



MONTHLY NEWSLETTER

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President's Comments



**JEAN M. POWERS, PRESIDENT
MOBILE BAR ASSOCIATION**

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2018 OFFICERS

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Greetings colleagues! It is an honor and pleasure to serve as your 2018 Bar President. I look forward to a fruitful and rewarding year for the Mobile Bar.

This month I would like to call attention to an issue that affects both our work and society at large: **JUDICIAL FUNDING**. Judicial funding in Alabama has declined steadily since 2008. Specifically, appropriations from the **ALABAMA GENERAL FUND** declined from \$163 million in 2010 to \$95 million in 2018. This reduction of forty-two percent is only minimally offset by a slight decrease in judicial filings.

The **ALABAMA STATE BAR** requested that the **PUBLIC AFFAIRS RESEARCH COUNCIL OF ALABAMA (PARCA)** review the state's current court cost structure with an emphasis on its relationship to court funding by the Alabama Legislature. The **PARCA** study was released in August 2014 and its figures are updated annually. The complex issues examined in the twenty-five page, **PARCA** study cannot be fully explained here. Two main points to know: (1.) The percentage of the judicial budget coming from general revenues has plummeted; and (2.) court cost revenues are allocated to purposes other than courts.

The **PARCA** study found the current court cost structure is inefficient, outdated, and an inadequate source of court funding. Direct allocations back to the court system of revenues produced by the court system are only fifty nine percent, according to the **PARCA** study. To quote **JUDGE LOCKETT**, "*In Alabama, government does not fund the courts, the courts fund the government.*"

We are all familiar with the strains on clerks' offices around the state as a result of judicial underfunding. Some offices close on Wednesdays; layoffs and reduced staff result in less timely processing of necessary orders, and dedicated long-term employees are being forced to do a great deal more with a great deal less. Judges, especially in Mobile County, are handling an increasing number of cases with fewer support staff in their own offices and in the clerks' offices. In Mobile County, the ratio of cases to judges is higher than the state average and higher than similar large metropolitan areas. Even greater are the effects on the public we all serve. Litigants in all areas of our judicial system are affected. Consider the many ways our judicial system impacts members of our society: victims of crimes; criminal defendants; victims and perpetrators of domestic abuse; women and children who rely on child support withholding orders to survive on a daily basis; families involved in divorce and child custody issues; and children and families in the youth center system. Delays in all of these areas affect the lives of the public on a daily basis.

All of this raises the question, what can we do? First, each one of us should be knowledgeable about this issue so that we can in turn educate our families, friends and neighbors. The **ALABAMA STATE BAR'S PARCA** study quantifies the issue and forms the basis of the Bar's education campaign. The **ASB** website contains a link to the **PARCA** study and figures for each county in great detail. (See www.alabar.org; go to Resources; go to Judicial Information). Second, educate our legislators about their responsibility to the public to include adequate judicial funding when preparing the budget. Legislators must be persuaded to press the issue of judicial funding in a state confronting major shortfalls in multiple, critical areas (Medicaid, mental health treatment, and prisons). Third, discuss the issue with our Bar Commissioners. The Bar Commissioners are working hand in hand with the State Bar to raise awareness of judicial underfunding and address it at the state level. Finally, please thank the dedicated and hardworking court system employees. They all make the court system work, from the entry level clerk to the County Clerk, from the judicial assistants to the Judges, from the maintenance staff to the janitorial employees. We are all lucky to have them.

January

PROGRAM

FRIDAY, JANUARY 19, 2018

SPEAKERS:

CHIEF U.S. DISTRICT JUDGE

CHIEF U.S. BANKRUPTCY JUDGE

PRESIDING CIRCUIT JUDGE, 13TH JUDICIAL CIRCUIT

PRESIDING DISTRICT JUDGE, 13TH JUDICIAL CIRCUIT

MOBILE COUNTY JUDGE OF PROBATE

MBA GRIEVANCE COMMITTEE CHAIRMAN



BROWSING THE BAR... *WITH BARBARA*

HAPPY NEW YEAR!

May your 2018 be more organized, productive, lucrative and peaceful is my wish for all (me too)!

