



MONTHLY NEWSLETTER

Volume XLVI,
Issue 3 • March 2017

President's Comments



**GREG CARWIE, PRESIDENT
MOBILE BAR ASSOCIATION**

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2017 OFFICERS

- PRESIDENT – J. GREGORY CARWIE
- PRESIDENT ELECT – JEAN M. POWERS
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- TREASURER – ROBERT J. RICCIO
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- EXECUTIVE DIRECTOR – BARBARA C. RHODES
- EDITOR – FERRELL S. ANDERS

I hope everyone made it through Mardi Gras and is reenergized to return to work. There are some major happenings to report for this month's Bar Bulletin.

Established by the **JUDICIARY ACT OF 1789**, the United States Attorney General is the head of the United States Justice Department, concerned with legal affairs, and is usually assumed to be the chief law enforcement officer and chief lawyer of the United States Government. We can now say that a member of the Mobile Bar Association is the U.S. Attorney General. Our own **JEFF SESSIONS** has recently been confirmed by the United States Congress to be our next U.S. Attorney General. Jeff graduated from the University of Alabama School of Law in 1973. He served as an Assistant U.S. Attorney and then as U.S. Attorney for the Southern District of Alabama, having been appointed by **PRESIDENT RONALD REAGAN** in 1981 for the latter position. In between, he was in private practice with **SAM STOCKMAN** and **BILLY BEDSOLE**. In 1995, Jeff was elected Alabama Attorney General. A year later, he was elected to one of Alabama's U.S. Senate seats which he served until his confirmation last month.

Throughout his career, Jeff has remained a member of the Mobile Bar Association. Regardless of your political persuasion, this is an historic event for our bar association. At his confirmation hearing, Jeff testified that he would exercise independent judgment and wouldn't be afraid to tell the president that a planned action is unconstitutional. He said that an attorney general has to be able to say no, both for the country and the legal system, to avoid situations that are not acceptable. We congratulate him and wish him the best as he commences his tenure in what should be a tough and interesting job as U.S. Attorney General.

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PROGRAM

**The March 2017 Luncheon will be
Friday, March 24, 2017, 11:45 am
The Admiral Hotel Ballroom
We will Honor our 50 Year Attorneys**

- | | | |
|------------------------|-------------------------|--------------------------|
| DONALD AARON | FRANKIE FIELDS SMITH | ROBERT C. CAMPBELL, III |
| FRIEDLANDER | ROBERT E. GIBNEY | EDWARD B. MCDERMOTT |
| HOWARD M. SCHRAMM, JR. | J. MICHAEL, DRUHAN, JR. | BRAXTON L. KITTRELL, JR. |
| A. CLAY RANKIN, III | WILLIAM R. DELANEY | THEODORE K. JACKSON, III |
| E. B. PEEBLES III | DONALD M. BRISKMAN | EDWARD A. HYNDMAN, JR. |

Browsing the Bar With Barbara

REMINDER: The last week of this month, March 27-31, 2017, is the final week to have photographs taken for the MBA Website. Please telephone 1.800.693.2306, ext. 1 to make an appointment. The photographer will be in Courtroom 4500 of the Government Plaza.

Not much to report this month so I leave you with this:

Several days ago as I left a meeting at a hotel; I desperately gave myself a personal TSA pat down.

I was looking for my keys. They were not in my pockets. A quick search in the meeting room revealed nothing. Suddenly I realized I must have left them in the car. Frantically, I headed for the parking lot.

My wife has scolded me many times for leaving the keys in the ignition. My theory is the ignition is the best place not to lose them. Her theory is that the car will be stolen. As I burst through the door, I came to a terrifying conclusion.

Her theory was right. The parking lot was empty. I immediately called the police. I gave them my location, confessed that I had left my keys in the car, and that it had been stolen.

Then I made the most difficult call of all, "Honey," I stammered; I always call her "honey" in times like these. "I left my keys in the car, and it has been stolen."

There was a period of silence. I thought the call had been dropped, but then heard her voice.

"Idiot", she barked, "I dropped you off!"

Now it was my time to be silent. Embarrassed, I said, "Well, come and get me."

She retorted, "I will, as soon as I convince this policeman I have not stolen your car."

