

ON THE RISE

14 UNDER 40

Meet our picks for young lawyers we predict you'll be hearing more about.

AN IDLE LUNCH conversation just before the 2004 primaries propelled Atlanta attorney Marc Hershovitz into a precedent-setting, national case that would overturn a Georgia judicial primary.

News media outlets had reported that some Laurens County absentee ballots had misprinted Georgia Court of Appeals candidate Howard Mead's name as "Thomas Mead."

Hershovitz, who had once interned for Mead, says he called Laurens County "just to find out how many absentee ballots were screwed up."

There were 529. But with more than 1.5 million people expected to vote, no one suspected that number would ever become the basis to successfully challenge a state election—until about 1 a.m. the morning after the 2004 July primary.

That's when Hershovitz, who had been tracking the returns online, decided "we had a case." Mead had been edged out of a run-off by just 382 votes. "The bona fide, indisputable margin of error was greater than the margin of the decision," Hershovitz says. "And that hardly seems fair."

Hershovitz hit the law books. "The more we looked at it, the more I was absolutely convinced." Mead could have the primary election results tossed out and a new statewide election held for the Georgia Court of Appeals seat.

"It was the first time a statewide election was ever thrown out in the history of this country," says Mead, who later lost the race to Debra H. Bernes. "Marc is the one who came up with the idea and the case."

Hershovitz—who has built his solo practice around the intricacies of election law and business litigation—routinely sees things "that nobody else has caught on to yet," Mead says. "He is a creative thinker." And, he adds, Hershovitz is also "someone who will then go do the homework and dig through the law.... That's a pretty good combination."

Mead has not been Hershovitz's only political client. At 26, Hershovitz was deputy counsel to Gov. Roy Barnes. Twice, he defended Barnes while in office before the Georgia Ethics Commission, resulting in the allegations being dismissed.



ZACHARY D. PORTER/DAILY REPORT

Marc Hershovitz Sole Practitioner

Age: 34

Law school: University of Georgia

Motivation: "Politicians enact laws that govern society that we all have to live under. I think there needs to be a measure of fairness and compassion in those laws."

Last Book Read: "Game of Shadows: Barry Bonds, BALCO, and the Steroids Scandal that Rocked Professional Sports" by Mark

Fainaru-Wada and Lance Williams.

Best advice received: "Never do anything you would be embarrassed to tell your grandmother about."

Dream Vacation: Italy

As a child he wanted to be: An orthodontist

Colleagues might be surprised to know: "Unfortunately, there are no interesting facts," he says.

Hershovitz says his expertise is in the rules that govern campaigns and elections, and in what he dubs "the Florida problems"—a reference to the recounts in that state during the 2000 presidential elections. Secretary of State Cathy Cox says Hershovitz is "one of the few lawyers in Atlanta who can see and understand the political implications of legal decisions." For that reason, Cox tapped Hershovitz as legal counsel during her recent, unsuccessful campaign for the Democratic gubernatorial nomination. Hershovitz's political instincts are "a major benefit when he's representing elected officials and candidates like me who need a combination of political and legal advice," she adds.

Hershovitz also has advised Lt. Gov. Mark Taylor, Georgia Supreme Court Chief Justice Robert Benham and Atlanta Mayor Shirley Franklin.

Hershovitz says the philosophy that first inspired him to look at Mead's case is one he learned from R. Perry Sentell, Jr., his law professor at the University of Georgia School

of Law. Sentell, he says, often said during his lectures, "That hardly seems fair."

The fairness question also influences the types of business litigation he'll take. His recent case against SunTrust Banks, Inc. is one of those cases. After Lydia Brickley Muller was slain two years ago and her body dumped, more than 100 forged checks totaling nearly \$80,000 were written on her checking account and another \$11,000 spent via her debit card.

But SunTrust claimed that because Muller, whose body was missing for months before it was found, didn't notify SunTrust of the thefts within 30 days, the bank was under no obligation to reimburse her estate for the losses.

"I get cases like the SunTrust case from friends and colleagues who refer me because it doesn't fit their standardized practice," Hershovitz says. "The SunTrust case was a perfect example," he explains. "This isn't right. As Professor Sentell says, 'It hardly seems fair.'"

—R. Robin McDonald