



MONTHLY NEWSLETTER

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President's Comments



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

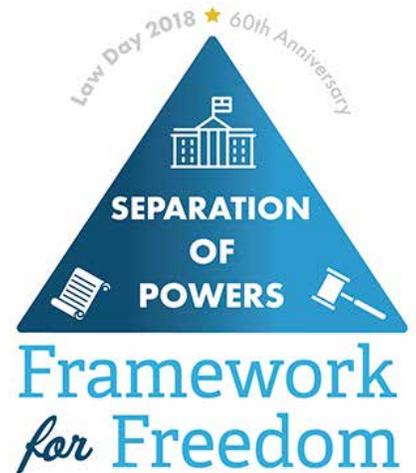
The first nationwide commemoration of Law Day was May 1, 1958. President Dwight D. Eisenhower established it as a “day of national dedication to the principles of government under law.”

This year the American Bar Association has designated Law Day’s theme as “Separation of Powers: Framework for Freedom.” The United States Constitution vests legislative, executive, and judicial power in Congress, a President, and the Supreme Court, respectively. These three separate branches of the national

government share power and serve as checks on each other. While separation of powers provides a framework for freedom, this framework is not self-executing. We the people must continually ensure that our constitutional democracy endures, preserving our liberties and guaranteeing our rights. And that includes preserving the independence of our courts.

Lack of judicial funding at the state level threatens judicial independence. State court systems have been chronically underfunded for over a decade. The American Bar Association’s Task Force on the Preservation of the Justice System labeled it “one of the most critical issues facing the legal profession.” States, including Alabama, are not sufficiently funding the courts. As a result, operating funds are generated by fines on criminals and fees to litigants. Further, as I discussed in my January 2018 comments, in Alabama, court funds are siphoned off to bolster the General Fund and serve non-judicial needs.

Continued on page 2



In This Issue...

- Significant Decisionspage 3
- LawyersInTheNews.....pages 4-5
- Calendar of Events.....page 10

2018 OFFICERS

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PROGRAM

**THE ANNUAL LAW DAY LUNCHEON WILL BE
FRIDAY, MAY 18, 2018, 11:45 AM AT THE ADMIRAL HOTEL
ESSAY CONTEST WINNERS RECOGNIZED
LIBERTY BELL AWARDED
VERNON Z. CRAWFORD AWARD
GUEST SPEAKER: TBA
SPONSOR: SYNOVUS BANK**



LAW DAY 2018

NATURALIZATION CEREMONY

Everyone is invited to attend the Law Day Naturalization Ceremony which will be held on Friday, May 11, 2018 at 11:00 a.m. in the Emmett R. Cox Ceremonial Courtroom (2A) of the U.S. District Court for the Southern District of Alabama (113 Saint Joseph Street) in Mobile, Alabama. CHIEF U.S. DISTRICT JUDGE KRISTI K. DUBOSE will be presiding, as a number of new citizens will be naturalized. Additionally, CONGRESSWOMAN TERRI A. SEWELL will be giving the Remarks to New Citizens, MBA PRESIDENT JEAN POWERS will be giving the Closing Remarks, BAKER HIGH SCHOOL students will sing patriotic songs, the EXCHANGE CLUB will give a flag presentation with the DAUGHTERS OF THE AMERICAN REVOLUTION, and the COSMOPOLITAN WOMAN'S CLUB OF MOBILE will host a reception for the new citizens immediately following the Ceremony. This is an exciting day for new citizens and a great way to celebrate another way our courts serve the public.



President's Comments

Continued from page 1

In 2018, after a full court press from judicial advocates around Alabama, trial court funding was increased by \$2.49 million in the 2018-2019 budget. While that is a move in the right direction, it is a drop in the bucket for a system that has experienced reduced appropriations from the Alabama General Fund from \$163 million in 2010 to \$95 million in 2018. Moreover, as of the time of this writing, none of that additional funding is earmarked for Mobile County's Thirteenth Judicial Circuit where the ratio of cases to judges is higher than the state average and higher than similar large metropolitan areas. Courts should be focused on administering fair and impartial justice, not on funding government. Judicial independence is the cornerstone of our democracy, and forcing the judiciary to be a revenue generator endangers both that independence and public confidence in our system.



SIGNIFICANT DECISIONS

BY DUANE GRAHAM

Following the **ALABAMA SUPREME COURT'S** earlier decision in *Reese v. Robinson*, 523 So. 2d 398 (Ala. 1988), the Court of Civil Appeals in **RIOPROP HOLDINGS, LLC V. COMPASS BANK**, No. 2160673 (Ala. Civ. App., January 12, 2018), held that the three-year statute of limitations within which a tax sale purchaser not otherwise in possession of the property must initiate an ejectment action to obtain possession of the property began to run the day after the purchaser became entitled to a tax deed. The purchaser's action was thus late and the original owner was determined to be the rightful owner.

