



MONTHLY BULLETIN

Mobile Bar Association, 153 Government Street, Mobile, Alabama 36602 (251) 433-9790

President's Comments



MICHAEL E. UPCHURCH, PRESIDENT
MOBILE BAR ASSOCIATION



Remember when we were in law school? All that energy and idealism? Remember when we considered devoting our careers to serving the underprivileged? True, for most of us it was more like a temporary bout of the flu than a lifelong commitment. Still, we had that impulse. As it turns out, a few of us never got the antibiotic and actually embarked on a career helping those who need it most. You can find them on the seventh floor of 104 Saint Francis Street. They call their firm **LEGAL SERVICES**.

In the world of legal matchmaking, there is a segment of our community whose client profile is basically this: *"I have limited education. I have little or no money. I have legal troubles, usually in bunches, that have no sex appeal whatsoever. My problems will generate little or no monetary recovery. My landlord is trying to evict me. My employer is garnishing my wages. I have debt collectors hounding me. How about hooking me up with a nice compatible lawyer who shares my interests?"* Good news. In **LEGAL SERVICES**, we have the perfect match for these folks. And the only one.

These are the cases and the clients that private attorneys turn away. Not because the private attorneys are cold-hearted. It is the economics that get in the way. Helping a tenant avoid eviction does not produce a monetary recovery. If the client had the money to pay a lawyer, she wouldn't need help with debt collectors. You don't have to be **JOHN MAYNARD KEYNES** to see the problem. Legal Services fills this gap in the delivery of legal representation. When the client is destitute, and the case has no money in it either, it is tailor-made for the lawyers at Legal Services.

Legal Services' clients are often desperate with nowhere else to turn. If someone is disabled and is being taken advantage of, Legal Services is there. When an elderly person barely getting by on subsistence income can't keep a roof over his head, Legal Services is there. When someone who is poor, maybe

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PROGRAM

THE JUNE MONTHLY LUNCHEON
WILL BE:

FRIDAY, JUNE 21, 2013 • 11:45
AM

IN THE MOONLIGHT BALLROOM
OF THE BATTLE HOUSE HOTEL
SPEAKER:

UNITED STATES REPRESENTATIVE
JO BONNER, (R-AL)
SERVING HIS SIXTH TERM

In This Issue...

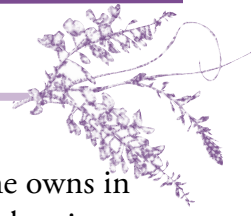
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2013 OFFICERS

President – Michael E. Upchurch
 President Elect – J. Michael Druhan
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 Assistant Treasurer – Ginger P. Gaddy
 Pres Young Lawyers – Josh D. Friedman
 Executive Director – Barbara C. Rhodes
 Editor – Ferrell S. Anders



President's Comments *continued from Page 1*



in a rural community, needs a will, or needs advice about keeping what little land he or she owns in the family, Legal Services is there. In state court, in federal court, in administrative agency hearings, wherever, Legal Services is there.

The Legal Services lawyers open the courthouse doors to those who otherwise would be shut out of the legal system. If the lawyers at Legal Services had followed the crowd out of law school, there would be no one to take these cases and give these clients a voice. It is fortunate for our community that they took the road less traveled.

So who are these lawyers, these unsung protectors of the unprotected? Let's be honest. They are not like us. We could have made the financial sacrifice of pursuing a career in public service, but we didn't. They are different in that way. What strikes you in talking to them is their enthusiasm and optimism. What have they got to smile about? After all, this is the unglamorous side of law practice. The pay is poor, the hours are long, the resources are limited, and the recognition is, well, there is no recognition. Here is the answer: They believe in what they do, and, perhaps somewhat surprising to many of us, they enjoy it. Their reward is the work. It better be, because there is no other gratuity.

The Legal Services lawyers are quick to tell you about their clients. Not with frustration or looking for sympathy. To the contrary, they talk about their clients with pride and affection. They like their clients. They respect them, and, even in casual conversation, advocate for them. A lack of education does not mean a person is not intelligent. A lack of money does not mean that a person is a failure. A lack of influence does not make a person unimportant. While many of us might say reflexively that these things are true, the lawyers at Legal Services know from first hand experience that they are true. They develop close relationships with their clients and gain tremendous satisfaction from helping them. This is law practice pure and unadorned. If a lawyer is not fulfilled by the work, he or she will leave, because there is nothing else. No perks – no caché. Just helping those who can get help nowhere else.