Before we get down to the business of 2018, let me give you some stats from 2017. At the close of 2017 there were 1125 MBA members of whom 309 were sole practitioners and over the year we added thirty-six (36) new members. On November 17 we eulogized thirty-one (31) members, some of whom passed away in previous years. During the year we honored seventeen (17) lawyers who marked their fiftieth (50) year practicing law and twenty-seven (27) past MBA presidents. The Mobile Bar Association CLE Committee provided nineteen (19) CLE programs totaling sixty-two (62) CLE hours. These totals included the 29th Bench & Bar Conference which was attended by forty-two (42) judges representing all branches of the courts. A very special Thank You to the **BENCH & BAR SPONSORS:**

ATTORNEYS INSURANCE MUTUAL OF THE SOUTH, INC.

BRADFORD HEALTH SERVICES

HARBOR COMMUNICATIONS, LLC

HENDERSON & ASSOCIATES COURT REPORTERS, INC.

PARKER CONSULTING AND ASSOCIATES, LLC

RIMKUS CONSULTING GROUP

RUSSELL THOMPSON BUTLER HOUSTON, LLP

3 AXIS ENGINEERING, LLC

TOP TALENT RECRUITER

The **“Second Annual Evening at Moe’s”** was a great success with a capacity crowd – lots of good food, mingling with old friends and meeting new ones. The second annual **TRI THE GULF TRIATHLON** was very successful under the direction of **JUDGE DON DAVIS**, the proceeds of which were donated to the **MOBILE BAR FOUNDATION**. Our Mobile Bar Foundation gave away \$66,000 in grants to nine (9) local organizations. Even though there were a few bumps along the way, all in all, 2017 was a “very good year”!

NOW ON TO 2018 BUSINESS! By now you should have received your 2018 dues statement.

Please be prompt with your payment. In 2017 we fell just short of our projected dues budget and since that and the income from CLE are our only sources of income, it can get pretty stressful around here when we do not meet our goals. Also, pretty soon the **2018 CLE COMMITTEE** will be planning programs for the 2018-19 year so if you have any suggestions please let us know.

“While creating women, God made a promise to men that good and obedient wives would be found in all corners of the world. And then God smiled....and made the earth round.”

Author Unknown



NEW MEMBERS

JASON MATTHEW SHELBY
Greene & Phillips, LLC

DONALD RAY RIGGINS
Greene & Phillips, LLC

CHARLES E. “CHASE” DAVIS
Greene & Phillips, LLC

DRU LAUREN CLARK
Legal Service of Alabama

MAWIYAH N. DUCKWORTH
Sole-practitioner

PATRICK G. MONTGOMERY
Morgan & Morgan Alabama, PLLC.

VIRGINIA BROADWATER POYNTER
Sole-practitioner

MOBILE BAR ASSOCIATION WOMEN LAWYERS

BY: DANIELLE MASHBURN-MYRICK

The **MBAWL** will hold its next luncheon January 9, 2018, at 11:45 at Café del Rio on the Causeway. **CAREESE FINCHER**, Financial Representative/Managing Director of Strategic Wealth Services will discuss those financial planning issues we keep kicking down the road. Caresse's planning and protection strategies are geared toward busy women, regardless of financial comfort zone. Also, judicial candidate **BUZZ JORDAN** will tell us about why he's running for a Mobile County Circuit Court judgeship and take questions from attendees.

Last month, the **MBAWL** hosted "*Have a Seat at the Bar: Morning Mimosas*" before the Bench and Bar Conference. We heard from **MERCERIA LUDGOOD, JUDGE BETH KELLUM**, and **CHRISTY CROW** who have run for and/or held elected office. Moderator **CELIA COLLINS** led a discussion on what it takes to run a successful campaign and win an election.

DUES! It's that time of year again. Please remit your 2018 membership dues in the amount of \$25.00 to "**MBA WOMEN LAWYERS.**" You can bring a check to one of our monthly luncheons or mail it in to our Treasurer, **TIFFANY SMITH**, at P.O. Box 770, Mobile, AL 36601. Membership has its privileges including having your information published in our membership directory and receiving reduced rates for our **CLE** lunches.

