



# MONTHLY NEWSLETTER

Volume XLVI,  
Issue 1 • January 2017

## President's Comments



**GREG CARWIE, PRESIDENT  
MOBILE BAR ASSOCIATION**

*Happy New Year!* Flip your calendar over to 2017 and plan to be involved and enjoy all of the many activities your **BAR ASSOCIATION** has in store for you this year. Many attorneys have been asking me what goals and plans are being made for this year. If you attended the December luncheon meeting, you know that there is one thing that we don't need to worry about in 2017, and that is making the **MOBILE BAR ASSOCIATION** Great again. The MBA is already great and will continue to be great thanks to the leadership of our Past President, **PETE MACKEY**, as well as our recent Past Presidents, **BRIAN MCCARTHY**, **MIKE DRUHAN**, **MICHAEL UPCHURCH**, and others, including my late father-in-law, **BILL MCDERMOTT**, and many before him. It is also great because of the involvement of our membership.

When you see Pete, please thank him for his hard work and a terrific 2016 in our Bar. He did a tremendous job as our CEO, and under his leadership we were able to accomplish an impressive amount of fundraising, volunteering, legal educating and socializing. At the December meeting, Pete presided over the handing out of the proceeds from the wonderfully successful **TRI THE GULF** event and other generous donations. The **MOBILE BAR FOUNDATION**, chaired by **BRYAN COMER**, gave \$71,250 to several worthwhile organizations including **BIG BROTHERS BIG SISTERS, BOYS & GIRLS**

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### **2017 OFFICERS**

- PRESIDENT – J. GREGORY CARWIE
- PRESIDENT ELECT – JEAN M. POWERS
- VICE PRESIDENT – MARK A. NEWELL
- SECRETARY – DERRICK V. WILLIAMS
- TREASURER – ROBERT J. RICCIO
- ASSISTANT TREASURER – CHRISTOPHER B. ESTES
- EXECUTIVE DIRECTOR – BARBARA C. RHODES
- EDITOR – FERRELL S. ANDERS



## PROGRAM

ON FRIDAY, JANUARY 20, 2017, 11:45 AM  
THE ADMIRAL HOTEL BALLROOM

### SPEAKERS:

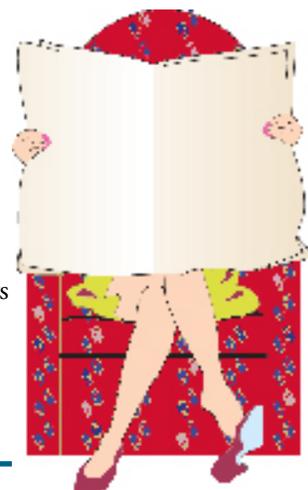
- CHIEF U.S. DISTRICT JUDGE
- CHIEF U.S. BANKRUPTCY JUDGE
- PRESIDING CIRCUIT JUDGE, 13TH JUDICIAL CIRCUIT
- PRESIDING DISTRICT JUDGE, 13TH JUDICIAL CIRCUIT
- MOBILE COUNTY JUDGE OF PROBATE
- MBA GRIEVANCE COMMITTEE CHAIRMAN

# Browsing the Bar With Barbara

**HAPPY NEW YEAR for the 36th time!** Tammy and I wish for you and yours a joy-filled, prosperous, and healthy year. ALSO, a great big THANK YOU to those who remembered us this Christmas with gifts – your thoughtfulness is greatly appreciated!

I am excited to announce that my “surrogate” granddaughter, **ABI ANDERSON**, Tammy (your Associate Bar Director) and **KEVIN ANDERSON'S** daughter, will be a **MOBILE AZALEA TRAIL MAID** for the year 2017-2018. She is a lovely, intelligent young lady, well deserving of the honor (says the proud g/mother). Watch for her next year, she will be one of the ones in blue!

The **COMMITTEE/SECTION APPOINTMENTS** have been made by your **2017 BAR PRESIDENT GREG CARWIE** and will be posted on the Bar Website as well as sent out in an email blast. Check to see if you are on the Committee/Section of your choice.



## HOW OLD IS GRANDPA????

Stay with this—the answer is at the end. It will blow you away.

One evening a grandson was talking to his grandfather about current events. The grandson asked his grandfather what he thought about the shootings at schools, the computer age, and just things in general.

