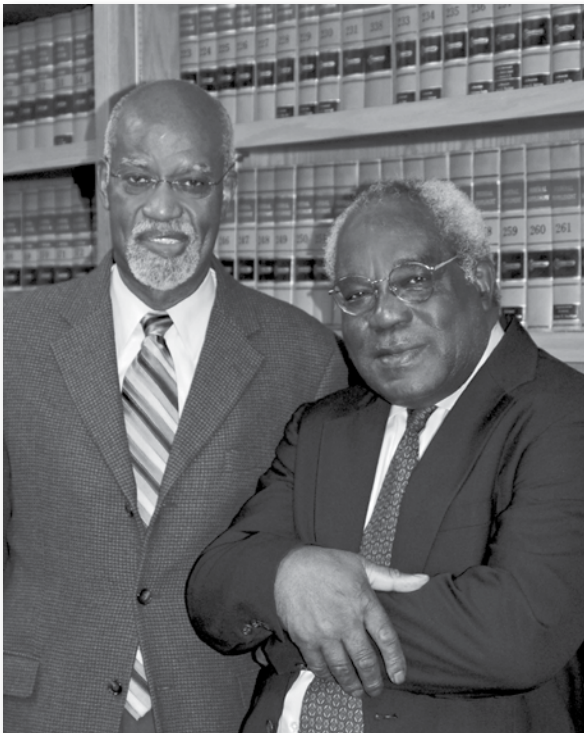

A Towering Presence in the Fight Against Injustice

SMALL RACIALLY INTEGRATED SOUTHERN LAW FIRM HAS PRODUCED A GENERATION OF LEADERS AND FIVE FELLOWS OF THE COLLEGE

“No law firm in the country has had more impact on—and I suspect sacrificed more for—the cause of civil rights . . . , this often in the face of threats and hostility that have been real and tangible.” August 2004 presentation by the Lawyers’ Committee for Civil Rights Under Law of its Civil Rights Legacy Award to Ferguson, Stein, Chambers, Adkins, Gresham & Sumter, PA.



*James Ferguson FACTL and Julius Chambers FACTL
Photo courtesy of Greater Charlotte Biz Magazine.*

At 4:30 a.m. on February 4, 1971, the telephone rang in Julius Levonne Chambers’ motel room in Raleigh, North Carolina. His wife was calling to tell him that his Charlotte firm’s law office had been torched. The roads were icy, Charlotte was 150 miles away and the damage was done, and so Chambers, by his own account, poured himself a drink and went back to bed. After all, this was not a new experience for him.

THE ORIGIN OF A LAW FIRM

Six and a half years earlier, in June 1964, with the help of a \$17,000 grant from the NAACP Legal Defense and Education Fund, twenty-seven year old Chambers had set up a solo law practice near downtown Charlotte, North Carolina in an unheated, un-airconditioned walk-up above a loan company.

Legal Defense Fund Director-Counsel Jack Greenberg had the idea that civil rights cases could be more effectively prosecuted if there were local law firms that could be counted on to help carry the ball. Charlotte was one of a half dozen southern cities he selected for this purpose.

Greenberg and his predecessor, Thurgood Marshall, had earlier chosen Chambers as the Legal Defense Fund's first intern. Chambers had graduated *summa cum laude* from a historically black campus of the Greater University of North Carolina, earned a Masters degree in history from the University of Michigan and three years later, in 1962, had graduated from the University of North Carolina School of Law, valedictorian of his class and the first black Editor-In-Chief of its law review. He had earned an L.L.M. from Columbia while interning for the Legal Defense Fund.

Rather than simply acting as local counsel in civil rights cases, however, Chambers set out to build a private law firm that would operate in the public interest by bringing high-profile cases while at the same time providing general legal representation to the minority community.

Civil rights cases were protracted and expensive. The day when they might start producing fees was years away.

And so, Chambers proceeded to build a firm in which other lawyers took on other kinds of work to support the civil rights cases. As they later jokingly put it, they did non-civil rights work, getting paid, so that they could do civil rights work, where they did not get paid.