Legal Services is funded nationally, through the state, and through grants. Most of the lawyers are terminal, in the sense that when the grants that fund their salaries run out, their jobs disappear. Some grants roll over. Some do not. Even those that roll over are not guaranteed. The contraction of the economy has reduced the funding of Legal Services to a trickle. For most of us, seeing the sands of our employment slip through the hourglass would bring on depression and bitterness. It is no surprise then, that Legal Services lawyers are stressed by the uncertainty. But their commitment to their cause is such that they accept their professional vulnerability as just the way it is, and busy themselves with their cases. While the funding may evaporate, the clients will never stop calling. There is more demand – far more – than there is supply. If you want to feel needed, there may be no better place than the seventh floor.

For most of us, our clients could have found another lawyer if they wanted to – the yellow pages are full of us. Our concern is that the client will be represented by someone else – one of our competitors. This is not what goes through the minds of the Legal Services lawyers when they interview prospective clients. They have a different worry, and it's not about them. If Legal Services does not take the case, most likely that is the end of the road for the client. Legal Services usually is the only portal of entry into the justice system for individuals whose troubles are not lucrative enough to attract the private bar. And some will have to be turned away even by Legal Services.

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President's Comments *continued from Page 1*



Legal Services cannot provide all the representation that is needed. There are not enough of them. That weighs heavily on these lawyers. But they triage the phone calls and expectant visitors in the waiting area, do the best they can with the resources available to them, and carry on.

So much of law practice today revolves around money. We all want to do well financially. Money is the way that the shallow aspects of our nature keep score. Contingency fees, hourly rates, revenue per lawyer, allocation of overhead, and all the rest depersonalize our practices. We become obsessed with the bottom line, with whether we are doing well, with whether we can do better, with who is doing better than we are, and with how much more can we get. Money drives us.

The lawyers at Legal Services are a different breed. They are not motivated by money. They knew when they went into public service law that they would never do well financially. They will never live in fancy houses, drive expensive cars, or travel first-class. They will never be considered "big time." They will be treated as second teamers by most of their peers, who do not know better. They are okay with that. Wealth and fame are not what they care about. They find self-respect and satisfaction in helping those who need it most. That's it. And that, for them, is more than enough.

One more thing: these lawyers do not work at Legal Services because they struck-out finding jobs somewhere else. They are intelligent, talented attorneys who could have done what we did, and gone into private practice. They are at Legal Services because they want to be, because they believe in what they do, and because they would rather help the under-served for modest compensation than chase higher incomes in other lines of law practice.

If you still feel the tingle of civic responsibility left over from your early days in Torts and Property, you can nurture it by helping these lawyers. They welcome the assistance and support of private lawyers. Call **ANN BROWN**, the Supervising Attorney for the Mobile office, at 433-6560 and offer to lend a hand with a client or two. You might get more out of that than you expect.

There is more than one way to measure our success and status as lawyers. When we rank our own accomplishments and importance, it might be best not to stand too close to the lawyers on the seventh floor. We might look pretty small.

Browsing the Bar - With Barbara



Please take note of the **CONTINUING LEGAL EDUCATION 2013-2014** schedule elsewhere in this publication. Coming up this month is a free lunch and 2-hour seminar sponsored by **LEXIS/NEXIS**. Call the MBA for information if you are interested. The always well attended **FAMILY LAW SEMINAR** is scheduled for Friday, August 23 – mark your calendar now for those programs that are of special interest to you.

Just read in the **ABA JOURNAL** that a Philadelphia judge had a lawyer and his client both jailed for being tardy for jury selection in a drug case. The lawyer explained that personal problems kept him up late the night before and the hotel receptionist where he was staying failed to give him a wake-up call! The lawyer had to pay a \$1,000 fine within 60 days or serve 10 days in prison and the client's bond was increased from \$120,000 to \$3 million.



HAVE FUN, AND HELP YOUNG PEOPLE BY JOINING BIG BROTHERS/BIG SISTERS

The photos show members of the legal community enjoying spring outings with their little brothers and sisters from the Mobile public schools, and having fun doing good. Mentoring elementary school students takes little time, and makes a big difference in their lives. Please join us and encourage others in your firm or organization to do so. If you can spare a little time during the week to visit and influence the life of a young person, call **AIMEE RISSER, CEO OF THE BBBS PROGRAM**, at 251.344.0536 ext. 106, or **ALEC MOSELEY OF THE PUBLIC SERVICE COMMITTEE** at 694-6291. You won't regret it.