Finally, **MBAWL** thanks its outgoing President **KRISTY DUGAN** of **FRAZER, GREENE, UPCHURCH AND BAKER** for serving our organization during 2017. Thank you Kristy for all you have done this year! We are also pleased to announce that **KRISSY MCCULLOCH** of **CONRAD, BARLAR & McCULLOCH** will take the helm for 2018. We look forward to another great year under Krissy's leadership. **HAPPY NEW YEAR!!**





ANNOUNCEMENTS

DOWNTOWN OFFICE SPACE FOR LEASE: 205 N. Conception Street, in an historic home in the beautiful DeTonti Square neighborhood. Private parking, available conference room, waiting area, optional space for staff. Internet provided. A block from the Federal and Bankruptcy Courthouses. Perfect for a new Solo on a budget or an experienced practitioner desiring high end digs. Contact **HENRY BREWSTER** at 251-338-0630 or hbrewster@brewsterlaw.net

HILL HILL CARTER is pleased to announce the opening of its newest office in Fairhope, Alabama. The Fairhope office is located at 23210 US Highway 98, Suite D-4, Fairhope, Alabama 36532. The direct phone number for the Fairhope office is (251) 270-7217. Additionally, **HILL HILL CARTER** welcomes **MS. REED MORGAN COLEMAN** as of-counsel in the Fairhope office.

FOR LEASE: Two office suite with private full bath. 507 Church Street, Mobile AL, 36602. Beautifully restored 1902 home with both street parking and off street parking with its own parking lot. Estimated at 750-800 total square feet. Access to full kitchen and large conference room with media center. Just a short walk to the court house and city hall. Lease \$800 per month plus ¼ shared expenses. Call Brian at 251-643-1718.

THE LAW OFFICE OF NEIL C. JOHNSTON, JR., LLC has relocated to 205 North Conception Street, Mobile, 36603. Phone 251.709.8251 and email neilcjohnston@ncjlawoffice.com

THE EZELL HOUSE has two large office spaces available for rent immediately at 407 Conti Street. Located in the heart of downtown, we are within walking distance to the Courthouses, Dauphin St, etc. WIFI available and included. Rent per space is \$550/month. Contact **AMY VAN HULZEN** (info@ezellhouse.com) at 251-432-4174 for more details.

EXTREMELY NICE PROFESSIONAL OFFICE space for lease at 1325 Dauphin Street. Available space ranges from 650 to 1,530 square feet and is \$14 per square foot. Amenities include: 3-4 professional offices, 3-4 secretarial spaces, plentiful onsite parking, two conference rooms, men and women's restrooms, a kitchen, VOIP for phone and wifi internet, CAT5 wiring, and copy room with fully functional copier. Dauphin Street signage is also available. Call Mechele at 251-432-8120 or send email to mechele@satterwhitelaw.com

SAVLP

ARIANA MOORE, EXECUTIVE DIRECTOR

SALVP is pleased to announce the 2017 Volunteers of the Year:



**Earl P. Underwood, Jr.
SALVP - Volunteer of the Year**

**James E. Robertson, Jr.
Mobile Bar Association
Ben Kilborn Lawyer of the Year**

SALVP has moved. Please visit us at our new location



**118 North Royal Street, Suite 402
Our phone numbers have not changed
251-438-1102 (client line)
251-433-6693 (attorney line)**



**Welcome to Nickelle Stoll,
SALVP's Administrative
and Marketing Assistant.
We are thrilled to have her on board.
You can reach her at office@salvp.org**



SIGNIFICANT DECISIONS

BY DUANE GRAHAM

In Ex parte *The Maintenance Group, Inc.*, No. 1160914 (Ala., November 22, 2017), the **Supreme Court** held that the Alabama court lacked personal jurisdiction over a non-resident alleged co-conspirator when there were no contacts with Alabama on the part of any of the alleged conspirators related to the alleged conspiracy. The Court emphasized that personal jurisdiction required a connection to Alabama involving the non-resident and the alleged claim.

In *Johnston v. Castles and Crowns, Inc.*, No. 1160171 (Ala., November 3, 2017), the **Supreme Court** ruled that when a jury returned an inconsistent verdict as to multiple claims, the trial court had to set aside the entire verdict and order a new trial and could not simply accept the verdict for some claims and reject it for others.

