



# MONTHLY NEWSLETTER

Volume XLV,  
Issue 9 • September 2016

## President's Comments



**PETE MACKEY, PRESIDENT  
MOBILE BAR ASSOCIATION**

*“I have more scars than you will ever see, because most of them are in my head”*

- anonymous, describing depression

The alarm has been beeping for almost ten minutes before Fred finds the will to turn it off. He is not asleep – he has been awake for hours. He slept a little over two hours all night, his norm for the past several months. He will doze off a few times this afternoon – the day goes by faster that way. It takes another 30 minutes to get out of bed. Fred is handsome and a seemingly eligible bachelor since his divorce last year. He is in good condition, or at least he was until his disease reared its ugly head again six months ago.

Fred is 36 years old, practicing on his own and battling untreated depression. It has been an off and on demon since he was in college. He got treatment when the light switch first cut off, but the medicine made him feel bad and he slept a lot. When his depression recurred in law school, he was afraid to get treatment, lest word get out and his career was over before it started.

As he looks in the bathroom mirror, Fred wonders why anyone would be interested in such a grotesque loser as a lawyer, a friend or a mate. A part of his brain reminds him that this is the disease talking, but another part tells him that mirrors don't lie. As he showers, he considers his day – a court hearing at nine and a client, one of his few remaining, coming in after lunch. Nausea sweeps over him like a wave.

When he gets to the office, he skulks in through the back door to minimize the chance of running into his assistant or the other lawyers he shares space with. He has been thinking about this hearing all week. He can't get it out of his mind. It looms bigger, and bigger, and Bigger – his head feels like it might explode. Fred has owed his opponent discovery responses for seven months in a suit over a \$15,000 note. The judge already granted a motion to compel and this is a hearing on sanctions.

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### **2016 OFFICERS**

- PRESIDENT – PETER S. MACKEY
- PRESIDENT ELECT – J. GREGORY CARWIE
- VICE PRESIDENT – JEAN M. POWERS
- SECRETARY – MOSHAE E. MOORE
- TREASURER – ANNA L. SCULLY
- ASSISTANT TREASURER – ROBERT J. RICCIO
- PRESIDENT Y. L. – RUSSELL D. JOHNSON
- EXECUTIVE DIRECTOR – BARBARA C. RHODES
- EDITOR – FERRELL S. ANDERS

## **PROGRAM**

THERE WILL NOT BE A LUNCHEON IN SEPTEMBER

THE NEXT LUNCHEON WILL BE  
FRIDAY, OCTOBER 21, 2016

11:45 AM IN THE CRYSTAL BALLROOM  
THE ADMIRAL HOTEL



# *Browsing the Bar*

## *With Barbara*

The COMMITTEE PREFERENCE CARDS will be going out the end of September and I hope everyone will take the opportunity to let GREG CARWIE, incoming MBA President, know your choices for MBA Committees and Sections. He will spend a great deal of time trying to fit the right person with the right Committee and it certainly helps to know your first choice.

I've learned... *That the best classroom in the world is at the feet of an elderly person.*

I've learned... *That when you're in love, it shows.*

I've learned... *That just one person saying to me, 'You've made my day!' makes my day.*



### **FREE EXPUNGEMENT AND RESTORATION OF VOTING RIGHTS LEGAL CLINIC**

**The  
Vernon Crawford Bar Association  
is calling on VOLUNTEER Lawyers!**



#### **WHAT?**

**The Expungement/Re-entry Committee is hosting a Community Fair to assist members of our community with completing forms necessary to restore their voting rights and/or expunge their records.**

#### **WHEN?**

**On September 24, 2016, training will be provided to all volunteer attorneys from 10:00am – 11:00am. There is no cost to attend the training, plus you may be eligible for 1.0 CLE credit. Lunch will be provided. The Community Fair will be open to the public from 12:00pm – 3:00pm.**

#### **WHERE?**

**LeFlore Magnet High School**

**More details will follow. If you are interested in serving as a volunteer attorney, please contact our Committee Chair, Sunitress Williams-Maynard at [sunitress.williams-maynard@uscdoj.gov](mailto:sunitress.williams-maynard@uscdoj.gov) by September 3, 2016.**



# President's Comments

*continued from Page 1*

He enters the courtroom and everyone is staring at him, or at least that's what he sees. He fights the urge to bolt – to find a quiet, dark place to hide. As he ponders his next move, the judge enters the courtroom.