Yep, it's the golden years.



MOBILE BAR ASSOCIATION WOMEN LAWYERS BY: DANIELLE MASHBURN-MYRICK

The **MBAWL** enjoyed a festive monthly luncheon on February 14th. **WESLEY PIPES** joined the group to tell us about his decision to run for the Circuit Court seat that will be vacant upon **JUDGE SMITH'S** retirement next year. We welcome all judicial candidates who would like to address our group to contact **KRISTY DUGAN** at **FRAZER GREENE** to schedule a time to come speak.

In honor of Valentine's Day, **KRISSY MCCULLOCH** provided a CLE update on divorce law aptly entitled "*It Must've Been Love (But It's Over Now)*." Join us this month on Tuesday, March 14, 2017, at 11:45 at **CROCKMIERS** for our monthly luncheon. **KATHY MILLER** will be discussing women in firm leadership.

Please submit nominations for the **2017 TRAILBLAZER AWARD**. Each year the **MBAWL** honors a woman lawyer who has had a distinguished legal career, made significant contributions to the practice of law, and set an example of professional achievement for other lawyers to follow. Please send your nominations to this year's **Trailblazer Tea Event Chair, ALEX GARRETT**, at agarrett@silvervoit.com on or before March 3. Nominations must include a brief description of the particular challenges or adversities the nominee has overcome or the feats she has accomplished.

President's Comments *continued from Page 1*

On a more local level, after 45 years working at Probate Court, **JOE MCEARCHERN, JR.**, is retiring as Chief Clerk of the Probate Court of Mobile County effective April 1, 2017. Joe has been employed at Probate Court since July, 1972, when he graduated from the University of South Alabama with a degree in political science. He was initially hired by **JUDGE JOHN L. MOORE** to fill the role of chief clerk of Recording Division. He was later promoted to administrative assistant of the Court. In 1981, Joe was appointed Chief Clerk of the Court and has served in that position to the present time.

Early in his career Joe supervised improvements to the Probate Court's pre-computerized indexing system for judicial and land records to make them more efficient and easier to utilize. As technology progressed, Joe guided the changes to these systems to incorporate computer advancements in all aspects of the Court's operations – recording of documents, word processing, Internet web site, judicial case management and accounting and finance.

Joe is currently the Dean of the Chief Clerks of the Probate Courts of the State of Alabama. He is a founding member and past president (1989) of the Alabama Probate Court Chief Clerks Association. Joe was a member of the Alabama Law Institute Probate Code Revision Committee. He has also assisted the ALI on numerous projects involving Alabama probate courts, probate law, probate practice and procedure. On a personal note, I have attended many Alabama Probate Judges conferences, and everyone throughout the state looks to **JUDGE DON DAVIS** and Joe for guidance and direction on complicated issues of law and procedure. Although Joe never attended law school, he has an encyclopedic knowledge of the law and can quickly cite Alabama code sections as well as local acts as well or better than anyone. Joe can now spend more time doing many of his hobbies including birding, photography, ham radio, and astronomy.

The Probate Section of our bar is hosting a retirement party for Joe on Wednesday, March 22, at 5:00 p.m. in the Oakleigh Room on the 2nd Floor of the Battle House Hotel. Please join us there to congratulate him and his wife, Wendy, on a successful career. Please also join us for our March 24th monthly luncheon meeting honoring fourteen of our 50 year lawyers.

THE MOBILE CHAPTER OF THE ASSOCIATION OF LEGAL ADMINISTRATORS

invites you to attend the

MANAGING PARTNERS BREAKFAST

March 16, 2017, 8:00 am – 9:15 am

Moonlight Ballroom in the Battle House Hotel

The Guest Speaker will be

CARTOONIST J. D. CROWE

RSVP by March 10th to

Patty Risher 251.3431.6020 or

pdr@frazergreene.com



ANNOUNCEMENTS

BURR & FORMAN announces the addition of **ROBERT SHREVE** as an associate to its Mobile AL office. Shreve joins the firm's Tort Trial & Insurance practice.

As of January 1, 2016 **DOUGLAS K. DUNNING**, Esquire, has relocated his practice to 328 South Sage Ave., Suite 214, Mobile, AL 36606, Phone 251.478.6031.