In a case of first impression, the **Court of Civil Appeals** in *Alt v. Alt*, No. 2160363 (Ala. Civ. App., November 17, 2017), held that a notice of appeal filed by a losing party to a judgment after that party had filed bankruptcy, thus invoking the automatic stay, was a nullity, although the time for filing the notice of appeal was itself stayed. After the stay expired, the party was required to re-file the notice of appeal. Having failed to do so, that party's appeal based on the original notice of appeal was due to be dismissed.

In Ex parte *Curtis*, No. 2170004 (Ala.. Civ. App., November 17, 2017), the **Court of Civil Appeals** held that under Rule 8 of the Ala. R. App. P., a party against whom a judgment for money damages only must post a supersedeas bond in order to stay execution of that judgment pending appeal. Thus, the trial court had no authority to issue an order staying execution when the judgment defendant had not filed a bond, and the judgment plaintiff was entitled to a writ of mandamus to set aside the stay.

In a case of first impression, the **Supreme Court** in *Shelton v. Green*, No. 1160474 (Ala., November 9, 2017), held that survival of actions statute, Ala. Code § 6-5-462 was not unconstitutional for failing to provide that unfiled tort claims survive the death of the injured party.



You are cordially invited to attend the
Investiture of

Michael D. Sherman
Thirteenth Judicial Circuit
Circuit Court Judge

Friday, January 12, 2018 at 10:30 a.m.
Ceremonial Courtroom

Government Plaza
205 Government Street.
Mobile, AL

Reception immediately following the Investiture

LAWYERS IN THE NEWS

BY SANDY G. ROBINSON

DIED: Friend of the MBA **GEORGE EDGAR**, retired clerk of the **MOBILE COUNTY DISTRICT COURT**, died December 18, 2017 in Mobile, at the age of 93. He was a 3rd generation Mobilian, who graduated from Murphy High School and served in the U. S. Air Force during WWII. Upon return from WWII, he graduated from Spring Hill College with a B.S. of Commerce in Accounting in 1948. George worked as an accountant for several industrial companies before landing his destiny job as **CLERK OF THE DISTRICT COURT - MOBILE COUNTY**. After several decades of service, he retired in 1995 with supernumerary status. He was a long-time member of Trinity Episcopal Church in Mobile and Saint Francis Episcopal Church on Dauphin Island. George was an active member of several mystic societies and an avid Alabama football fan. He is survived by his wife of 63 years, two children and two grandchildren.



PLEASE GIVE

Name: _____

Address: _____

Phone: _____ E-mail: _____

I want to make a donation to the Mobile Bar Foundation.

In honor/memory of: _____

Acknowledgment to: Name _____

Address _____

I want to become a member of the Mobile Bar Foundation.

Check enclosed

Bill my credit card \$_____ Visa/Master Card/Amex #_____

Life Member (\$5000, can be paid in up to 5 annual installments)

Sustaining Member (\$100 or more annually)