“Judge, my client ... sick ... hospital ... coming in tomorrow ... one more chance.” Though the judge sees right through it, he likes Fred and has heard that he took his divorce pretty hard. His opponent also likes Fred and knows that the bank she represents will never get a dime out of his client, anyway. She shrugs her shoulders - whatever. Wash, rinse, repeat.

Safe back in his office, Fred realizes that his undershirt is soaked. He needs to eat, but has no appetite. Unopened mail sits in a small stack on the corner of his desk. The top envelope is from his mortgage company. “Am I two, or three months behind,” he wonders. He pulls his latest bank statement on his trust account to see if there is any money to cover the house payment. The zeros in it remind him that he had cleaned out the only retainer he had left with some fictitious billing a few weeks ago. Fred just can't see a way out.

His afternoon client wants to know when the case is going to be set for trial. “Soon – I just spoke with the judge.” Does Fred think there is any chance for a settlement? “Of course – they know you have a great case and I have them on the run.” The case has not even been filed. Mercifully, the client leaves without asking any more questions. Fred thinks about the loaded pistol sitting in the drawer next to his bed. He bought it a few months back and it has been on his mind a lot lately. When he was young, he had suicidal thoughts and they scared him. Now, they ooze over him like a warm balm. He has taken the gun out of the drawer twice and gone up in the attic. Both times, a quiet voice told him not to do it. He can barely hear that voice now ...

Of course this is not a true story. It is, however, an accurate depiction of what someone in Fred's shoes might go through. There are lots of Freds, and Janes, trying to practice law and battle untreated depression at the same time. It's not sustainable – like Sisyphus, or David and the Giant – but the big guy has the slingshot, too. They are afraid to get help for the same reasons Fred is. Their career will be over. No one will speak to them. The stigma that attaches to being branded “mentally ill” is a game changer for the worse. The same voice that tells them they are looking at a loser in the mirror tells them that suicide is a more logical option than dealing with the problem.

How bad is it? The statistics are all over the place, but it is pretty clear that the stressors – student loans, client and court system demands, shrinking profit margins and technology that never lets one get away from the job – are not abating. A recent study of 11,500 lawyers (including Alabama) published in the February, 2016, edition of the Journal of Addiction Medicine contained the following findings regarding a survey done on depression:

- 28% of the participants reported concern with mild or high levels of depression;
- 19% reported mild or high levels of anxiety; and
- 23% reported mild or high levels of stress, which involves mental or emotional strain attached to a certain event.

There is, however, hope and help is available. **ROBERT THORNHILL**, the director of the **ALABAMA LAWYER'S ASSISTANCE PROGRAM**, echoes the oft heard refrain that suicide is “a permanent solution to a temporary problem.” The stigma that attaches to mental health issues is real. In the face of all this, Robert and ALAP help scores of lawyers around the state get the treatment they need.