A LOOK BACK

In 2009, the law firm Chambers created remains the only survivor of Jack Greenberg's venture. During its first decade, this firm may have done more to influence evolving civil rights law than any other private law firm in the United States. It has been widely celebrated for its early role in making the promise of *Brown v. Board of Education* a reality, for helping to put flesh on the bones of Title VII of the Civil Rights Act of 1964 and the Voting Rights Act of 1982 and for its continuing role in making our criminal justice system more just and more humane.

Often overlooked in the recognition of its contribution to the clients it represented in its more celebrated cases and to the development of the law it helped to shape are the collective professional accomplishments of those who have been a part of the firm over the intervening forty-five years. It has spawned a remarkable collection of professionals who have set a standard of public service and leadership in public affairs that would be difficult to match.

Over the years, that firm, which has never numbered more than a dozen active lawyers at any one time, has produced five Fellows of the American College of Trial Lawyers: **Julius L. Chambers** (92), **James E. Ferguson, II** (86), **James C. Fuller** (94), **Charles L. Becton** (99) and **Henderson Hill** (07).

And in 1994, it produced the ninth winner of the College's Courageous Advocacy Award, Julius Chambers.

THE FIRM EVOLVES

In 1967, Chambers had brought in two young lawyers, Columbia Law School graduate James Ferguson, who had grown up in Asheville, North Carolina, where as a student at an all-black high school, he had led a local movement for racial equality, and Adam Stein, a young white lawyer who had begun doing civil rights work as a law student at George Washington University. Both had worked as interns in Chambers' office while they were in law school.

Hiring these two and James E. Lanning, a white graduate of the University of North Carolina Law School, Chambers, in an unspoken statement that was not lost on the community, created the first racially integrated law firm in North Carolina and one of the first in the South. Over the years, this firm has maintained something close to an even racial balance.

THE FIRST CASE

Two months after Chambers hung out his shingle, he had received a call from the wife of a black Presbyterian missionary, in Charlotte on a sabbatical, whose son had been assigned to a segregated elementary school. That call would lead to a class action that would last for eleven years, make Chambers a national figure in the civil rights movement, change the rules of the game for dismantling racially segregated school systems and change his adopted city forever.

That case, filed in January 1965, was *Swann v. Charlotte-Mecklenburg Board of Education*. That same month in New Bern, North Carolina, Chambers' parked car had been blown up with a stick of dynamite while he was making a talk about school integration. He would thereafter joke that he always left his car door open and one foot on the ground while he started the engine to increase the chances that if the car blew up, he would be blown out instead of blown up.

Later that year, Chambers had filed suit seeking to integrate the Shrine Bowl Game, in which all-star teams of the best white public high school football players from North and South Carolina competed annually.

Shortly after midnight on November 22, 1965, Cham-

bers' home and those of three other civil rights activists in Charlotte were firebombed. He boarded up his front door with a sheet of plywood and he and his family, refusing to leave home, spent the rest of the night there.

The hostility towards Chambers was not confined to strangers in the night. One College Fellow, **L.P. "Tony" Hornthal, Jr.** of Elizabeth City, North Carolina, recalls, "Some of us older heads have some stark recollections of what these lawyers endured with such courage and professionalism. Julius appeared in Elizabeth City in federal court in the mid-60s. I was the only lawyer to greet him and shake his hand."

As the *Swann* case slowly wound its way through the judicial system, the hostility towards Chambers, his family, his law partners and James B. McMillan, the Federal District Judge overseeing the case, grew. In August 1970 Chambers, father's garage in the small central North Carolina town of Mt. Gilead had been set afire. It was again torched on New Years Day of 1971. Then on February 4 came the fire at his law office.

This final act of violence brought swift response from the community. Opposing counsel helped the firm to recreate pleading files. Members of the local bar and twenty-

two of Chambers' former law professors dug into their own pockets to help defray the cost of relocation. Some, looking back from the vantage point of time, see this response as a turning point, an awakening of other lawyers to the realization that this was not the Chambers firm's battle to fight alone.

