



**MONTHLY NEWSLETTER**  
 Volume XLVI,  
 Issue 11 • November 2017

# President's Comments



**GREG CARWIE, PRESIDENT  
 MOBILE BAR ASSOCIATION**

The second annual **TRI-THE-GULF** was another huge success. Thanks to the tireless efforts of **JUDGE DON DAVIS** and his committee of dedicated workers: **DANIEL DENNIS, ROGER COLE, JUAN ORTEGA, JEAN POWERS, CHRIS ESTES, BRANDY HAMBRIGHT, GUS FONTENOT, BRYAN COMER, and TIM CLARKE.** Several others served in leadership roles including **CULLAN DUKE, JOHN KAVANAGH, WEATHERS BOLT, RICHARD SHIELDS, ALAN COLVIN, and GINGER GADDY.** Many, many more members of our association volunteered for the event, and I want to express my sincere gratitude on behalf of the MBA and the foundation. This event went off as planned which was a remarkable feat considering over 250 athletes signed up to participate. There were awards and prizes handed out for distinction including fastest relay team and first, second and third place among many different categories in the race results. The prizes given to each racer were handcrafted by **LARRY SIMS.** Larry once again spent hours forming the decorative ceramic plates that featured the **TRI-THE-GULF** logo. I have been told that these are the best prizes of any of the regional triathlons. The committee secured several large sponsorships such as from our presenting sponsor, **INFIRMARY HEALTH SYSTEMS** as well as other significant donors from many law firms and businesses in the Mobile area. We have great news that at the awards ceremony, **INFIRMARY HEALTH SYSTEMS** has agreed to be the presenting sponsor again for 2018. We will once again present the proceeds from the event to various charities at our December meeting.

For the last several years, the bar has been challenged by a shortage of time within our bar luncheon meetings to memorialize each of our deceased members. Our Association has a long standing tradition of honoring deceased members by reading a memorial resolution for them at what used to be our monthly luncheons. For many years, **ROBERT EDINGTON,** who took great care in preparing the resolutions, chaired the **RESOLUTIONS COMMITTEE.** In recent years we have fallen behind in presenting resolutions both because we are only meeting at lunch about 6-7 times a year and because we unfortunately are losing many more members each year to death as our Association has grown. Many lawyers have offered their suggestions and after much thought and deliberation, the **EXECUTIVE COMMITTEE,** along with our **MEMORIAL RESOLUTION COMMITTEE,** co-chaired by **KATHY MILLER** and **ALAN ALEXANDER,** has decided that at the November luncheon each year we will honor all members who have died in the preceding twelve months. We plan to give brief remarks about each departed member – dates of practice, type of practice, service to the Bar—comments in reference to their practice and service to the profession. We will invite family members and those able to attend will be recognized. This first year the group will be a little larger since we plan to recognize any members who died in the last couple of years who have not yet had memorial resolutions presented in their honor. We hope that this will become our new tradition and allow us to continue to recognize and honor the contributions of our deceased members and show our respect for them to their families.

On a final note, I want to thank our bar commissioners **JIM REBARCHAK, BRYAN COMER, BILL LANCASTER, LATISHA DAVIS, ZACKERY MOORE, and FRED HELMSING, JR.** They have gone above the call of duty in traveling to meetings in Montgomery and Tuscaloosa and are here to serve you. I would also like to thank **FORREST LATTA,** who has been doing an outstanding job chairing our recently formed **BAR RELATIONS COMMITTEE.**