BIG BILL & LITTLE JABBORI



BRANDON & JAVONTE



ANNOUNCEMENTS

VICKERS RIIS MURRAY and CURRAN, LLC is pleased to announce that the firm will be relocating to new offices in the **RSA Trustmark Building** at 107 St. Francis Street effective May 20, 2013. For additional information please visit our website www.vickersriis.com

The building at 50 Saint Emanuel Street currently has two offices for lease. The lease is for a furnished 176 sq. ft. space, with phone and internet service, and a conference room. It also includes a reception area and receptionist with after-hours answering service. Any interested applicants can email **DOTTIE PERRY** at dperry@bcmlawyers.com, or call her at 251.432.0612



SIGNIFICANT DECISIONS

In a procedural ruling of first impression, the Supreme Court in *Harden v. Laney*, No. 1111130 (Ala., January 4, 2013), held that the filing of a notice of appeal, even by an attorney not licensed to practice in Alabama, divested the circuit court of jurisdiction so that an order subsequently entered by that court “striking” the notice of appeal was without jurisdiction.

In a case of first impression, the Alabama Supreme Court in *Ex parte Ankrom*, No. 1110176 (Ala., January 11, 2013), held that the term “child,” as used in Ala. Code § 26-15-3.2, which makes criminal the chemical endangerment of a child, included an unborn child.

Over the dissenting vote of JUSTICE MADDOX, the Supreme Court, in a stunning decision rendered in *Wyeth, Inc. v. Weeks*, No. 1101397 (Ala., January 11, 2013), held that a drug manufacture could be held liable for alleged fraudulent or misleading statements made in connection with the manufacture of a drug, even when the actual drug taken by the plaintiff was a generic version manufactured by an unrelated third party.

In another case of first impression, the Supreme Court in *Alabama Insurance Guaranty Association v. Mercy Medical Association*, No. 1111206 (Ala., February 15, 2013), held that the right of the ALABAMA INSURANCE GUARANTY ASSOCIATION to recover workers’ compensation benefits paid to an injured employee following the insolvency of the employer’s compensation carrier vested upon the insolvency of the carrier and not upon the payment of the benefits so that, given the 2001 insolvency of the carrier in this case, the 2009 amendment to the *AIGC Act, Ala. Code §§ 27-41-1*, et seq., were not applicable.

In answering a certified question of first impression from the federal court, the Supreme Court in *Nationwide Mutual Insurance Co. v. Wood*, No. 1111486 (Ala., February 22, 2013), held that an insurance company that negotiated a settlement in favor of an injured minor was bound by the settlement even though the minor died before the pro ami hearing could be scheduled and even though both parties intended the pro ami hearing to be a prerequisite to the settlement.



LAWYERS IN THE NEWS

BY SANDY G. ROBINSON

DIED: **GERTRUDE ZIMLICH HELMSING**, mother of late MBA member **FRED HELMSING**, grandmother of MBA member **FRED HELMSING, JR.**, and grandmother-in-law of MBA members **JOHN BROWNING** and **IAN ROSENTHAL**, died on April 19, 2013 at the age of 96. She was born in Mobile and lived here her entire life. After graduating from the **CONVENT OF MERCY**, she went to work for the family business, **ZIMLICH THE FLORIST**, and in the 1930s, earned her pilot's license so she could bring flowers to Mobile from New Orleans. She is survived by three children, six grandchildren, eight great-grandchildren, and many other relatives and friends.

DIED: **MALCOLM LEE MADDOX**, father of MBA member **MELINDA MADDOX**, died March 11, 2013 at his home in Brewton. He is survived by his wife of 52 years and two daughters.

DIED: **CURTIS ANDREW SMITH, M.D.**, father of MBA member **ANDREW L. SMITH**, died on April 27, 2013 at the age of 87. Curtis was an exceptional student and completed college and was accepted into medical school at the University of Chicago at the age of 18. He played baseball for the **UNIVERSITY OF CHICAGO** while attending medical school, and was offered a minor league contract but pursued medicine instead. He served in the **U. S. AIR FORCE** during the Korean War. He and his wife fell in love with Mobile while he was assigned to Brookley Air Force base and settled here permanently after being discharged from the service. He worked as a surgeon in Mobile from 1955 to 1990, and then continued a non-surgical practice for 14 more years. He was active in many civic and sporting activities, and loved to travel. He is survived by 2 sons, eight grandchildren and five great-grandchildren.