CARR ALLISON is hiring an associate in its Daphne office. Candidates should have 2-5 years of litigation experience. Excellent research and writing skills are necessary. Please send resumes to tlogan@carrallison.com

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

Jason Hadley, Jason@theadleylawfirm.com, is seeking information regarding the **LAST WILL AND TESTAMENT** for **EDWINA LEE FAUST**, a resident of Mobile. Please contact Mr. Hadley if you have any knowledge of Ms. Faust's will.

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

THE ALABAMA LAW FOUNDATION recognizes Alabama Bar Members who have demonstrated outstanding dedication, commitment and service to their profession, as well as their community by inviting them to become "Fellows" of the Alabama Law Foundation. No more than 1% of bar members are invited into fellowship. Fellows accepted into membership for 2016 includes, **MOBILE MUNICIPAL COURT JUDGE, HONORABLE SHELBOUNNIE COLEMAN HALL** and Attorney **LAWRENCE B. VOIT** of Mobile. Congratulations to both "Fellows".

A SPECIAL NOTE TO THE MEMBERS OF THE MOBILE BAR FROM JOE MCEARCHERN



As some of you may know, I will be retiring from the Probate Court effective April 1st, 2017. From my perspective, I could not have asked for a more rewarding career in public service. It has been a true pleasure and honor to have been associated with my three Judges (Judge Davis, Judge Noonan and Judge Moore), the Court's dedicated staff and you, the members of the Mobile Bar. While I plan on enjoying retirement, I will certainly miss the day-to-day work and interactions with the attorneys and the Court. I wish all of you the best in the years to come. With highest regards, I remain,

Sincerely,
Joe McEarchern
Chief Clerk

YOUNG LAWYERS

BY: TIMOTHY A. HEISTERHAGEN, PRESIDENT

The **YOUNG LAWYERS** would like to thank **MCDOWELL KNIGHT ROEDDER & SLEDGE, LLC** for a great February meeting at **LODA BIER GARTEN**. We appreciate McDowell Knight's continued support.

We look forward to seeing everyone at the "To Be Announced" meeting on March 16. If you are not on the Young Lawyers e-mail list and would like to be, or if you have any questions, concerns, or comments, please e-mail me (tah@ajlaw.com), Vice President Kate Browning (kmb@rebpc.net), or Treasurer Weathers Bolt (wbolt@starneslaw.com).

LAWYERS IN THE NEWS

BY SANDY G. ROBINSON

IN SYMPATHY: Died, **JEAN BELL GREAVES**, widow of the late **THOMAS GUY GREAVES, JR.** on February 7, 2017. Her memorial service was at 11:00 a.m. in the chapel at St. Paul's Episcopal Church.

IN SYMPATHY: Died, **PAT BRACKIN**, mother of MBA member **ASHLEY BRACKIN BONNER** and mother in law of MBA member **BRITTON BONNER** on February 15, 2017.

IN SYMPATHY: Friend of the MBA, **MARION "BUMPER" LYONS**, died at his home in Mobile on February 16, 2017. After retiring from the insurance industry, he worked as a bailiff for **JUDGE JUDSON WELLS** and for **JUDGE BOB SHERLING**. He is survived by his wife, two children, nine grandchildren and one great-grandchild.

SAVLP

MIKE DEGEN, PROGRAM ASSISTANT

March Limited Legal Advice Clinics in Mobile and Baldwin

Volunteer lawyers are needed for our monthly Limited Legal Advice Clinics in Mobile and Baldwin Counties. To inquire or to sign up, please contact the SAVLP office at (251) 433-6693.