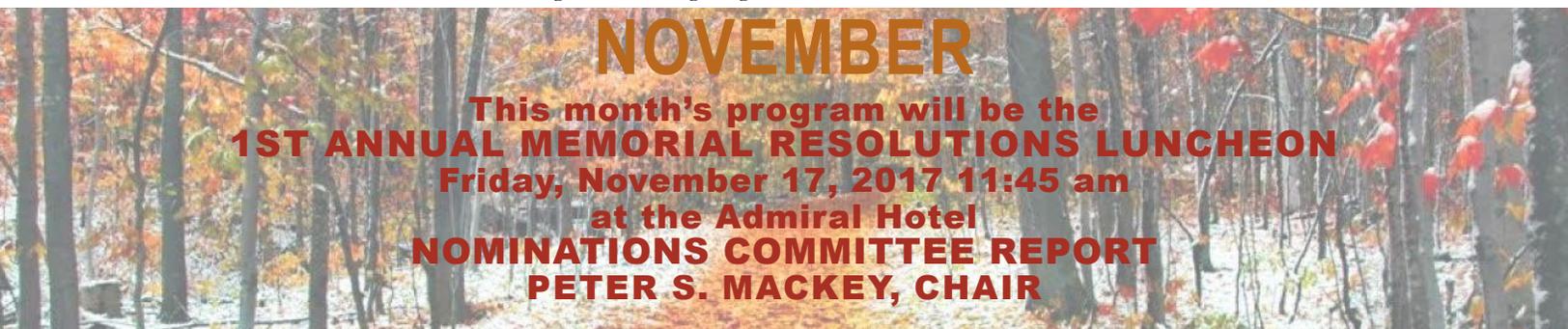
Have a great Thanksgiving.

## *In This Issue...*

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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



# NOVEMBER

**This month's program will be the  
 1ST ANNUAL MEMORIAL RESOLUTIONS LUNCHEON  
 Friday, November 17, 2017 11:45 am  
 at the Admiral Hotel  
 NOMINATIONS COMMITTEE REPORT  
 PETER S. MACKEY, CHAIR**

# Browsing the Bar

## ...With Barbara

**So many deadlines coming up** – this week is your last chance to book a room at the Grand Hotel and get the **MBA BENCH & BAR** reduced rate – call 1-800-455-3834 to make a reservation. Give your spouse a pre-Christmas gift with a weekend at the Grand, shopping in Fairhope and relaxing at the Spa!

**Another deadline is CLE** – do you have all your hours? In addition to the Bench and Bar, which provides 5.0 hrs. MCLE credits, there are three MBA sponsored CLE's before the end of the year – **JUVENILE PRACTICE, CRIMINAL PRACTICE AND SOLO AND SMALL FIRM** – each provide 3.0 hrs. MCLE credits. Dates, times, etc. are listed elsewhere in this publication

**Another deadline is Committee Preference** – 2018 President, **JEAN POWERS**, is working on Committee Appointments so if you have not submitted your preferences, please call Tammy at 251.433.9790 and she will forward you a Preference Form. It is important that you make your voice heard and the best way to do that is by serving on an MBA Committee or Section. **NOW IS THE TIME.**

One final thought, if you are looking for the perfect gift for that Legal Type Person, we still have a few copies of the Mobile Bar Publication, **“Mobile's Legal Legacy – 300 Years of Law in the Port City”**. A great history of the Mobile Bar Association and some of its finest attorneys and interesting happenings. Not only is it an interesting read but it is full of photographs of people, places and things. For only \$25 you can give someone an afternoon of entertainment as well as interesting conversation for years to come. Call us at 251.433.9790 to reserve your copy.

...If you had purchased \$1,000 of shares in Delta Airlines one year ago, you would have \$49 today!

...If you had purchased \$1,000 of shares in AIG one year ago, you would have \$33 today.

...If you had purchased \$1000 of shares in Lehman Brothers one year ago, you would have \$0.00 today.

...BUT, if you had purchased \$1,000 worth of beer one year ago, drank all the beer, then turned in the aluminum cans for the recycling refund, you would have received \$214.

...Based on the above, the best current investment plan is to drink heavily and recycle. It is called the 401-Keg plan.

...And, as a bonus...a recent study found that the average American walks about 900 miles a year. ...Another study found that an average American drinks 22 gallons of alcohol per year. That means that the Average American gets about 41 miles to the gallon!

...Makes you real proud to be an American!