**The Grandfather replied, ‘Well, let me think a minute, I was born before:**

- television
- penicillin
- polio shots
- frozen foods
- Xerox
- contact lenses
- Frisbees and
- the pill

**There were no:**

- credit cards
- laser beams or
- ball-point pens

**Man had not invented:**

- pantyhose
- air conditioners
- dishwashers
- clothes dryers
- clothes were hung out to dry in the fresh air
- man hadn't yet walked on the moon

Your Grandmother and I got married first,...and then lived together

Until I was 25, I called every man older than me, ‘Sir’

And after I turned 25, I still called policemen and every man with a title, ‘Sir’

We were before gay-rights, computer-dating, dual careers, daycare centers, and group therapy

Serving your country was a privilege; living in this country was a bigger privilege

We thought fast food was what people ate during Lent

Having a meaningful relationship meant getting along with your cousins.

Draft dodgers were people who closed their front doors when the evening breeze started.

Time-sharing meant time the family spent together in the evenings and weekends-not purchasing condominiums.

We never heard of FM radios, tape decks, CDs, electric typewriters, yogurt, or guys wearing earrings

We listened to the Big Bands, Jack Benny, and the President's speeches on our radios.

If you saw anything with ‘Made in Japan’ on it, it was junk.

The term ‘making out’ referred to how you did on your school exam.

Pizza Hut, McDonald's and instant coffee were unheard of.

We had 5 & 10-cent stores where you could actually buy things for 5 and 10 cents.

Ice-cream cones, phone calls, rides on a streetcar, and a Pepsi were all a nickel. And if you didn't want to splurge, you could

spend your nickel on enough stamps to mail 1 letter and 2 postcards.

You could buy a new Chevy Coupe for \$600...but who could afford one? Too bad, because gas was 11 cents a

gallon.

**In my day:**

- ‘grass’ was mowed,
- ‘coke’ was a cold drink,
- ‘pot’ was something your mother cooked in, and
- ‘rock music’ was your grandmother's lullaby.
- ‘Aids’ were helpers in the Principal's office,
- ‘chip’ meant a piece of wood,
- ‘hardware’ was found in a hardware store, and
- ‘software’ wasn't even a word.

And we were the last generation to actually believe that a lady needed a husband to have a baby.

No wonder people called us ‘old and confused’ and say there is a generation gap...and how old do you think I am?

I bet you have this old man in mind...you are in for a shock!

Read on to see -- pretty scary if you think about it and pretty sad at the same time.

ARE YOU READY ?????

***This man would be only 59 years old in 2009!!!!***

# President's Comments *continued from Page 1*

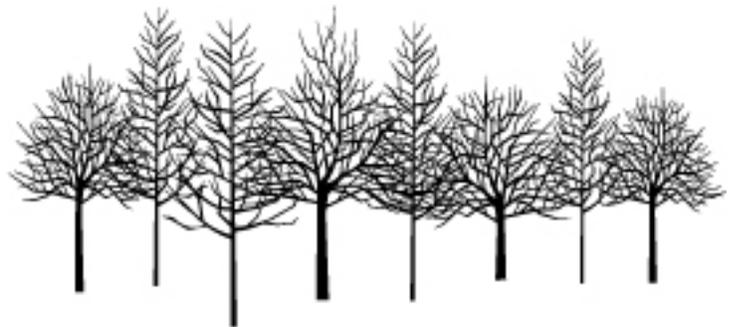
**CLUBS, CHILD ADVOCACY CENTER, LEGAL SERVICES ALABAMA, MOBILE UNITED, THE SOUTH ALABAMA VOLUNTEER LAWYERS PROGRAM, and THE VOLUNTEER GUARDIAN PROGRAM.** The **SOUTH ALABAMA VOLUNTEER LAWYERS PROGRAM** presented several awards for service hours highlighted by the **BEN KILBORN MBA LAWYER OF THE YEAR** award being presented to **GREG VAUGHAN**, and **LEGAL SERVICES ALABAMA** presented several awards including the **FIGHTING FOR JUSTICE AWARD** being presented to **RHONDA KINARD**. These donations and commitments of time exemplify the best about lawyers and show the public that we have honorable men and women in our Bar serving some dire needs of our community.