In his characteristic understated, unemotional way, Chambers later referred to these incidents as "things that made life interesting." Ferguson put it this way: "You can't do this work and be scared."

When Chambers argued the appeal in *Swann* in the United States Supreme Court in October 1970, he was only thirty-four years old. The District Court's 1969 order to eliminate all racially identifiable schools, using every available tool, including if necessary busing, was affirmed by a unanimous Court on March 20, 1971. It was to have a profound effect on accelerating the progress of public school desegregation throughout the United States.

The late Federal District Judge McMillan, before whom Chambers tried many of his cases, including *Swann*, once observed, "There are lawyers who come to court and who put witnesses on the stand without knowing what they are going to say. Julius spends all the necessary time learning . . . then asks simple questions and gets simple answers.

... He does not try to create a case where one does not exist or to advocate a viewpoint that is not based on fact. As a trial lawyer, he is an educator, not a debater."

One of Chambers' opposing counsel in *Swann* later commented, "He was a very able lawyer and a gentleman. We kept each other informed of where we were coming from. . . . Julius knew how to make a point without getting emotional. . . . Some lawyers you don't enjoy working against. I enjoyed working against him."

The *Swann* case is chronicled in Frye Gaillard's *The Dream Long Deferred* (1986), in Bernard Schwartz' *Swann's Way* (1986), in *Reading, Writing & Race*, by Davison M. Douglas (1995) and in a chapter in Woodward and Bernstein's *The Brethren* (1979).

Busing as a tool for school desegregation was a failure in many places, but in Charlotte it pricked the conscience of the community, produced a new generation of leaders who ultimately drafted a pupil assignment plan that resolved the case and created a spirit that still drives the community.

In 1980, a different Charlotte-Mecklenburg Board of Education adjourned early so that its members could attend a dinner at which the National Conference of Christians and Jews presented its Brotherhood

Award to both Chambers and Judge McMillan.

THE FIRM'S FIRST DECADE

Swann would become the first of a remarkable string of celebrated cases, civil and criminal, that the small law firm Chambers founded prosecuted to successful conclusions during one of the most trying eras of our national history. The firm ultimately prosecuted over two hundred separate school desegregation cases.

Griggs v. Duke Power Co., outlawing non job-related employment tests used to segregate employees by race, which Chambers argued before the Supreme Court two months after *Swann*, and *Albemarle Paper Co. v. Moody*, which held that back pay awards should follow a finding of discrimination, are widely regarded as major landmarks in the development of employment discrimination law under Title VII of the Civil Rights Act of 1964.

And while Chambers was leading the effort systematically to dismantle a culture of racial segregation that was by no means confined to the southern states by prosecuting school desegregation and employment discrimination cases with national significance, others in the firm were battling on multiple fronts, notably including criminal defense of minority defendants. Indeed,

on the same day that the *Swann* opinion was handed down, the United States Supreme Court overturned the death sentences of four of the firm's clients, who had been convicted under North Carolina's then-prevailing mandatory death penalty statute.

In 1970 James Ferguson, three years out of law school, was appointed private prosecutor to assist the local district attorney in a small eastern North Carolina town in prosecuting two white citizens who had admittedly killed Henry Marrow, a twenty-three year old black Vietnam veteran. In the wake of the killing, the town had been engulfed in a conflagration of violence and unrest. An all-white jury, accepting a defense that wandered from self-defense to accident, acquitted the defendants. That case is the subject of a book, *Blood Done Sign My Name*, by Timothy B. Tyson (2004).

In 1971, Charles Becton and James Lanning, one black, one white, successfully defended the first black officer on the police force of a small central North Carolina town who was charged with murder in the death of a white business owner. In advance of the jury verdict, the presiding judge had quietly summoned a reinforcement of state highway patrolmen, and when the verdict of acquittal was announced, ordered everyone in the court-



room to remain seated while the patrolmen escorted the defendant and his lawyers from the courthouse and all the way through two counties to safety.