Sometimes, it happens when one of us who is falling down the hole is able to shout out before it is too late. Sometimes it is because someone cares enough to risk the scorn of their friend by intervening. If you think you may have a problem, call ALAP at 334-517-2224 or visit [www.alabar.org](http://www.alabar.org) for confidential help. Robert and anonymous lawyers on the ALAP Committee discuss the symptoms and treatment for depression, as well as any other mental health issues, at their website – [www.alabar.org](http://www.alabar.org) and click on “**Programs/Alabama Lawyer Assistance Programs/Resources.**”

## MOBILE BAR ASSOCIATION WOMEN LAWYERS

BY: ALEXANDRA K. GARRETT

MBAWL held its monthly meeting on August 9 at **T.P. CROCKMIERS. LEGAL IMAGING** presented a **CLE ON COST EFFECTIVE TECHNOLOGY FOR ATTORNEYS**. Members also banded together this month to break **MBAWL PRESIDENT SUNTREASE WILLIAMS-MAYNARD** out of "jail" by donating to the **MUSCULAR DYSTROPHY ASSOCIATION** as part of **MDA LOCKUP MOBILE 2016**.

*Save the date!* MBAWL is gearing up for its **6TH ANNUAL PROFESSIONAL WOMEN'S NETWORKING EVENT**, which will be held on October 6, 2016 in the Regions Bank Pharr Room at the RSA Battle House. The Networking Event provides a forum for professional women in the community to promote their business, product, or service, expand their networks, and share ideas, stories, and strategies to empower each other. This year's Keynote Speaker will be **LYNN MACKIE**, an International Soprano Opera Singer and native of Mobile. If you have not attended before, come out and see why professional women love this event. And if you have attended before, please consider sponsoring or volunteering. There will be food, fun, and prizes. Tickets are \$20 per person. If you would like information about attending or sponsoring the event, or if you would like to be a vendor or reserve your ticket, please contact **EVENT CHAIR DANIELLE MASHBURN-MYRICK** at [Danielle.Mashburn-Myrick@phelps.com](mailto:Danielle.Mashburn-Myrick@phelps.com).



# ANNOUNCEMENTS

**GABRIELLE E. REEVES** has joined the Law Firm of **ALFORD BOLIN, LLC**. Gaby's information is: [greeves@alfordbolin.com](mailto:greeves@alfordbolin.com); phone 251.415.9264

**OFFICE SPACE AVAILABLE** for one attorney and one staff or one attorney without staff--conference room as well as internet. Price based on space needed.

205 State Street. For additional information contact **FRAN HOLLINGER** at 251.432.8878.

**DOWNTOWN OFFICE SPACE AVAILABLE:** 209 N. Joachim Street in historic DeTonti Square. Available: one large office, one smaller office. Within walking distance of federal courts. Amenities: receptionist, VOIP telephone, internet, WIFI, email, fax machine, large color copier/scanner, onsite parking, lobby, conference room and kitchen. Contact **ASHTON SHEPHERD** ([ashton@evanscrowe.com](mailto:ashton@evanscrowe.com)) or **EVANS CROWE** ([crowe@evanscrowe.com](mailto:crowe@evanscrowe.com)) at 251.431.6011.

**MIDTOWN OFFICE BUILDING FOR LEASE:** Midtown office building for lease with space available for two or three lawyers and staff. Convenient and highly visible location at 2053 Dauphin Street with private parking lot and signage available. Building has CAT5 wiring, internet and phone system in place. Includes private meeting area attached 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)

**ANYONE WITH INFORMATION REGARDING THE LAST WILL AND TESTAMENT OF THOMAS NELSON BARNES, JR**, 1607 Regency Drive, Mobile, AL 36693, please contact **HOLLY GRIMES** at 251.455.4498. Ray Riley, Esquire was the last known attorney that Mr. Barnes knowingly had dealings with.

The Mobile Bar Association extends to the **OAKWORTH CAPITAL BANK** our appreciation for their sponsorship of the August Luncheon. We enjoyed visiting with **LEE HAMMONS, KATIE SMITH, WADE GORDON, JEREMY ROBERTS** and **JOHN HENSLEY**.

**HANK CADDELL** has a complete Alabama Code with 2015 pocket parts which he will give to a new lawyer. If interested, call him at 478-8880.