## NOMINATING COMMITTEE REPORT

### FINAL VOTE AT THE NOVEMBER LUNCHEON

#### PETER S. MACKEY, CHAIR

The following lawyers were nominated as officers for 2018:

**PRESIDENT ELECT - MARK A. NEWELL**  
**VICE PRESIDENT - GEORGE W. “SKIP” FINKBOHNER, III**  
**SECRETARY - K. MORGAN HOFFERBER**  
**ASSISTANT TREASURER - CHARLES E. “CHIP” TAIT**



# MOBILE BAR ASSOCIATION WOMEN LAWYERS

BY: DANIELLE MASHBURN-MYRICK

Congratulations to **FIRST ASSISTANT UNITED STATES ATTORNEY DONNA DOBBINS** on her recent promotion. **FAUSA DONNA DOBBINS** assumed this new role effective October 1, 2017. As the FAUSA, she serves as second in command for the United States Attorney's Office for the Southern District of Alabama, which is comprised of thirteen counties in southern Alabama. **Please join the MBAWL in congratulating Donna!**





# ANNOUNCEMENTS

**TAYLOR MARTINO** takes pleasure in announcing that **BENJAMIN N. KEARNS** has joined the firm as an associate.

**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@evanscroe.com](mailto:ashton@evanscroe.com)) or **EVANS CROWE** ([crowe@evanscroe.com](mailto:crowe@evanscroe.com)) at 431 6011.

**THE CONSTRUCTION LAW SECTION OF THE ALABAMA STATE BAR** presents the **4TH ANNUAL CONSTRUCTION LAW SUMMIT** – December 5, 2017, Hyatt Regency Wynfrey Hotel, Birmingham, AL. For more information: 205/887-3000 or email [beacon.programs@aol.com](mailto:beacon.programs@aol.com)

Executive Desk and Credenza, computer table and several other pieces of office furniture for sale. Contact **CHARLES JONES** 438-4445 or [charles@chjoneslaw.com](mailto:charles@chjoneslaw.com)

My name is **TAYLOR HALL**. I am a native of Daphne, AL and have recently moved to Mobile. I am a graduate from the University of Mississippi School of Law and I will be taking the Alabama bar exam in February 2018. I have previous experience as a law clerk and research assistant. I also spent several months working on BP claims this past year. I am eager to gain more experience as I prepare to take the bar exam. I am more than happy to provide my resume and additional information for anyone interested. You may reach me at (251) 610-8045 or [etaylorhall@yahoo.com](mailto:etaylorhall@yahoo.com).

**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](mailto:mechele@satterwhitelaw.com)



**ARIANA MOORE, EXECUTIVE DIRECTOR**

Thank you to everyone who helped to make **PRO BONO MONTH** a huge success. We appreciate all that you do for the community.

**SALVATION ARMY FAMILY HAVEN SHELTER CLINIC: ANNETTE CARWIE**

**MOBILE COUNTY ATTORNEY FOR THE DAY CLINIC: PETE MACKEY, LYNN MILLER, HENDRIK SNOW**

**AUGUSTA EVANS SCHOOL PRO SE GUARDIANSHIP CLINIC: WESLEY BLACKSHER, STEPHANIE BOOTH, HANK CADDELL, ANNETTE CARWIE, GIL LADEN, BARNEY MARCH, JEAN POWERS.** Special thanks to **MICHELE POTTER** for serving as notary for the day and to **MS. RAY** at **AUGUSTA EVANS** for organizing the event.



**SAVLP CLE:** John Beck, Scott Hetrick, Jim Robertson, Russell Bergstrom (moderator)



**AARP/SAVLP ESTATE PLANNING BASICS PRESENTATION:** Meegan Colclough, Meg Demeranville, Barney March



**LEGAL ISSUES FOR NONPROFITS SEMINAR:** Ron Andress, Celia Collins, Scott Hetrick, Matt McDonald, Greg Vaughan



# SIGNIFICANT DECISIONS

BY DUANE GRAHAM

In *Paulk v. Paulk*, No. 2160481 (Ala. Civ. App., September 29, 2017), the Court of Civil Appeals ruled that an order entered by a retired circuit judge who had not been appointed as a temporary judge by an order procured under Ala. Code § 12-1-14 was void.

In a case involving both procedural and substantive issues, the Court of Civil Appeals in *O'Connor v. Furman*, No. 2160364 (Ala. Civ. App., September 1, 2017), held that a prior judgment involving a boundary line dispute was not res judicata as to a subsequent claim or trespass based on the alleged wrongful cutting of timber. Among other things, the court held that there was no showing based on evidence as to where any cutting had occurred so that summary judgment was inappropriate.

