DHS designed to integrate and coordinate the various legal departments of the 22 agencies that combined to form DHS. To this day, the two-



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page charter that he drafted for Secretary Ridge is still the document that drives the daily operations of the general counsel's office, and specifically, the powers, authorities and duties of the general counsel.

Among his responsibilities were to help write regulations to cover the duties of employees in many components of DHS, such as the Transportation Security Administration (TSA), to advise the president about declaring a disaster under the Stafford Act, handling deportation and citizenship issues as a part of immigration enforcement services, or advising the secretary of Homeland Security on whether foreign companies could safely acquire critical U.S. infrastructure. In addition, Whitley coordinated the development of regulations for new anti-

terrorism technologies. "Companies didn't want to face crippling lawsuits if the technology they developed didn't work as intended during an act of terrorism. Congress wanted us to develop the regulations to encourage creativity and reduce liability," he says.

While serving under four presidents and five U.S. attorney generals, Whitley developed many contacts that are helpful to his clients today. His private law practice has focused on corporate defense and representation of clients in complex civil and criminal enforcement matters brought by the Department of Justice, other federal and state agencies and Homeland Security. Beginning in 2005, Whitley started and chaired the American Bar Association's Homeland Security Law Institute. The 2015

program conference of the institute is slated for August 27 and 28 in Washington, D.C.

Now, he says enthusiastically, "With Baker Donelson, I'm in the best of all worlds. I'm coordinating white-collar and government investigations work and I have the opportunity to assemble a team and to put our clients in a better place. It's a great blend of administration and practicing law. We have lawyers on our white collar team from all types of backgrounds in the public and private sectors, and we are driven to achieve favorable outcomes for our clients in a collaborative fashion. We are what I would call a big law firm with all the right resources but without the same price tag. So, if fees make a difference to corporations and general counsels we hope to be on their radar for major internal investigations and government enforcement matters."

Explaining the evolution of his firm's government enforcement and investigations practice, Whitley says, "We believe the footprint of what we do for our clients is much more than pure white collar. It is a much larger bandwidth of services, including at times anything government enforces civilly or criminally."

Sitting in his Buckhead firm's conference room, Whitley is visibly enthusiastic about his practice at Baker Donelson, especially the opportunity to work with other Baker Donelson attorneys who focus on government enforcement and investigations. He compares the teamwork at Baker Donelson to an old-fashioned barn-raising. "People work harder together and better as a unified team. And that puts this law firm outside of the norm. Our motto is: clients first. We pride ourselves more in delivering a quality service to the client with less focus on the amount of our fees. Our hourly rates are very competitive in today's market and lower than many other law firms. The value here is just remarkable. We are very efficient in the provision of our services. We work closely with our clients to help them better monitor what we are doing for them through a software program called Baker Manage."

Whitley's diligence to his craft, commitment to the presidents and entities he has served, and his clients has paid off. He has been listed on several "of those lists of best lawyers," he says, which is "gratifying to be recognized by one's peers." Among the lists are the Best Lawyers in America, Top 100 Lawyers in Georgia, Chambers USA: America's Leading Business Lawyers, Washington, D.C. & Baltimore's Legal Leader, Washington, D.C. Super Lawyers, and

Georgia Super Lawyers.

However, what Whitley most treasures, he says, is having the confidence of people who know him and have hired him for an array of life-changing jobs, both in government and out of government. "Everywhere I've been, I believe I have made a positive difference. However, the best moment for me is when a client tells me I've done a good job for them or their corporation," says Whitley.

Thinking about his career, Whitley said his greatest privilege has been his involvement in the hiring of younger attorneys and watching them as they move into successful jobs in government service, such as the U.S. attorney's office or in a major law firm. "To know that I've had a positive influence on someone's career is one of the important legacies I hope I leave behind."

When asked what advice he would of-

fer to a young adult interested in law, he emphasized the importance of having role models, particularly early in one's career. Although he says he's been the beneficiary of many incredible role models from public and private life, one role model that stands out is Judge Griffin Bell. "What he did in his career was exemplary. He inspired a lot of young attorneys. Judge Bell gave me exceptional and helpful advice at different points in my career."

Whitley also recommends that a law student find a job clerking for a judge, district attorney or public defender, to obtain hands-on litigation exposure. Whitley instructs, "Then, go talk to lawyers about what they do. Try to set up breakfasts and lunches. Above all, you must be passionate about what you do. Don't go to law school to meet someone's expectations. I enjoy what I do. I haven't had too many days when I haven't been motivat-

ed to jump out of bed and come to work, and be willing to work late as needed."

But Whitley isn't all work and no play. When he isn't traveling to Washington, D.C. or Savannah or elsewhere to work on legal cases, or to give speeches around the world on compliance and corporate governance issues, the Georgia native is a voracious reader of historical biographies, "especially anything to do with Georgia."

Recently, Whitley was named co-chair of the advisory board for the Judge Alfred P. Murrah Center for Homeland Security Law and Policy at the Oklahoma City University School of Law. The center serves as a national resource for homeland security law issues.

Whitley says, "I see my service on the Murrah board as an opportunity for me to continue my service to the people of the United States." It's just one more step in Whitley's distinguished career.

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Education

Juris Doctor, University of Georgia School of Law
Bachelor of Arts, University of Georgia

Community Activities

Atlanta Police Foundation, Board of Directors

At A Glance

University of Georgia School of Public & International Affairs (SPIA), Advisory Board

Columbus State University Foundation, Trustee
The Judge Alfred P. Murrah Center for Homeland Security Law & Policy Advisory Board, Co-Chair

Professional Awards

Listed in The Best Lawyers in America in Administrative/Regulatory Law Since 2001
Listed in The Best Lawyers in America in White Collar Criminal Defense Since 2013
Top 100 Lawyers in Georgia Since 2011
Listed in Chambers USA: America's Leading Business Lawyers since 2013
Listed in Washington, D.C. & Baltimore's Legal Leader, Top Rated Lawyers, 2013
Listed in Washington, D.C. Super Lawyers Since 2012
Listed in Georgia Super Lawyers Since 2010
Listed in Georgia Trend Magazine Legal Elite Since 2008
AV Preeminent Peer Review Rated 5.0 out of 5 by Martindale-Hubbell

Hobbies

Travel, Reading & Fishing

Favorite Quote

"My fellow Americans, ask not what your country can do for you, ask what you can do for your country."
– John F. Kennedy

Inspirational Leaders

Presidents Abraham Lincoln and Ronald Reagan