## YOUNG LAWYERS

By: RUSSELL JOHNSON, PRESIDENT

The **YOUNG LAWYERS** would like to thank **BRASWELL MURPHY** for hosting our August meeting. We had another great turnout last month. Thank you, Kasie and Brian. The September meeting will be hosted by **CUNNINGHAM BOUNDS** on **SEPTEMBER 22nd** at **RUTH'S CHRIS STEAK HOUSE** (2058 Airport Boulevard in Midtown) from 5:30 - 8:00. Please join us as this is a great meeting year in and year out. Be sure to let everyone in your office know, and place the date on your calendar. We look forward to seeing everyone on September 22th at Ruth's Chris. If you are not on the Young Lawyers e-mail list and would like to be, or if you have any suggestions, questions, concerns, or comments, please e-mail me ([rjohnson@alexandershunnarahlaw.com](mailto:rjohnson@alexandershunnarahlaw.com)), Vice-President Tim Heisterhagen ([tah@ajlaw.com](mailto:tah@ajlaw.com)) or Treasurer Kate Browning ([kmb@rebpc.net](mailto:kmb@rebpc.net)).

## REPORT OF THE NOMINATIONS COMMITTEE

By: BRIAN P. MCCARTHY

I am pleased to advise that the Nominations Committee has nominated the following individuals for these positions:

1. President-Elect- Jean Powers
2. Vice President-Mark A. Newell
3. Secretary -Derrick V. Williams
4. Assistant Treasurer - Christopher B. Estes

On another note, the Nominations Committee voted to add one additional tier to the "size of firm" categories from which the Vice President is selected. The new tier is "solo practitioner." Under the four tier system the four categories are: Solo Practitioner- 1 lawyer; small firm- 2-6 lawyers; medium firm- 7-15 lawyers; and large firm- 16 or more lawyers. The plan is to alternate amongst these four tiers on an every fourth year bases with respect to the nominee for Vice President. This year, we selected our nominee for Vice President from a large firm.

## LAWYERS IN THE NEWS

By SANDY G. ROBINSON

### LEGAL MILESTONES:

**DIED:** MBA member William Lee Howell died Thursday, July 21, 2016 at the age of 72. William graduated from the University of Alabama Law School, and practiced law in Mobile for many years in his own law firm, William L. Howell and Associates. He is survived by four sons, four grandchildren, and many other relatives and friends.

**DIED:** Friend of the MBA David Jemison died on August 18, 2016. David retired from the federal court as a court clerk after many years of service, and is well remembered for his dedicated service to the late Judge W. Brevard Hand. He was preceded in death by his first wife, and is survived by his wife, two children, four grandchildren, and many other relatives and friends.



## NEW MEMBERS

Evan Nicholas Parrott  
Lindsay C. Mims  
Suntrese Wynique Williams-Maynard  
Sumpter Milligan Mcgowin, II  
Jamie Alisa Wilson  
Henry F. O'Connor  
James Nathaniel Guin  
Rachele Alexandra Reis  
Brooke E. Sanchez  
Stephen Taft Hughes  
Adrienne Labudde Mathison

James T. Gafford  
Elizabeth Stepan  
Meagan D. Gantt  
Mary Kristen Frank  
Laura E. Livaudais  
Jon David Roberts  
Lauren Fay Weber  
Kenneth Paul Murray  
Mark Chouinard  
Matthew Whiddon Peterson  
Joseph Dimmick Thetford, Jr.

## THE DELANO PALUGHI CHAPTER

Of the St. Thomas More Society  
will Sponsor the Annual Red Mass Celebration  
on Friday, September 23, 2016  
12 o'clock noon at the Cathedral of the Immaculate Conception  
brief reception will be held following the Mass.  
Your Support and attendance will be deeply appreciated.  
If you have any questions, please contact  
**GREG MCATEE** at 251.661.9399



## SIGNIFICANT DECISIONS

BY DUANE GRAHAM

Citing Rule 78 of the **ALABAMA RULES OF CIVIL PROCEDURE**, the Court of Civil Appeals in *Chancellor v. Stacy*, No. 2150010 (Ala., May 6, 2016), held that a motion to dismiss could not be granted without giving the plaintiff an opportunity to be heard.