YOUNG LAWYERS

JOSHUA D. FRIEDMAN, PRESIDENT

I would first like to thank **HAND ARENDALL, LLC**, for sponsoring a great meeting in May at the **BICYCLE SHOP**. This month's meeting is sponsored by **ARMBRECHT JACKSON, LLP** and will be Thursday, June 20th at **THE BULL** on Dauphin Street.

The annual **MOBILE YOUNG LAWYERS GOLF TOURNAMENT** will be held Friday, June 7th at **TIMBER CREEK GOLF CLUB** in Daphne. Registration and lunch start at Noon, with a shotgun start at 1:00pm. **PRO LEGAL COPIES** will provide a complimentary lunch. **HENDERSON & ASSOCIATES** will handle registration and also provide on-course beverages, **TAMI S. GUTHANS COURT REPORTING** will provide team prizes, and **CUNNINGHAM BOUNDS, LLC** is sponsoring the post-tournament cocktail party. Dinner will also be provided just before the cocktail party. Registration is still open and there are plenty of sponsorship opportunities available. For more information, please contact me (439-7400 x 5), **KASEE HEISTERHAGEN** (345-8244), **JONATHAN MAPLES** (626-9340), or **STEVEN SAVARESE** (447-0234).



This tournament is the **MOBILE YOUNG LAWYERS'** primary fundraiser and supports our various charitable projects throughout the year. This year, a contribution will be made to **UNIVERSITY OF SOUTH ALABAMA CHILDREN'S AND WOMEN'S HOSPITAL, NEONATAL INTENSIVE CARE UNIT (NICU)**. The **NICU** at USA is the area's only Level III unit, offering the most advanced care for premature and critically ill newborns and the area's only neonatal transport team. They admit approximately 900 babies annually. The **NICU** is badly in need of renovations and they could use your help. You can find out more information about our charity this year and how to donate money by visiting their Facebook page, <https://www.facebook.com/RedoTheNICU>.

Finally, the firm of **TOBIAS & COMER** is throwing a pre-tournament party on Thursday, June 6th, with more details to follow by email shortly. The pre-tournament party is always a great time, and we hope you can all attend.