In *Ivey v. Ivey*, No. 1160280 (Ala., September 8, 2017), the Supreme Court held that since there was insufficient evidence to show that the decedent had not evidenced in his will a desire to eliminate his subsequent spouse or that certain assets given to her inter vivos were intended to be in substitution of a testamentary devise, the surviving spouse was entitled to be treated as an omitted spouse.

In a case of first impression, the Supreme Court in *Saarinen v. Hall*, No. 1160066 (Ala., September 1, 2017), held that the failure of co-employees to install another saw guard that had been made by a different manufacturer from the one that made the saw that injured plaintiff and that had not been tested did not rise to the level of “willful misconduct” sufficient to allow a co-employee claim.

In another case of apparent first impression, the Supreme Court in *Ex parte Odom*, No. 1160620 (Ala., September 1, 2017), held that while lots and parcels of property could be combined and resubdivided, each parcel of property remained, in the absence of express provisions to the contrary, subject to the original restrictive covenants applicable to that parcel and that, when combined, property not originally subject to the covenants applicable to one parcel of property did not automatically become subject to those covenants.

In yet another case of first impression, the Supreme Court in *Pickens v. Estate of Fenn*, No. 1160202 (Ala., September 29, 2017), held that a person who had acted as a notary public in executing a will that otherwise only had one of the two required witnesses could serve as the second witness to the will, thus rendering the will valid.

In *Ex parte Prbzsbyysz*, No. 1160381 (Ala., September 1, 2017), the Supreme Court held that a circuit inherently lacked jurisdiction to enjoin the prosecution of a federal court lawsuit under principals of federal-state comity.

In a further case of first impression, the Supreme Court in *McNamara v. Benchmark Insurance Co.*, No. 1151314 (Ala., September 8, 2017), held that the 4-year rule of repose applicable to medical malpractice actions under Ala. Code § 6-5-482 applied to bar a claim for indemnity filed by a liability insurer against a pharmacist to recover funds paid in settlement of a malpractice claim against the pharmacy.



# VERNON Z. CRAWFORD BAY AREA BAR ASSOCIATION

President of the **VERNON Z. CRAWFORD BAY AREA BAR ASSOCIATION**, **ERICA ROLLINS HILLIARD**, announced that the association held its **SECOND COMMUNITY FAIR** at **LEFLORE HIGH SCHOOL** on Saturday, September 30, 2017.

**SUNTREASE WILLIAMS-MAYNARD**, the Chair of the event, is very pleased with the outcome. The Community Fair provided legal services to individuals that were eligible for expungements and having their voting rights restored. According to the Chair, *“Not only did the fair provide volunteer lawyers to assist in these two legal areas, but it also provided resources in other areas to include housing, credit counseling, drug counseling, mental health and mentorship. Providing these resources can help reduce the vicious cycle—recidivism. Often times, people do not know where to go to find resources. Our association offered this to our community in one location. We are grateful to LeFlore High School for their constant partnership. We are also grateful to all of our service providers and attorneys that dedicated their time and services on a Saturday to assist our community. We provided assistance and resources to approximately 65 individuals, and I am pleased!”*

Service providers that were present included **APPLESEED OF ALABAMA, OUR SISTERS CLOSET, CENTER FOR FAIR HOUSING, MOBILE JAIL CHAPLAINCY OFFICE, BOARD OF PARDON AND PAROLE, SALVATION ARMY**, several components of the **MOBILE COUNTY HEALTH DEPARTMENT, LEGAL SERVICES OF ALABAMA, EMPOWERING THE POSSIBILITIES** and **LEAGUE OF WOMEN VOTERS**. According to one of the representatives from **LEAGUE OF WOMEN VOTERS**, *“It’s always exciting helping people register to vote. One gentleman indicated he will vote for the first time in his life as a result of the restoration clinic. This alone is a phenomenal success.”*

It is our goal to host another community fair again next year to address this very same issue, and possibly additional legal services. It was a family friendly event as we wanted everyone to be encouraged to attend. We provided a **Kids Zone**, which was sponsored by **HOME DEPOT**, and are thankful to **LEFLORE HIGH SCHOOL LAW ACADEMY** students and the teens from **JACK AND JILL OF AMERICA, INC.** for serving as volunteers for the **Kids Zone**, which included a face painting station, and student Ambassadors. Additionally, the neighborhood fire department showed their support by providing their services as part of the **Kids Zone**. A huge thank you to **MR. LUIS PAYNE**, who conducts the **“HOT DOGS FOR HUMANITY”** outreach session on the grounds of the **EPISCOPAL CHURCH OF THE GOOD SHEPHERD**, for working the food station. *“I am proud of how our community pulled together to ensure that this fair was a success,”* stated Ms. Williams-Maynard.