In an apparent case of first impression, the Supreme Court in *Cockrell v. Pruitt*, No. 1140849 (Ala., June 30, 2016), held that under the **ALABAMA LEGAL SERVICES LIABILITY ACT** a claim for fraud related to a claim was a separate action for legal malpractice purposes from a claim that the attorney had failed to file a timely claim.

# SAVLP

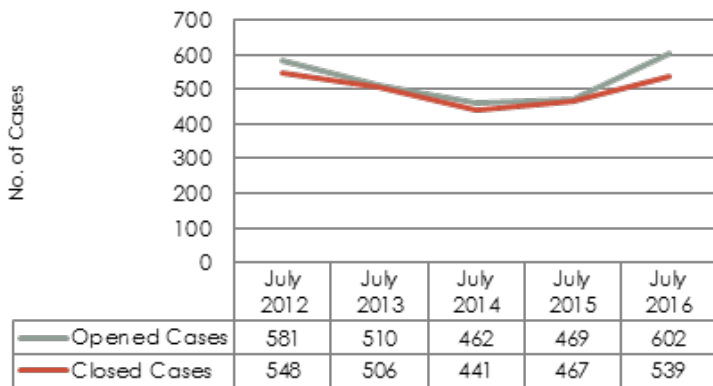
**MIKE DEGEN, PROGRAM ASSISTANT**

**THE SOUTH ALABAMA VOLUNTEER LAWYERS PROGRAM** will be holding limited legal advice clinics on Thursday, September 8 from 1 - 3 PM on the 4th floor of Government Plaza in Mobile and Wednesday, September 21 from 1:30 - 3:30 PM at **FOLEY PUBLIC LIBRARY IN BALDWIN COUNTY**. Call the VLP Office at 251-433-6693 if you are interested in volunteering at one or both of these limited legal advice clinics.

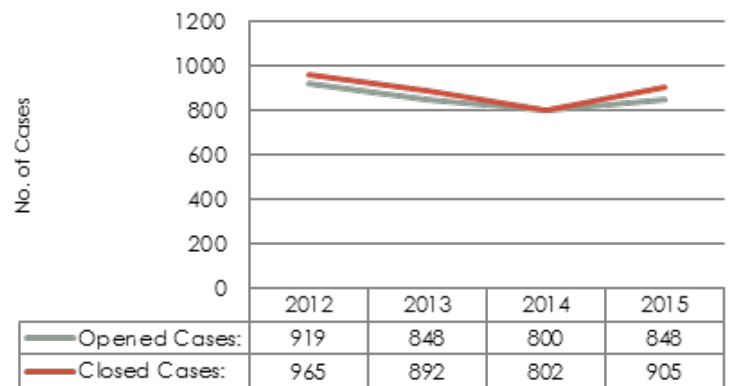
***Wills For Heroes Coming Soon!*** SAVLP organizes an event that provides first responders free basic estate planning services. Signup information will be sent to bar members via email shortly.

The **SOUTH ALABAMA VOLUNTEER LAWYERS PROGRAM** has opened 602 cases, up 133 from this time last year and an all-time high through the period. The program is on track to opening the most cases in a year (919).