Clinic Date	Location	Time
Thursday, March 9	Government Plaza, 4th floor, Mobile	1:00 – 3:00 PM
Thursday, March 16	The United Way of Baldwin County, Foley	1:30 – 3:30 PM

The SAVLP would like to thank the following panel attorneys for opening or closing cases in February:

MICHAEL E BALLARD	BRENDA D HETRICK	KENNETH J RIEMER
BLAKE BARNES	R. SCOTT HETRICK	J. BURRUSS RIIS
BILLY C BEDSOLE	JENNIFER HOLIFIELD	JAMES E ROBERTSON
JOHN T BENDER	J. GORDON HOUSE JR.	HARRY V SATTERWHITE
WESLEY H BLACKSHER	MELISSA P HUNTER	STEVEN P SAVARESE JR.
THOMAS R BOLLER	HERNDON INGE III	CLIFFORD C SHARPE
THOMAS M BRAMLETT	SAMUEL W IRBY	HENDRIK SNOW
ANDREA J BREWINGTON	VIVIAN G JOHNSTON V	T. JEFF STEIN
CARIN D BROCK	ANDREW M JONES	SCOTT D STEVENS
ANN Y BROWN	JOE CARL JORDAN	RENEE E. THIRY
J. CRAIG CAMPBELL	KATHLEEN COBB KAUFMAN	LANICE L TURRENS
ANNETTE CARWIE	S. GAILLARD LADD	GREGORY VAUGHAN
JEANNA D CHAPPELL	R. EDWIN LAMBERTH	JESSICA L WELCH
VIRGINIA G CHOUINARD	RUTH LICHTENFELD	RONNIE L WILLIAMS
F. LUKE COLEY JR.	MICHAEL M LINDER JR.	MICHAEL A WING
CELIA J COLLINS	E. RUSSELL MARCH III	THOMAS T ZIEMAN JR.
JUDSON E CRUMP	IDA D MASHBURN-MYRICK	
MICHAEL DASINGER III	JAMES H McDONALD JR.	
GLENN L DAVIDSON	S. C. MIDDLEBROOKS	
BRENT T DAY	JESSICA A MILLING	
JOSEPH S DENNIS	JOHN R NIX	
SARAH B DORGER	JOHN O'DOWD	
JACQUELINE FLEMING-BROWN	TERRIE OWENS	
BEN FORD	JAMES D PATTERSON	
RICHARD W FUQUAY	MATTHEW W PETERSON	
ASHLEY S HARRIS	MARY E PILCHER	
THOMAS E HARRISON	CHARLES J POTTS	
EDWARD G HAWKINS	GABRIELLE REEVES	





SIGNIFICANT DECISIONS

BY DUANE GRAHAM

Over the dissent of **JUSTICE MADDOX**, the Supreme Court in **GRIMES V. ALFA MUTUAL INSURANCE CO.**, No. 1150041 (Ala., January 27, 2017), held that under the Alabama Motor Vehicle Safety Responsibility Act, § 32-7-1 et seq., Ala. Code 1975, and the Mandatory Liability Insurance Act, § 32-7A-1 et seq., Ala. Code 1975, an automobile insurance liability policy was not required to provide liability coverage for a permissive driver of the insured's vehicle and that the denial of such coverage under the policy was not a violation of the public policy of Alabama.

In a case of first impression, the Court of Civil Appeals in **Ex parte M.F.B.**, No. 2160136 (Ala., January 13, 2016), the Court of Civil Appeals held that a trial court's order limiting a woman's rights of visitation of her children without providing her notice and a hearing was a violation of her due process rights.

In **YARBROUGH V. EVERSOLE**, No. 1150400 (Ala., January 27, 2017), the Supreme Court held that a valid claim was stated against a law firm for legal malpractice when the plaintiff alleged that the law firm represented that it could obtain a favorable result for the client and accepted a fee payment when in fact the limitations period had expired as to the relief requested.

Confirming what most attorneys had probably assumed, the Court of Civil Appeals in **WILSON V. AVANT**, No. 2150847 (Ala. Civ. App., January 13, 2007), held that when a defendant filed an answer before a default judgment was entered, the trial court lost authority to enter such a default judgment.

In a case of apparent first impression, the Court of Civil Appeals in **Ex parte BLEVINS**, No. 2150969 (Ala. Civ. App., January 6, 2017), held that a trial court's order compelling the interpleader of funds into court as part of an effort to pay attorneys' fees was a type of injunction. Therefore, the mandamus petition filed to challenge that order would be treated as a notice of appeal from an injunction order, rather than a mandamus, and such appeal was subject to the 14-day appeal time applicable to injunctions rather than the general 42-day appeal time. Since the mandamus petition had been filed after expiration of the 14-day period, it was untimely and could not be considered.