In 1972, Ferguson defended defendants known as the Charlotte 3, accused of burning a barn and killing several horses in a case with racial overtones. Two years later their sentences were overturned when it was discovered that the two prosecuting witnesses had implicated themselves and had then been given immunity from prosecution in return for their testimony against the defendants.

And two months later, Ferguson defended the Wilmington 10 in a case involving a race-related grocery store bombing. In 1977, the case was featured on a segment of *60 Minutes*, and in 1978 Amnesty International labeled the defendants' conviction and incarceration for a total of 282 years the first instance of political prisoners in the United States. Their sentences were later reduced and the Fourth Circuit Court of Appeals ultimately overturned their conviction and exonerated them.

One of Ferguson's early opponents, College Fellow **Robert F. Baker**, of Durham, North Carolina, recalls, "I had the pleasure early in my career of opposing Jim Ferguson in the Duke [University] Judicial board hearings on the charges

against some Duke students for their takeover of the administrative building during the civil rights uprisings. I had never encountered a more professional and upright lawyer, and I remembered that experience the rest of my career. It was a wonderful example of how a lawyer should act."

On less visible fronts, other lawyers in the firm were quietly going about the everyday business of a general law practice, handling all the other work that the firm's growing clientele brought, including plaintiffs' personal injury suits.

Other lawyers marveled at this small firm's ability to handle the work load it undertook. Long-time firm partner John W. Gresham explained in a 2009 newspaper interview, "Chambers established a way of interacting that served us well through the years." Noting that in many law firms, lawyers become "territorial," he explained that in this firm, the lawyers "subvert self-interest to group interest."

SUBSEQUENT HISTORY

Throughout the 1980's and 1990's the firm's Supreme Court practice spread to other arenas, with several of its lawyers taking the lead. In 1985 the firm successfully argued *Anderson v. Bessemer City*, an early sex-discrimination case under Title VII of the Civil

Rights Act. In 1986, it successfully argued *Thornburg v. Gingles*, a case under the Voting Rights Act of 1982 involving the redrawing of state legislative districts. In 1988, it successfully argued *West v. Atkins*, involving the interpretation of "under color of state law" within the meaning of § 1983. In 1988, it successfully argued *Reed v. United Transportation Union*, involving the free-speech rights of a union member. In the 1990's the firm argued a series of cases relating to congressional redistricting that ultimately allowed the election of the first two minority members of the United States House of Representatives since Reconstruction.

By the end of the nineties, four different lawyers in the firm had argued and won cases in the United States Supreme Court, some of them more than one. Chambers alone had argued and won eight cases in that Court.

In the state courts, in 1990 in *Whittington & Planned Parenthood v. North Carolina Department of Human Resources*, the firm successfully prevented the enforcement of regulations that would have invaded the privacy of applicants for legal abortions and victims of rape and incest.

In 1992, in *Corum v. University of North Carolina*, the North Carolina Court of Appeals first held that violation of the state

Constitution gave rise to a claim for damages against the responsible state agents.

Many of the firm's cases in this era involved the rights of public school employees. They included *Boring v Buncombe County Board of Education* (4th Cir. 1988), holding that public school teachers have First Amendment rights.

The firm continued to handle a heavy load of trial work, both criminal and civil. Following in the wake of the major Title VII cases, the firm prosecuted class actions to dismantle racial discrimination in a number of still-segregated industries, including the trucking industry. It also developed expertise in areas such as education law, teachers' rights and police misconduct cases.

In 2004 Ferguson was instrumental in the exoneration through the use of DNA analysis of Daryl Hunt, who had spent 19 years in prison for a rape and murder he did not commit. In 2005 the firm procured the reversal of a death penalty case based on ineffective assistance of counsel.

The firm continued to attract bright young lawyers. In 1996, Henderson Hill, an African-American Harvard Law graduate who had come to North Carolina after a ten-year stay in the appellate public defender's office in Washington, D.C. to become the director of a

North Carolina resource center for those defending death penalty cases joined the firm.