In a decision on certiorari clarifying the standard under which a trial court can modify an award of alimony, the Supreme Court in *EX PARTE WILSON*, No. 1160101 (Ala., January 16, 2018), reversed the Court of Civil Appeals and the trial court and held that a party could obtain a modification of a prior alimony award by showing changed circumstances that had arisen since the last order awarding or modifying alimony, rather than since the last judgment of the court addressing the issue. Thus, an intervening action to modify, which had been denied based on the husband's failure to comply with discovery, was not the measuring point for determining the relevant time after which the changed circumstances must be shown.

In *BALLARD V. LEE A. MCWILLIAMS CONSTRUCTION, INC.*, No. 2160469 (Ala. Civ. App., February 2, 2018), the Court of Civil Appeals held that (a) it was precluded from considering whether the non-jury judgment from which an appeal was taken was supported by the evidence because the appellant had failed to file a post-judgment motion raising that issue, and that (2) prejudgment interest was due on a judgment even though the parties disagreed on the amount and even though certain adjustments were made in the amount during the course of discovery.

In *SPENCER V. SPENCER*, No. 1161095 (Ala., February 16, 2018), the Supreme Court affirmed a Mobile County Probate Court order admitting a lost will to probate and summarized the evidence that the trial court and appellate court found to be sufficient to overcome the presumption that the unavailability of the original will meant that it had been revoked.

In reaffirming a traditional tort-law concept, the Supreme Court in *DEKALB-CHEROKEE COUNTIES GAS DISTRICT V. RAUGHTON*, No. 1160838 (Ala., February 23, 2018), held that the tort of negligence could not be established as a matter of law because the accident could not have been reasonably foreseen by the defendant.

In *WARREN V. WARREN*, No. 2161054 (Ala. Civ. App., February 23, 2018), the Court of Civil Appeals affirmed an ore tenus trial court ruling because no transcript was ordered as part of the appeal and no summary statement of the facts as permitted under Rule 10 of the Alabama Rules of Appellate Procedure was presented. Accordingly, the Court was required to presume that the evidence supported the trial court's decision.

LAWYERS IN THE NEWS

BY SANDY G. ROBINSON

MBA MEMBER FREDERICK T. "ERICK" BUSSEY and wife **DELACY** welcomed daughter **AMELIA CHARLOTTE BUSSEY** born March 16, 2018. Erick is the grandson of MBA member **FRED W. KILLION, JR.**, the nephew of MBA members **FRED W. KILLION, III**, and **JAMES W. KILLION**, and son-in-law of MBA member **THOMAS P. "CORKY" OLLINGER, JR.**

DIED: MBA MEMBER TOM GALLOWAY, SR., part of the Greatest Generation, died at his home on March 31, 2018. He was a native Mobilian, graduated from Murphy High School in 1940, and is in the Murphy High School Hall of Fame for 2018. He graduated from Auburn University in 1946. His college education was interrupted by World War II, where he served in the European Theater. He was a forward observer in the 109 Field Artillery. During the Battle of the Bulge, he was captured and held prisoner in Hammelburg, Germany. He attained the rank of Major and was in the National Guard for many years. He was featured in the Ken Burns World War II documentary, The War. Tom graduated from the University of Alabama School of Law in 1949, and served as an Assistant Attorney General for the State of Alabama for 3 years in Montgomery. Upon his return to Mobile, Tom started the law firm of **COLLINS, GALLOWAY, AND MURPHY**, where he practiced for over 50 years. He was a member of many professional organizations, the American Legion, the Friendly Sons of St. Patrick and St. Ignatius Catholic Church. Tom is survived by his wife, 3 sons, two of whom (**TOM GALLOWAY, JR.** and **ROBERT GALLOWAY**) are members of the MBA, 9 grandchildren, and 4 great grandchildren.

DIED: BARBARA SUE GRIFFIN KERN, mother of MBA member **CHRIS KERN**, died on March 21, 2017. She graduated from Murphy High School in 1942, and in 1943 married the late **JOHN KERN, SR.** In early years, Mrs. Kern was active in Azalea City Woman's Club, American Red Cross, Little Flower School and St. Pius X School. She is survived by four children, six grandchildren, five great grandchildren, and by a younger sister.

DIED: ADA BEULAH MAY HUNTLEY, mother of MBA member **WILLIE HUNTLEY**, died peacefully at home on April 3, 2018. She was born in Crenshaw County, Alabama, was a graduate of Booker T. Washington High School in Montgomery, attended Alabama State University, and retired from the US Postal Service. She is survived by her seven children, grandchildren, great-grandchildren, her sister Flora C. Freeman, and a host of other family members and friends. Mrs. Huntley was a member of Helicon Missionary Baptist Church in Grady, Mt. Olive Baptist Church in Tuskegee, Hutchinson Street Baptist Church in Montgomery, and Franklin Street Baptist Church in Mobile. While at Franklin Street, she served as a member of the Board of Deaconesses, Senior Usher Board, and the Missionary Ministry Circle #3.