Also, the Vernon Crawford Bar Association thanks our sponsors, and we look forward to continuing to provide services to our community in the future.



# LAWYERS IN THE NEWS

BY SANDY G. ROBINSON

**BORN: KATHERINE BRAXTON BARTON**  
was born on September 26, 2017 to MBA member  
**MANDY HERNDON BARTON** and husband **JIMMY BARTON**.  
Congratulations!



“What are other firms doing about retirement benefits?”

“Should we pay for health insurance?”

“I want to keep my paralegal. Am I paying enough?”

“We need an IT guru. What are law firms paying their IT staff in Mobile, AL?”

“What benefits are offered in Mobile law firms?”



“Do other firms provide cell phones?”

“How much should I pay my Receptionist?”

“My Secretary just asked for a raise. What are firms in Mobile paying their secretaries these days?”

“Should we offer life insurance?”

## You have questions. We have answers.

The Mobile, AL chapter of the Association of Legal Administrators announces the **2017 Legal Industry Compensation and Benefits Survey for Mobile and Baldwin Counties**. Participating Firms can obtain a copy of the confidential statistical results\* for \$100 at the time of submission, or for \$125 at a later date. Non-participating Firms can obtain a copy for \$200.

Participate by **NOV. 10, 2017**.

\*All data is submitted directly to Wilkins Miller CPA's by participants. In accordance with anti-trust laws and ALA bylaws, all data is destroyed upon use. Only aggregate statistical results are available. Individual firm survey data is not retained or viewed by anyone affiliated with any law firm.



### Are you ready to participate?

Request your survey Today! The deadline to participate is NOV. 10, 2017.

Send your request to:

sanderson@mcdowellknight.com



**Mobile**  
Chapter



**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

A DONATION HAS BEEN MADE TO  
THE MOBILE BAR FOUNDATION  
IN MEMORY OF

**RICHARD S. SAWYER**

By: David R. Peeler

**STEWART BROOKER**

By: Phelps Dunbar, L.L.P.



## October Calendar of Events

NOVEMBER 9 - THURSDAY

**MBA EXECUTIVE COMMITTEE MEETING,**

12 o'clock noon,  
Athelstan Club

NOVEMBER 17 FRIDAY

**NOVEMBER MONTHLY LUNCHEON MEETING,**

Admiral Hotel

NOVEMBER 30 THURSDAY

**MBA GRIEVANCE COMMITTEE MEETING,**

12 o'clock noon,  
Athelstan Club

## Continuing Legal Education

Friday, November 3, 2017

**"JUVENILE PRACTICE"**

The Admiral Hotel, Mobile, AL

1:30 – 4:45 pm

3.0 MCLE Hours Credits

Pre-Registration Fee:

\$75 Mobile Bar Association Members,

\$100 Non-MBA Members,

Add \$25 for same day registration

Friday, November 17, 2017

**"CRIMINAL 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, December 1-3, 2017

**"ANNUAL BENCH AND BAR CONFERENCE"**

Marriott's Grand Hotel, Point Clear, AL

**Women Lawyers Conclave**

1.0 Hr MCLE credit

10:00 – 11:00 am

**Young Lawyers/Judges Luncheon Mixer**

1.0 Hr MCLE credit

11:00 am – 12:30 pm

**Bench And Bar Conference**

5.0 Hrs MCLE credits (Including 1.0 Ethics credit)

1:00 – 6:00 pm

**Cocktail party to follow.**

**Watch email for more details.**

Friday, December 15, 2017

**"SOLO SMALL FIRM SEMINAR"**

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, 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