In 2005, Bryan Nichols, had gone berserk in an Atlanta courthouse, killing a judge and three others. After Atlanta lawyers who practiced in that court had understandably declined to undertake the representation, Hill and another partner, sought out for their expertise in death penalty cases, accepted a court appointment to defend Nichols. After a stressful 2008 trial in a hostile environment in which jury selection took two months and the trial three more, the jury was unable to agree on the death penalty, and Nichols was sentenced to life without parole.

Ferguson had also begun to apply his trial skills to prosecuting catastrophic injury, medical malpractice and wrongful death cases. The firm's website discloses that over the most recent five-year period the firm had four seven-figure recoveries, two six-figure ones and a number of major cases whose settlement amounts were held confidential.

COLLECTIVE ACCOMPLISHMENTS

Perhaps as incredible as the firm's contribution to the clients it represented in those cases and to the development of the law it helped shape are the collective accomplishments

of those who have been a part of it over these forty-five years. Some are still a part of the firm, others have moved on, taking with them the foundation laid by their early experience in the firm.

In 1984, Chambers departed to become the third Director-Counsel of the Legal Defense Fund, following in the wake of Thurgood Marshall and Jack Greenberg. Then in 1993, he left the Legal Defense Fund and returned to North Carolina to become Chancellor of his undergraduate alma mater, North Carolina Central University. He was recruited by C. D. Spangler, whose first venture into public service had been to chair the local school board in the early seventies, implementing Swann, and who had gone on to become president of the Greater University of North Carolina. Having completed his term at North Carolina Central, Chambers is now the director of the Civil Rights Center at the University of North Carolina at Chapel Hill and of counsel to his old firm.

In addition to the College's Courageous Advocacy Award, Chambers has been honored with the Aetna Voice of Conscience Award, the Congressional Black Caucus Foundation's Adam Clayton Powell Award, the Thurgood Marshall Award from the ABA Section of Individual Rights and Responsibilities, and the ABA Spirit of



Excellence Award. In 2005, the University of North Carolina at Chapel Hill, whose undergraduate school had fifty-one years earlier denied him admission on account of his race, awarded him an honorary Doctor of Laws degree. He used his commencement address to remind his audience of both how far we have come and how far we have yet to go.

Over the forty-five years of its existence, the firm Chambers created, which never numbered more than a dozen active lawyers at any one time, has, in addition to him, produced a steady stream of public servants and leaders in the public arena.

In 1980, Adam Stein was appointed the first North Carolina Appellate Defender, a post he held for four years. Resident in the firm's Chapel Hill office, he has been president of his local Bar, president of his local Legal Services Board, president of the North Carolina Academy of Trial Lawyers and a member of the national governing body of ATLA. A founder of the North Carolina Center for Death Penalty Litigation, he remains of counsel to the firm.

James Ferguson has served as president of both the North Carolina Association of Black Lawyers and the North Carolina Academy of Trial Lawyers and as Chair of the National Institute of Trial Advocacy

(NITA). One of the one hundred members of the Inner Circle of Advocates, he has been named one of the nation's top ten trial lawyers by the National Law Journal. For fifteen years he was General Counsel of the ACLU.

Many years ago, through the auspices of NITA, Ferguson began to go each year to South Africa to conduct training in trial skills for black lawyers who had been deprived of adequate training during the days of apartheid. He and partner Geraldine Sumter, along with former UNC Law School Dean Kenneth Broun, also a former Chair of NITA, were recently honored by the post-apartheid government of South Africa. Their work is chronicled in *Black Lawyers, White Courts* by Kenneth Broun (2000), with a foreword by Chambers and a message by Nelson Mandela.

After some years with the Chambers firm, Charles Becton spent nine years on the North Carolina Court of Appeals, then returned to private practice. He relates, "When I joined the Chambers firm in 1970, Julius Chambers' advice to me was: 'Try every case against every lawyer as if you will have to try every case against that same lawyer for the rest of your life. That lawyers needs to know that your word is your bond—that you can be trusted. Be courteous, civil and professional.'"