LAWYERS IN THE NEWS

BY SANDY G. ROBINSON

DIED: CORA LEE TEAGUE and **MICHAEL SAMPSON TEAGUE, JR.**, parents of MBA member **JOHN TEAGUE** both died on April 2, 2018 in Mobile. Mrs. Teague was originally from Illinois, and loved taking care of children at Dauphin Way Baptist Childcare Center. Mr. Teague was born in Vicksburg, Mississippi and was a maintenance supervisor for many years at Corpus Christi Catholic Church, where he was known as the “unofficial weatherman.” They are survived by three children, six grandchildren, and many other relatives and friends.

DIED: JENE WILLIAM OWENS, SR., father of MBA member **JENE OWENS**, a resident of Daphne, died April 11, 2018 at the age of 93. He is survived by three children, six grandchildren, and many other loving relatives and friends.

DIED: JUDY GILBERT JOHNSON, mother of MBA member **DAVID JOHNSON**, died at her home in Athens, Alabama on April 12, 2018.

DIED: FRANCES ALDRIDGE DANLEY, widow of MBA member **JOEL DANLEY**, died April 21st at her home in Mobile. She was a life-long native of Mobile, and graduated from Julius T. Wright School for girls, the University of Alabama and received her Masters in Library Science from Spring Hill College. She was an English teacher at St. Paul's Episcopal School and Librarian at UMS-Wright Preparatory School. Fran was an active member of Government Street Presbyterian Church, and was passionate about her community and volunteered in numerous ways. She served the Mobile Opera Guild, including President of the Board. She is survived by two children, six grandchildren, and many other relatives and friends.



ENTERTAINMENT COMMITTEE

The **ENTERTAINMENT COMMITTEE** is pleased to announce another **FUN EVENING** at **MOE'S DOWNTOWN**, Thursday, July 19.

Mark Your Calendars Now! There will be free food, live music, door prizes, cash bar and the famous Moe's “wings and ribs”. Spouses/significant others are Invited.

ANNOUNCEMENTS

FOR SALE: Two 14' X 4" conference room tables with 14 chairs for each; 10' X 4' conference room table with chairs; three office desks, 4 blue leather nail head trim chairs; 4 brown leather chairs; 4 maroon leather nail head trim chairs; bookcases and several task chairs. Please contact **JIM ALLEN** at **HAND ARENDALL HARRISON** Sale at 694-6315, or jallen@handarendall.com.

"MIDTOWN LAW OFFICE FOR SALE OR LEASE BY OWNER WITH OPTION TO BUY" Ideal for self starter. Please direct inquiries to: Midtown Law Office Building c/o Mobile Bar Association, P.O. Drawer 2005, Mobile, AL 36652.

Looking for the Last Will and Testament of **GREGORY "GREG" BURT FAISON** who passed away in March. Please call **BRENT FAISON** 850-814-4490 with any information.

Anyone having a copy of the Will of **JAMES A WILLIAMS**, most recently residing at 1306 Shore Acres Dr. Mobile, AL, 36605, is asked to please contact **HANK CADDELL**, Esq at 478-8880.

JOHN R. NIX, LLC has relocated his office. The new address is: 1325 Dauphin Street, Mobile, AL 36604. Same phone, fax and email.

Full set of black leather bound **USCA** books. If interested please contact: **NEWTON CROMER** Newton_cromer@alsd.uscourts.gov

THE EZELL HOUSE has one LARGE office space and one SMALL office space for rent 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. LARGE space is \$500/month, SMALL space is \$300/month. Contact **AMY VAN HULZEN** (info@ezellhouse.com) at 251-432-4174 for more details.

COKER FORENSICS: STEPHEN D. COKER, JR., Certified Computer Forensic Examiner (CCFE) AccessData Certified Examiner (ACE) 3929 Airport Blvd. Mobile, AL 36609, 251/288-8403 scoker@cokerforensics.com. Digital Forensic Examiner with more than 15 years experience. Certified Mobile Forensics Examiner (CMFE) Certification; Proficient in forensic tools such as Accessdata FTK, Magnet Axiom, and Cellebrite UFED; Experience testifying as an expert witness.

ANNOUNCEMENTS

ATTORNEY POSITION: The Mobile Area Water and Sewer System has an opening for an attorney position. The closing date is May 10, 2018: For more information or job description email tanderson@mobilebarassociation.com.