ADMINISTRATIVE OFFICE OF COURTS
300 Dexter Avenue
Montgomery, Alabama 36104-3741
(334) 954-5000

Lyn Stuart
Acting Chief Justice

Randy Helms
Administrative Director of Courts

MEMORANDUM

TO: Presiding Judges, Juvenile and Family Court Judges,
Court Administrators

FROM: Cary McMillan, Director *cl*
Family Court Services

DATE: February 21, 2017

RE: Guardian Ad Litem Certification and Re-Certification Courses

During 2017, **three initial certification courses** for attorneys wishing to be certified as guardians ad litem in juvenile dependency and termination of parental rights cases are available around the State as follows:

Wednesday, April 12, 2017 – Bryant Conference Center, Tuscaloosa
Wednesday, August 16, 2017 – Heflin-Torbert Judicial Building, Montgomery
Wednesday, November 15, 2017 – The Wynfrey Hotel-Hyatt, Birmingham

All sessions of the course must be attended by attorneys wishing to be certified as guardians ad litem in juvenile dependency cases. This course WILL NOT count as the re-certification for 2017.

In addition, our office will be conducting the 2017 juvenile dependency guardian ad litem **re-certification courses** as follows:

Thursday, April 13, 2017 – Bryant Conference Center, Tuscaloosa
Thursday, June 1, 2017 – Divorce on the Beach, Destin, FL
Thursday, August 17, 2017 – Heflin-Torbert Judicial Building, Montgomery
Thursday, September 28, 2017 – The Wynfrey Hotel-Hyatt, Birmingham
Friday, October 6, 2017 – Retreat to the Beach, Orange Beach
Thursday, November 16, 2017 – The Wynfrey Hotel-Hyatt, Birmingham

These sessions must be attended by attorneys who previously have completed the initial certification course. Completion of the re-certification course each calendar year is mandatory for an attorney to remain on the certified list.

Registration for the above Guardian ad Litem courses must be completed online at: <http://conferences.alacourt.gov>. The registration fee can be paid by credit card or mailing a check/money order prior to the required date. There is a \$25.00 late fee if payment is not received by the deadline noted on the registration. No on-site registration will be available.

The 2017 re-certification course will be available online through Cumberland (<http://cumberland.samford.edu/cle>) and CLE Alabama (<http://www.clealabama.com/>) later in the year.

Please assist us in notifying attorneys in your area about both of these courses. If you have any questions concerning these courses, please call April Johnson at (334) 954-7115 or email at april.johnson@alacourt.gov.



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**





MARCH 9

MBA EXECUTIVE COMMITTEE MEETING,
12 O'Clock Noon, Queen's Room, Athelstan Club

MARCH 16

ALA MANAGING PARTNERS BREAKFAST,
8 – 9:15 am, Moonlight Ballroom, Battle House Hotel

MARCH 16

**MBA CONTINUING LEGAL EDUCATION
MEETING,**
12 O'Clock noon, Phelps Dunbar Conference Room

MARCH 17

ST. PATRICK'S DAY

MARCH 22

**RETIREMENT RECEPTION
FOR JOE MCEARCHERN,**
5 – 7 pm

MARCH 23

MBA GRIEVANCE COMMITTEE MEETING,
12 O'Clock Noon, Queen's Room, Athelstan Club

MARCH 24

MBA MONTHLY LUNCHEON,
11:45 am, The Admiral Hotel

MARCH 24

CRIMINAL LAW UPDATE SEMINAR,
1:30 – 4:45 pm, The Admiral Hotel

MARCH 27-31

**FINAL SITTINGS
FOR MBA WEBSITE PHOTOS**
Courtroom 4500, Government Plaza

CONTINUING LEGAL EDUCATION

MARCH 24 FRIDAY

ANNUAL CRIMINAL LAW UPDATE,

1:30 – 4:45 pm,
The Admiral Hotel,
3.0 hrs. MCLE Credits

APRIL 28

**MBA GROUP
MENTORING PROGRAM,**

11am-1pm,
The Exchange 202
2.0 hrs MCLE credits

JUNE 16 - 26TH

**ANNUAL SOUTHEASTERN ENVIRONMENTAL LAW AND REGULATION
CONFERENCE**

Sandestin Golf and Beach Resort