An African American who went through law school never having witnessed a trial or a court proceeding, Becton became a legendary trial advocacy teacher. Regularly selected to demonstrate trial advocacy skills in ABA, NITA and ATLA video series, he is the John Scott Cansler Lecturer at the UNC School of Law and a Senior Lecturer at Duke University School of Law. He has received the William J. Brennan, Jr. Trial Advocacy Award, the Roscoe Pound Foundation's Richard S. Jacobson Award from ATLA, which recognizes the nation's best trial advocacy teacher, and the Robert Keeton NITA Trial Advocacy Teaching Award.

He recently completed a term as President of the North Carolina Bar Association, the second of his race to hold that office.

Melvin Watt, who joined the firm the same time as Becton, was the son of a single parent who by his own account grew up in a house with no electricity and no running water. A Phi Beta Kappa graduate of UNC-CH and a member of the Yale Law Journal, he served one term in the North Carolina Senate, where the media quickly dubbed him "the conscience of the Senate." He relinquished his seat after one term and withdrew from public life until his two sons had finished high school. In the interim, he served as President of his local Bar and managed

two successful mayoral campaigns of firm client Harvey Gantt, Charlotte's first African-American mayor, and Gantt's two unsuccessful campaigns for the United States Senate. In 1992, Watt was elected to the United States House of Representatives, one of the first two minority Congressmen from North Carolina since Reconstruction. He has served as Chair of the Black Congressional Caucus and currently sits on the House Financial Services Committee and the House Judiciary Committee.

In addition to Becton, James Fuller became a judge of North Carolina's intermediate appellate court. James Lanning and Yvonne Mims Evans, a graduate of Wellesley and Duke Law School, the first woman in the firm, and five other former members of the firm went on to become state court trial judges. Leslie Winner, the firm's first white female lawyer, served in the North Carolina Senate. Ironically, she also served as General Counsel of the Charlotte-Mecklenburg Board of Education, the firm's opponent in *Swann*. She then became Vice-Chancellor and General Counsel of the Greater University of North Carolina and is now Executive Director of the Z. Smith Reynolds Foundation, a major private philanthropic organization.

Three members of the firm have served as presidents of the statewide trial lawyers' as-

sociation and three were presidents of the statewide black lawyers' association. Two alumni are now law school professors. Ten past and present members of the firm are or have been adjunct professors or lecturers in law at least twelve different law schools, including Harvard, Columbia, Michigan, Penn, Virginia, the University of North Carolina and Duke.

PUBLIC RECOGNITION OF THE FIRM AS AN INSTITUTION

In addition to national recognition through the Civil Rights Legacy Award presented to the firm by the Lawyers' Committee for Civil Rights Under Law, a private, nonprofit, nonpartisan legal organization formed at the request of President John F. Kennedy in 1963, it has been similarly honored in its own community. In 2009, it received the Echo Award Against Indifference, given by a foundation whose creation was inspired by a 1997 visit to Charlotte by Nobel Laureate Elie Wiesel.

James P. Cooney, III, a College Fellow from Charlotte, commented on the night when that award was made. "I had the pleasure of attending the dinner. It reminded me of how different Charlotte and this State would have been without this firm and these lawyers. They have achieved the ultimate goal—as trial lawyers they transformed this place

and made it more fair and more just. It was humbling to be there and listen to all that they had done in the face of odds (and hate) that few of us have experienced."

Clearly, the challenges that gave rise to the creation of this firm are not gone. Geraldine Sumter can show a visitor a noose left with ominous significance in the workplace of one of her clients. Those who raise issues of unlawful discrimination are still the subject of subtle retaliation. Schools that were freed at great price of overt racial discrimination are slowly resegregating as the courts decide case by case that this is no longer their burden. Death rows are still inhabited by people who do not belong there.

Nevertheless, one might wonder how different this firm's community and state, and indeed, all the other beneficiaries of its accomplishments, might be today, and how much farther we would still have to go, had Julius Chambers not seen his father unable to find a lawyer who would handle his claim against a white truck owner who had refused to pay a large debt he owed him. It was that experience that made a teenage Chambers decide that when he grew up, he would become a lawyer.