We have managed to make our Bar stronger every year by building on the successes of the prior year. Our Bar needs each of you to participate in our traditional activities such as the **BENCH AND BAR CONFERENCE, LAW WEEK,** and **CLE** seminars to keep the momentum going and to improve them. I want to see more of our members getting involved by attending our monthly meetings, joining committees and sections, and signing up for a volunteer case. Please plan to attend our January 20th meeting which is the annual **STATE OF THE JUDICIARY** and includes many of our State and Federal Judges, our Probate Judge, and the Chairman of the **GRIEVANCE COMMITTEE**.

I have been extremely impressed by so many attorneys who have approached me and want to be involved in bar activities. I have appointed several younger members as Committee and Section Chairpersons along with many seasoned attorneys. However, many members have not turned in a committee preference form. Please contact Barbara or Tammy at the Bar Headquarters so that your name may be assigned to a committee or section for the year.

I want to encourage each of you to come to our social activities too. There have been some ideas floated about a midyear party for all of us to get together, and we'll update you about the party as the time nears. We are planning on making needed updates to the MBA website, including new photos for the attorney directory. **PORTRAIT PROS, LLC** approached us last year and offered to take photos free of charge. You have received or will be receiving an email soon with details regarding the times and locations of the photos.

I am honored to have the opportunity to serve as President for 2017. I believe I'm the first President in several years whose primary practice isn't litigation. Unlike many of my contemporaries, I didn't grow up knowing that I wanted to be an attorney. In fact, after graduating from college, I was faced with the decision of going to law school or taking over my family's hardware business. More on that decision in an upcoming **BAR BULLETIN**.





# ANNOUNCEMENTS

Anyone with information of Last Will and Testament of: **KENNETH DALE PEARSON**, Wolfe Pine Road, Semmes, AL 36575, Birthdate July 8, 1962, wife **PAIGE A. PEARSON**. Please contact brother **GREG PEARSON**, 402.214.4292.

**EXTREMELY NICE PROFESSIONAL OFFICE** space for lease at 1325 Dauphin Street. Available space ranges from 650 to 1,530 square feet at 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](mailto:mechele@satterwhitelaw.com)

**FOR SALE OR RENT:** Midtown office building for sale or lease with space available for two or three lawyers and staff. Convenient and highly visible location at 2053 Dauphin Street with private park-ing lot and signage available. Building has CAT5 wiring, internet and phone system in place. Includes private meeting area at-tached to corner office, conference room, waiting area, kitchen and file storage area. Contact **JIM JEFFRIES** at 251.445.5522 or [Jim@jeffriesfamilylaw.com](mailto:Jim@jeffriesfamilylaw.com)

**USED OFFICE FURNITURE FOR SALE:** Large solid wood desk \$400; Two (2) four-drawer legal size file cabinets \$100 each; OR everything for \$500. Contact 251.479.9539

**TRI-THE-GULF T-SHIRTS FOR SALE:** We still have several Tri-the-Gulf t-shirts for sale at the MBA Office, \$10 each.

**THE HONORABLE BERT & PRIS MILLING** very, very belatedly proudly announce the births of their eighth, ninth and tenth grand-children: **HELEN MURRAY MILLING** born March 17, 2010; **MAR-GARET FRANCES GRACE** born April 24, 2010 and **CHARLOTTE EVELYN GRACE** born September 30, 2014. Proud uncles who are also members of the MBA are **BROOKS MILLING, LUCKETT ROBINSON** and **ALEXANDER ROBINSON**.

## PROPOSAL

### TO CREATE STANDING COMMITTEE ON BAR RELATIONS

The MBA Executive Committee has VOTED IN FAVOR OF the following and makes the motion to the Membership that the proposal be approved.

The Executive Committee moves the formation of a **"BAR RELATIONS COMMITTEE"** to serve as a new permanent Standing Committee of the Mobile Bar Association. Its members shall be appointed by the President annually, and charged with ensuring that the interests of our members are adequately represented in other bar organizations on a local, state and national level.