**SAVLP Case Statistics Through July**



**SAVLP Opened and Closed Cases: 2010 - 2015**



***SAVLP wants to express gratitude to the following volunteer attorneys for opening or closing cases in the month of August:***

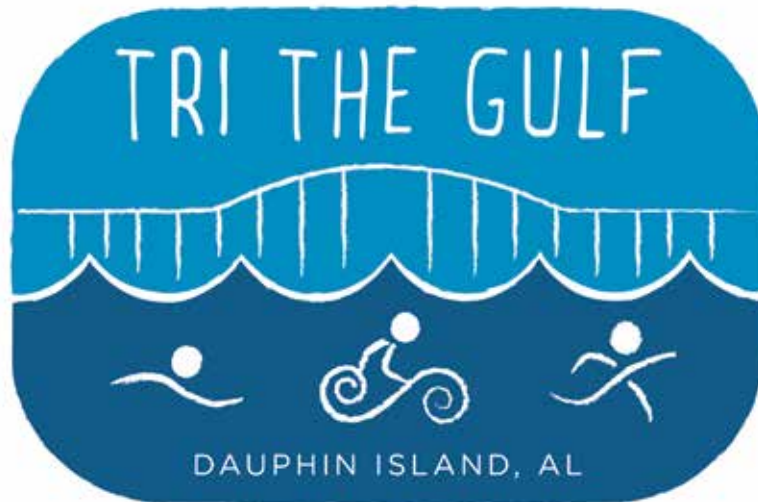
**WILLIAM D. ANDERSON**  
**KATHERINE A. BARTON**  
**PAUL T. BECKMANN**  
**JAIME W. BETBEZE**  
**WESLEY H. BLACKSHER**  
**KNOX BOTELER**  
**MICHAEL BOX**  
**HENRY BREWSTER**  
**ANNETTE CARWIE**  
**JEANNA D CHAPPELL**  
**FRANCES R CLEMENT**  
**JAMES PAUL CLINTON**  
**HARWELL E COALE JR.**

**MEEGAN B. COLCLOUGH**  
**F. LUKE COLEY JR.**  
**HARRY M D'OLIVE**  
**BRYAN G DUHE'**  
**CHARLES J FLEMING**  
**JOSH D FRIEDMAN**  
**GEORGE C GASTON**  
**FREDERICK G HELMSING JR.**  
**JENNIFER HOLIFIELD**  
**GREGORY B. McATEE**  
**MATTHEW C. McDONALD**  
**AUGUSTINE MEAHER, III**  
**S. C. MIDDLEBROOKS**

**JESSICA A. MILLING**  
**JAMES REBARCHAK**  
**J. BURRUSS RIIS**  
**JAMES E. ROBERTSON**  
**IAN ROSENTHAL**  
**SHEILA V. SCHOEN**  
**L. ROBERT SHREVE**  
**HENDRIK SNOW**  
**LEWIS J. STEIN III**  
**T. JEFF STEIN**  
**C. RICHARD WILKINS**  
**ANNA M. WILLIAMS**  
**RICHARD R. WILLIAMS**

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# MOBILE BAR FOUNDATION TO SPONSOR FIRST ANNUAL “TRI THE GULF”



The **MOBILE BAR FOUNDATION** is sponsoring a triathlon that will be held on Dauphin Island on October 15, 2016, as a fundraising event. The Foundation needs **EVERY** member of the Association to assist in this effort. There are needs associated with the triathlon, including: financial sponsors, participants in the triathlon (either as individuals or as part of a relay team), assist in the pre-event administrative activities, assist in the set-up of equipment immediately prior to the commencement of the triathlon, help promote safety on the bike and run courses during the triathlon, assist in the triathlete check-in process, and assist with post-event party. The triathlon has a web site and a Facebook page. The web site address is [www.trithegulf.com](http://www.trithegulf.com). The FaceBook page is <https://www.facebook.com/trithegulf>. Registration for the triathlon has commenced. If you have any questions or desire to be a volunteer, please contact **BRANDY HAMBRIGHT**, volunteer coordinator, at 251.438.2700 or [brandy@hmhlawyers.com](mailto:brandy@hmhlawyers.com). If you are interested in providing financial support, please contact Jean Powers, sponsor coordinator, at 251.432.0043 or [jean@jeanpowerslaw.net](mailto:jean@jeanpowerslaw.net).