27TH ANNUAL SOUTHEASTERN ENVIRONMENTAL LAW & REGULATION CONFERENCE. Friday June 15, 2018, Sandestin Golf and Beach Resort, Destin FL. For more information: beacon.programs@aol.com 205/887-3000

WETLAND REGULATIONS AND COMPLIANCE WORKSHOP, Tuesday May 22, 2018 and/or Advanced **“WETLAND REGULATIONS AND COMPLIANCE WORKSHOP, GUIDANCE FOR PROFESSIONALS INVOLVED IN LAND USE ISSUES”** Thursday June 14, 2018. For more information: <https://www.joinacf.org/wetlands-workshops>

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



STARNES DAVIS FLORIE LLP welcomes new attorney **FREDDIE D. STOKES** to the firm's Mobile office. Freddie's practice is devoted to general civil litigation with a focus in the areas of complex litigation, commercial transactions, personal injury claims, and white collar compliance/investigations. Freddie graduated from Cumberland School of Law in 2012 after receiving his B.A., summa cum laude, from Alabama A&M University in 2009.

**MOBILE BAR ASSOCIATION WOMEN LAWYERS
HONOR KATHY MILLER AS THE 2018 TRAILBLAZER
BY: RUTH LICHTENFELD**

The **MBAWL** has among its members some amazing women who have blazed the way for others. Each year the **MBAWL** honors an outstanding trailblazer. We are pleased to announce that **KATHY MILLER** is the **MBAWL TRAILBLAZER FOR 2018**.

KATHY MILLER will be honored at the **TRAILBLAZER TEA ON MAY 15, 2018** from 11:30 a.m. to 1:00 p.m. The purpose of the tea is to honor a woman lawyer who has overcome challenges, accomplished great things, and blazed the path for future generations. Kathy has a long list of trailblazing “firsts” to her credit, including becoming the first female partner and first female managing partner at **ARMBRECHT JACKSON, LLP**. She was also the first female President of the Mobile Rotary Club and Chair of the Board of Trustees of St. Paul’s Episcopal School. She has served as President of the Mobile Bar Association and continues to serve on the Mobile Bar Foundation, along with her other church and community volunteer activities. She is married to **CHARLIE FLEMING**. They have two daughters, and his son and daughter have given them four grandchildren. Everyone is welcome to attend the luncheon so please make plans to attend and invite your partners, associates, and other guests as we honor Kathy on May 15, 2018. Reservations can be made by emailing Lanice.turrens@brockandstoutlaw.com.



Membership in the **MBAWL** provides an incredible way to meet and interact with lawyers from a wide array of practice areas, in addition to other benefits. The monthly meetings are fun, informative, and there are always new people to meet. Our most recent meeting on April 10, 2018 was conducted on the patio at **RED AND WHITE** on what was unquestionably one of the most beautiful afternoons of the year. Along with our members and guests, we hosted several Judges from Mobile and Baldwin Counties who are candidates in the June 5, 2018 primary. Join us to meet new friends, develop professional relationships, and just simply to have fun!





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**



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

**THOMAS M. GALLOWAY
BY: COALE, DUKES, KIRKPATRICK & CROWLEY, P.C.**

**THOMAS M. GALLOWAY
BY: BETH AND ROBERT ROUSE**

**THOMAS M. GALLOWAY
BY: MRS. STOVA MCFADDEN**

**THOMAS M. GALLOWAY
BY: MITCHELL LATTOF, SR.**

**THOMAS M. GALLOWAY
BY: MACK B. BINION**



May

**MAY 1 - TUESDAY
LAW HELP LINE,
6 AM TO 1:30 PM,
WPMI LOCAL 15 TV STATION,
661 AZALEA ROAD, MOBILE**

**MAY 9 - WEDNESDAY
MBA ADMIRALTY COMMITTEE MEETING,
12 NOON,
BURR FORMAN**

**MAY 10 - THURSDAY
MBA EXECUTIVE COMMITTEE MEETING,
12 O'CLOCK NOON,
ATHELSTAN CLUB**

**MAY 11 - FRIDAY
LAW DAY NATURALIZATION CEREMONY,
11 AM,
U.S. COURTHOUSE, COURTROOM #2**

**MAY 18 - FRIDAY
MBA ANNUAL LAW DAY LUNCHEON,
11:45 AM,
THE ADMIRAL HOTEL**

**MAY 21 - MONDAY
MBA WORKERS' COMP COMMITTEE MEETING,
12 NOON,
ATHELSTAN CLUB**

**MAY 24 - THURSDAY
MBA GRIEVANCE COMMITTEE MEETING,
12 O'CLOCK NOON,
ATHELSTAN CLUB**

**MAY 28 - MONDAY
HOLIDAY – MEMORIAL DAY**