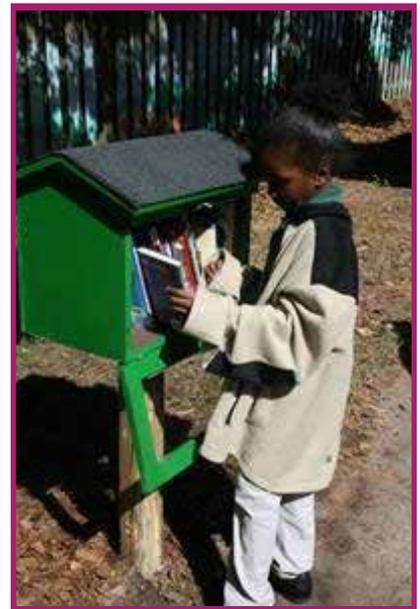
# MOBILE BAR ASSOCIATION WOMEN LAWYERS

BY: ALEXANDRA K. GARRETT

To close out a productive year under the leadership of **PRESIDENT SUNTREASE WILLIAMS-MAYNARD**, MBAWL hosted *“Have a Seat at the Bar: Morning Mimosas”* at Marriot’s Grand Hotel in conjunction with the **2016 BENCH AND BAR CONFERENCE**. During the event, MBAWL celebrated all that the group and its members have accomplished over the last year. **JUDGES SONJA BIVINS, MARGARET A. MAHONEY, SARAH H. STEWART, JILL P. PHILLIPS,** and **SHELBONNIE HALL** and **JUSTICE LYN STUART** generously shared their time and experiences as women on the bench and of the bar with attendees. **IMMEDIATE PAST PRESIDENT ABBY RICHARDSON** presented this year’s officers with commemorative plaques and thanked them for their service.

MBAWL utilized the event as another opportunity to give back to the community. **SECRETARY ALEXANDRA GARRETT** presented a “big check” representing MBAWL’s donation raised through the **NETWORKING EVENT FOR PROFESSIONAL WOMEN** to **CHANDRA BROWN, EXECUTIVE DIRECTOR OF LIFELINES COUNSELING SERVICES**. The group also collected books for local children.

Ring in the new year, MBAWL announced its 2017 officer slate: **PRESIDENT KRISTY DUGAN OF FRAZER GREENE UPCHURCH & BAKER, LLC; PRESIDENT-ELECT KRISSY MCCULLOCH OF CONRAD BARLAR & MCCULLOCH; VICE PRESIDENT ALEXANDRA GARRETT OF SILVER, VOIT & THOMPSON, ATTORNEYS AT LAW, P.C.; SECRETARY DANIELLE MASHBURN-MYRICK OF PHELPS DUNBAR, LLP; TIFFANY SMITH OF JOHNSTONE ADAMS, LLC; HISTORIAN LAURA STRACHAN OF STONE, GRANADE & CROSBY, P.C.;** and **IMMEDIATE PAST PRESIDENT SUNTREASE WILLIAMS-MAYNARD, ASSISTANT U.S. ATTORNEY.**



**AIMEE RISSER**, the CEO of **BIG BROTHERS BIG SISTERS OF SOUTH ALABAMA** thanks MBAWL’s for their donation from the December book drive.

MBAWL sponsored a book drive for the Big Brothers Big Sisters of South Alabama. All donated books support the Little Free Libraries for Schools, which is a **ROTARY CLUB OF MOBILE INITIATIVE**. This initiative is a partnership with **BIG BROTHERS BIG SISTERS**, where ten libraries have been produced, six of which have been placed at area elementary schools with three others to be placed at schools before the summer’s end.

# LAWYERS IN THE NEWS

BY SANDY G. ROBINSON

**DIED:** MBA member **TOM DOYLE** died on December 7, 2016 at the age of 73 at his home in Daphne. Tom was a graduate of McGill-Toolen High School, Spring Hill College, and the University of Alabama. He had a long career as an attorney in private practice in Mobile and served as the municipal court judge in Daphne for over 20 years. He is survived by three sons, one daughter, four grandchildren, two brothers, (one of whom is MBA member **WILLIAM M. "BILLY" DOYLE**) a sister, and many other relatives and friends.

**DIED:** **MARY SHEPARD FROST**, mother of MBA member **JIM FROST**, died on December 14, 2016. She grew up in Mobile and attended Mary B. Austin School and Murphy High School, then graduated from Judson College. She married **CHARLES H. FROST** of Grand Rapids, Michigan, where she lived for 51 years until Charlie's death, when she returned to Mobile to be among her lifelong friends. She is survived by seven children, ten grandchildren, and sixteen great-grandchildren.