**PLEASE GIVE**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

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

In honor/memory of: \_\_\_\_\_

Acknowledgement 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

A Gift in Memory of  
**MARY FRANCES BECKHAM KITTRELL,**  
Retired Judge Braxton Kittrell's Mother  
Was given by the Mobile County Circuit Judges and Probate Judge

# SEPTEMBER

## CALENDAR OF EVENTS

### SEPTEMBER 5 - MONDAY

LABOR DAY HOLIDAY

### SEPTEMBER 7 - WEDNESDAY

BENCH & BAR COMMITTEE MEETING,  
11:30 AM,  
FELIX'S ON THE CAUSEWAY

### SEPTEMBER 8 - THURSDAY

MBA EXECUTIVE COMMITTEE MEETING,  
12:00 O'CLOCK NOON

### SEPTEMBER 20 - TUESDAY

CRIMINAL PRACTICE SECTION MEETING

### SEPTEMBER 22 - THURSDAY

GRIEVANCE COMMITTEE MEETING,  
12 O'CLOCK NOON,  
QUEEN'S ROOM,  
THE ATHELSTAN CLUB

### SEPTEMBER 23 - FRIDAY

RED MASS, CATHEDRAL OF THE IMMACULATE  
CONCEPTION

### SEPTEMBER 23 - FRIDAY

CLE – BANKRUPTCY, SOCIAL SECURITY, PROBATE,  
1:30 PM – 4:45 PM,  
THE ADMIRAL HOTEL

## CONTINUING LEGAL EDUCATION

### SEPT 23 FRIDAY BANKRUPTCY/SOCIAL SECURITY/PROBATE:

**ELDER LAW,**  
The Admiral Hotel,  
3.0 hrs. MCLE Credits

**OCT 14 - FRIDAY  
ASB ROADSHOW,**  
The Admiral Hotel, 3.0 hrs. MCLE Credits  
including 1.0 hr. Ethics

**OCT 19 WEDNESDAY  
ANNUAL NEW LAWYER ORIENTATION,**  
Regions Bank Conference Room,  
5.0 hrs. MCLE Credits, 10:30 am – 4:30pm,

**OCT 21 FRIDAY – SAVLP ANNUAL CLE,**  
The Admiral Hotel, 3.0 hrs. including 1.0 hrs. Ethics,  
1:30-4:45pm

**NOV 4 FRIDAY  
CLE BY-THE-HOUR,**  
The Admiral Hotel,  
8.0 hrs. MCLE Credits including 1.0 hr. Ethics

**NOV 18 FRIDAY – TBD,**  
The Admiral Hotel, 3.0 hrs. MCLE Credits,  
including 1.0 hr. Ethics

### DEC 2-4 FRI-SUN ANNUAL BENCH & BAR CONFERENCE,

Marriott's Grand Hotel  
10:00 am - Women Lawyers Conclave  
1.0 hr. MCLE Credit  
11:00 am - YOUNG LAWYER/JUDGE MIXER  
1.0 hr. MCLE Credit  
1:00 pm - CONFERENCE 5.0 hrs. MCLE Credit including  
1.0 hr. Ethics

**DEC 9 FRIDAY  
INTRODUCTION TO APPOINTMENT PROCESS,**  
The Admiral Hotel,  
3.0 hrs. MCLE Credits

**DEC 16 FRIDAY  
ANNUAL CIVIL LAW UPDATE,**  
The Admiral Hotel,  
3.0 hrs. MCLE Credits including 1.0 hr. Ethics

**2017  
JAN 20 FRIDAY – JUDGE'S PANEL,**  
The Admiral Hotel, 3.0 hrs.  
MCLE Credits including 1.0 hr. Ethics

**MAR 24 FRIDAY  
ANNUAL CRIMINAL LAW UPDATE,**  
The Admiral Hotel,  
3.0 hrs. MCLE Credits