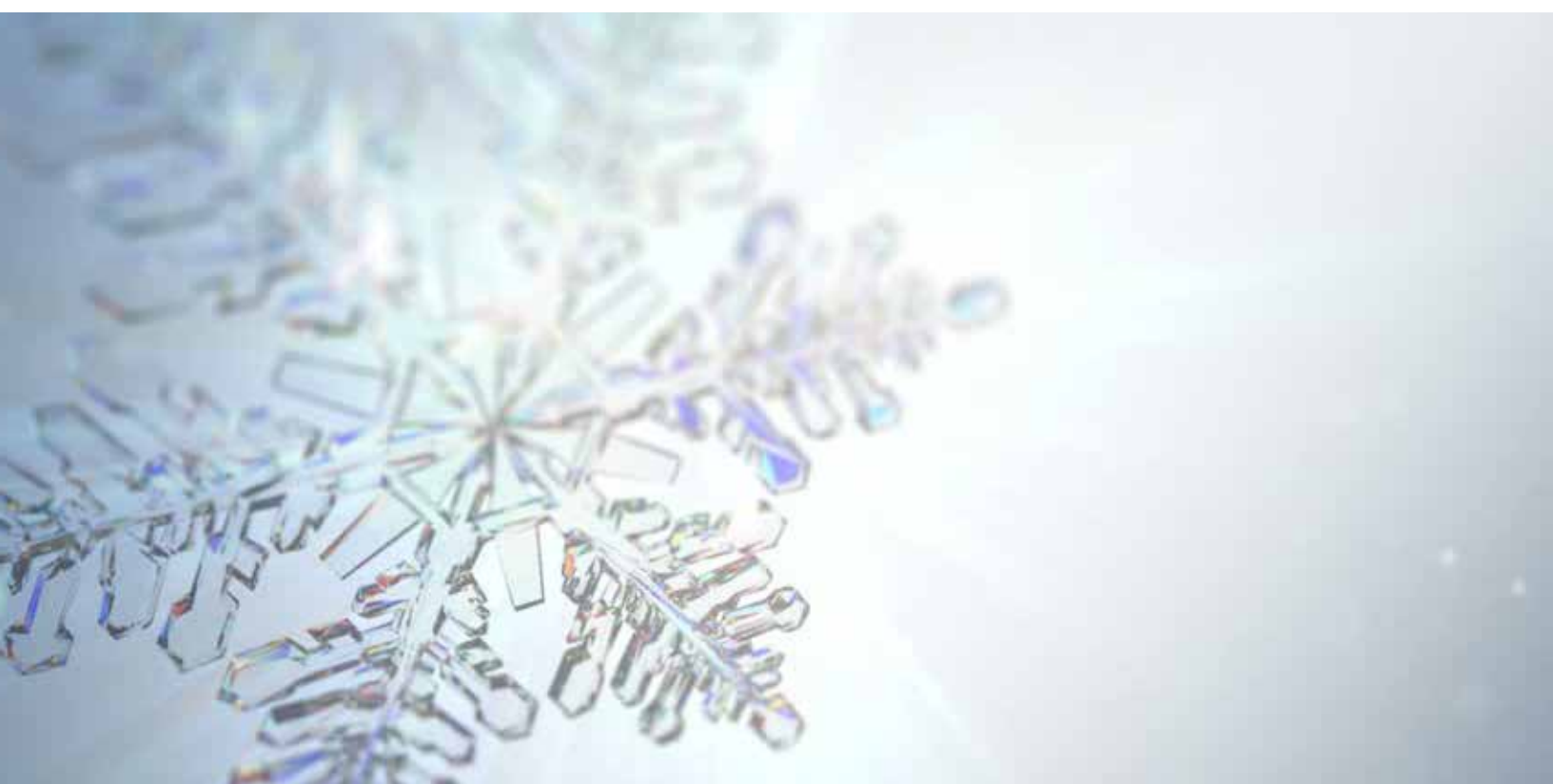
Regular Member (\$50 - \$99 annually)

or if member of MBA practicing 5 years or less \$25 - \$99)

I would like information on including the Foundation in my estate planning.

Signature _____ Exp. _____

Mail to: Mobile Bar Foundation, P.O. Drawer 2005, Mobile, AL 36652





Calendar of Events

**JANUARY 1 - MONDAY
NEWYEAR HOLIDAY**

**JANUARY 11 - THURSDAY
MBA EXECUTIVE COMMITTEE MEETING,
12 O'CLOCK NOON, ATHELSTAN CLUB**

**JANUARY 15 - MONDAY
MARTIN LUTHER KING, JR. HOLIDAY**

**JANUARY 19 - FRIDAY
JANUARY MONTHLY LUNCHEON MEETING,
ADMIRAL HOTEL**

**JANUARY 25 - THURSDAY
MBA GRIEVANCE COMMITTEE MEETING,
12 O'CLOCK NOON, ATHELSTAN CLUB**

Continuing Legal Education

Friday, January 19, 2018

“ANNUAL CIVIL LAW UPDATE”

The Admiral Hotel, Mobile, AL

1:30 – 4:45 pm

3.0 MCLE Hours Credits (including 1.0 Ethics Credit)

Pre-Registration Fee:

\$75 Mobile Bar Association Members,

\$100 Non-MBA Members

Add \$25 for same day registration.

Friday, March 16, 2018

“JUDGES PANEL”

The Admiral Hotel, Mobile, AL

1:30 – 4:45 pm

3.0 MCLE hours credits

(Including 1.0 Ethics credit)

Pre-Registration Fee:

\$75 Mobile Bar Association Members,

\$100 Non-MBA Members

Add \$25 for same day registration