**DIED:** Friend of the MBA, **MOLLY ATKINSON**, died November 15, 2016. She was a native of Jonesboro, Arkansas and served in the United States District Court for the Southern District of Alabama for 30 years as a Judicial Assistant to two United States Magistrate Judges, the **HONORABLE DAVID A. BAGWELL** and the **HONORABLE WILLIAM E. CASSADY**, retiring in 2008. She is survived by her husband, one daughter, and many other relatives and friends.

**KUDOS:** MBA member **HANK CADDELL**, founder of the **ALABAMA COASTAL HERITAGE TRUST**, was instrumental in negotiating to acquire 113 acres on the Fort Morgan peninsula to be held by the state for conservation. The property, which was the last large, privately held piece of undeveloped beach and dunes on the Alabama coast, was slated for development into condominiums. But after the BP oil spill, Caddell worked to negotiate a purchase of the land from the private owners for conservation, using BP money. The property, which was acquired for \$36 million, will be managed by the State Parks Division.

**KUDOS:** MBA member **VINCE KILBORN** has committed \$1.5 million to a new medical office building at the **USA MITCHELL CANCER INSTITUTE**, which will be known as the Kilborn Clinic. Kilborn, whose father died of pancreatic cancer in 1971, said he has felt a personal calling to combat the disease and previously established a fund to train top doctors and researchers at MCI.



# SIGNIFICANT DECISIONS

BY DUANE GRAHAM

In *Johnson v. Ives*, No. 2150613 (Ala. Civ. App., November 4, 2016), a unanimous Court of Civil Appeals ex mero motu held that an appeal was frivolous and awarded \$1500 in favor of the appellee. The appellant filed a so-called “motion to alter, amend or vacate” settlement agreement six years after a case had been dismissed with prejudice on joint stipulation. The trial court denied the motion for lack of jurisdiction, and the appeal ensued. The appellant’s brief, which was filed by an attorney, substantially failed to comply with the rules for briefs. The slip opinion does not name the attorney.

In a case of apparent first impression, the Court of Civil Appeals in *Lancaster v. Evans*, No. 2150627 (Ala. Civ. App., November 18, 2016), held that restrictive covenants prohibiting construction of a boathouse over water in front of the property sufficiently “touched and concerned” the land that they were enforceable against the property owner, even though the water (in this case a privately owned lake) was owned by a third party unconnected to the covenants.

In an unusual case involving the circuit court’s jurisdiction in a will contest, the Supreme Court in *Ray v. Huett*, No. 1150572 (Ala., November 23, 2016), held that a circuit, in trying a will contest, lacked jurisdiction to determine that the will’s language failed to effectively create a testamentary trust. As the appellate court noted, the question of the proper construction of a will is not presented in a will contest and the circuit court’s jurisdiction is limited to deciding issues relatively to the validity of the will, such as proper execution, testamentary capacity, and whether there was undue influence.

In *Parker v. Parker*, No. 2150679 (Ala., November 10, 2016), the Supreme Court reversed a circuit court’s entry of an order on final settlement of an estate based upon the special master’s recommendation because the parties were not given 10 days’ notice in which to object to the recommendation as required by A.R.C.P. 53.

In another case of apparent first impression, the Court of Civil Appeals in *Bharara Segar, LLC v. State*, No. 2150553 (Ala. Civ. App., November 4, 2016), held that a judgment of forfeiture as to property seized in a drug raid was void because it had been entered prior to the expiration of the objection period set forth in the publication notice.

In *Daniel v. Moyer*, No. 1140819 (Ala., November 10, 2016), the Alabama Supreme Court held that a petition for removal of an estate from probate court to circuit court had effectively been filed in circuit, as required by the removal statute, even though the parties filed the petition in the probate court and apparently a clerk from the probate court took it to the clerk of the circuit court and filed it.

## YOUNG LAWYERS

BY: TIMOTHY A. HEISTERHAGEN, PRESIDENT

The **YOUNG LAWYERS COMMITTEE** is coming off a highly successful 2016 in terms of fundraising and increased attendance at monthly meetings. As always, our success is owed to the overwhelming generosity of our sponsors, the hard work of the officers and Executive Committee, and the involvement and interest of the Bar as a whole. We look forward to building on this momentum and another great year for the **YOUNG LAWYERS**. Before moving forward, we must thank **RUSSELL JOHNSON** for all of his hard work as President, which led to outstanding donations to both the **ST. MARY’S HOME** and **THE JUSTIN W. PARSONS SCHOLARSHIP FUND**.

This year’s Executive Committee took over the **YOUNG LAWYERS** on January 1, 2017. As many of you know, I am with **ARMBRECHT JACKSON LLP** and can be reached at [tah@ajlaw.com](mailto:tah@ajlaw.com). Our incoming Vice President is **KATE BROWNING** of **THE BROWNING LAW FIRM** ([kmb@rebpc.net](mailto:kmb@rebpc.net)). Kate and I would like to welcome our new Treasurer, **WEATHERS BOLT**, who is with **STARNES DAVIS FLORIE LLP** ([wbolt@starneslaw.com](mailto:wbolt@starneslaw.com)). We look forward to seeing everyone at the “To Be Announced” meeting, which will be held on January 19 or 26, 2017. If you would like to be included on the Young Lawyers e-mail list or would like to update your e-mail address, please contact Kate, Weathers, or me.



**AWARDS ARE BESTOWED ANNUALLY ON ATTORNEYS WHO  
HAVE MADE A SIGNIFICANT CONTRIBUTION TO THE  
COMMUNITY THROUGH THEIR SERVICE TO THE SOUTH  
ALABAMA VOLUNTEER LAWYERS PROGRAM. JOIN US IN  
CONGRATULATING THE FOLLOWING 2016 WINNERS:**

**Volunteer of the Year-  
S. Wesley Pipes, V.**

**Young Lawyer of the Year-  
Wesley J. Hunter**

**Distinguished Service Awards-  
Annette M. Carwie, Brenda D. Hetrick, Sheila S. Schoen, Hendrik S. Snow**

**Ben Kilborn Mobile Bar Association Lawyer of the Year-  
Gregory E. Vaughan**

**500 Lifetime Hours of Service-  
Patrick J. Ward**

**250 Lifetime Hours of Service-  
Matt C. McDonald, S.C. Middlebrooks, Renee E. Thiry, Gregory E. Vaughan**

**100 Lifetime Hours of Service-  
P. Bradley Murray, Scott W. Hunter, Brenda D. Hetrick, Rebecca Ding-Lee**



**MOBILE BAR FOUNDATION**

**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

**MOBILE BAR FOUNDATION**

**MEMORIALS**

IN HONOR OF

**DONALD E. BRUTKIEWICZ**

By his Son

**JOHN C. BRUTKIEWICZ**

Gifts in Memory of

**JOHN M. TYSON, SR.**

and

**MOLLY J. ATKINSON**

Were given by **CHARLIE FLEMING** and **KATHY MILLER**

Gift in Memory of

**JOHN M. TYSON, SR.**

Was given by **FERRELL ANDERS**



**JANUARY 2 - MONDAY  
NEW YEAR HOLIDAY**

**JANUARY 12 - THURSDAY  
MBA EXECUTIVE COMMITTEE MEETING,  
12 NOON**

**JANUARY 16 - MONDAY  
MARTIN LUTHER KING, JR. HOLIDAY**

**JANUARY 20 - FRIDAY  
MBA LUNCHEON,  
THE ADMIRAL HOTEL BALLROOM,  
12 NOON**

**JANUARY 26 - THURSDAY  
MBA GRIEVANCE COMMITTEE MEETING, ATHELSTAN CLUB,  
12 NOON**

**JANUARY 27 - FRIDAY  
CLE - THE JUDGE'S PANEL,  
THE ADMIRAL HOTEL,  
1:30-4:45PM**

## **CONTINUING LEGAL EDUCATION**

### **2017**

**JANUARY 27 FRIDAY – JUDGE'S PANEL,**

The Admiral Hotel, 3.0 hrs.

MCLE Credits including 1.0 hr. Ethics

**MARCH 24 FRIDAY  
ANNUAL CRIMINAL LAW UPDATE,**

The Admiral Hotel,

3.0 hrs. MCLE Credits