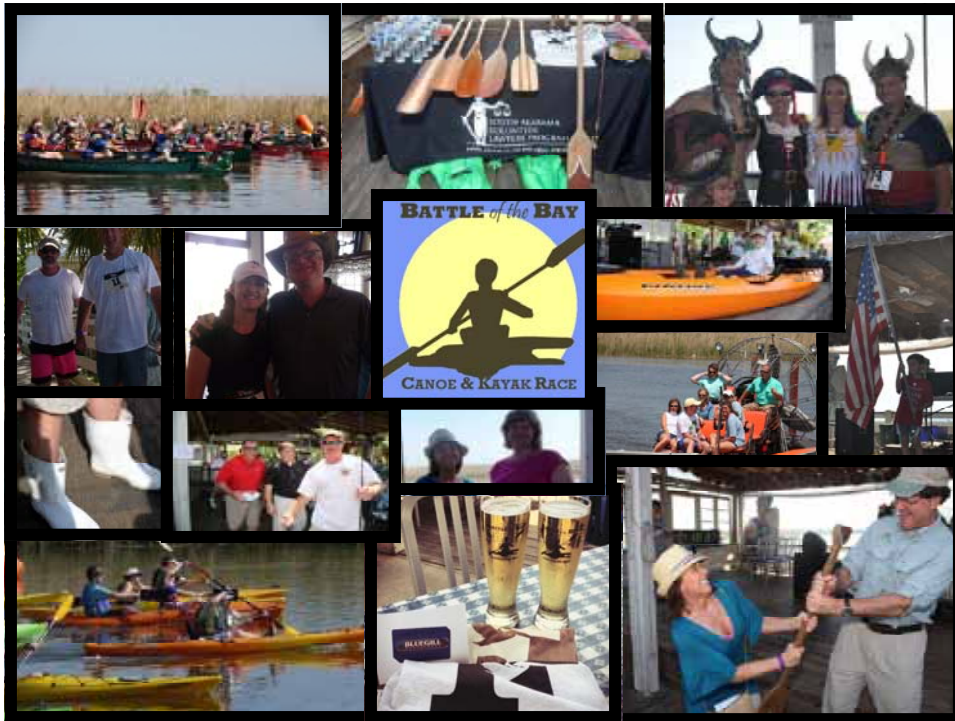


SAVLP

SOUTH ALABAMA VOLUNTEER LAWYERS

ARIANA H. MOORE, ASSOCIATE DIRECTOR

Thanks to all who participated in the 2nd annual Battle of the Bay at the Bluegill! The weather was beautiful, and everyone had a great time. Congratulations to the Mobile Bar Association for defeating the Baldwin County Bar and winning bragging rights (and the oar) for this year. Individual winners in the Canoe category were Katelyn Cuttenkuler and Heather West (1st), Laurel Zimmerman and Katie Cartier (2nd), and AJ Frihiof and Eric Bruggeman (3rd). Winners in the Men’s Kayak Division were Doug Dinardo (1st), Keve Warner (2nd), and Diego Alvarez. Winners in the Women’s Kayak Division were Mik Williamson (1st), Christine Hart (2nd), and Donna Penrod (3rd). Timothy and Margaret Montalban won 1st place in the Non-Traditional Division, with Bo Ansley and Summer Ennis placing second. Thanks to Cindy McCrory of Blue Room Photography for taking photographs of the Battle of the Bay. If you would like to purchase high res images, you can visit <http://blueroom.smugmug.com/SpecialEvents/South-AL-Volunteer-Lawyers>.



Congratulations to Hand Arendall for winning Impact Alabama’s Mobile trivia competition. Patrick Ward, Christine Hart, Bill Reece, Jennifer Roselius, and Alec Moseley won \$10,000 for SAVLP. Thank you!



Thanks to all who volunteered for Wills for Heroes in Orange Beach and Mobile. SAVLP also holds limited advice clinics at the Mobile County Courthouse, the Center for Fair Housing and in Baldwin County if you are interested in participating.



CONTINUING LEGAL EDUCATION

JUNE 28 - FRIDAY LAW FIRM TECHNOLOGY THAT MAKES A DIFFERENCE,
11:45 AM, 2.0 HRS. MCLE CREDITS, FREE LUNCH & SEMINAR

AUG 16 FRIDAY – ADMIRALTY, 1:30 – 4:45 PM,
3.0 HRS. MCLE CREDITS

AUG 23 FRIDAY – 6TH ANNUAL FAMILY LAW “STARS ACROSS THE BAY” SEMINAR,
7.0 HRS. MCLE CREDITS INCLUDING 1.0 HR. ETHICS.

SEPT 20 FRIDAY – CRIMINAL LAW UPDATE,
3.0 HRS. MCLE CREDITS INCLUDING 1.0 HR. ETHICS

**OCT 18 – FRIDAY – SAVLP’S ANNUAL (FREE TO MEMBERS)
CLE: PRACTICAL KNOWLEDGE FOR THE VOLUNTEER LAWYER
PROVIDING LEGAL ASSISTANCE,**
3.0 HRS. MCLE CREDITS INCLUDING 1.0 HR. ETHICS

OCT 22 - TUESDAY – ANNUAL NEW LAWYER ORIENTATION,
5.0 HRS. MCLE CREDITS, 10:00 AM – 4:30 PM LUNCH INCLUDED.

NOV 15 – FRIDAY – ANNUAL ASB ROADSHOW, 1:30 4:45 PM,
3.0 HRS. MCLE CREDITS INCLUDING 1.0 HR. ETHICS

NOV 22 – FRIDAY – ANNUAL CLE BY-THE-HOUR, 8:00 AM – 5:00 PM,
8.0 HRS. MCLE CREDITS INCLUDING 1.0 HR. ETHICS AND LUNCH

DEC 6 - FRIDAY - SUNDAY – 25TH ANNUAL BENCH & BAR CONFERENCE,
MARRIOTT’S GRAND HOTEL

DEC 13 – FRIDAY – ANNUAL CIVIL LAW UPDATE,
1:30 – 4:45 PM, 3.0 HRS. MCLE CREDITS INCLUDING 1.0 HR. ETHICS

2014

JAN 10 – FRIDAY – PROBATE UPDATE, 1:30 – 4:45 PM,
3.0 HRS. MCLE CREDITS

JAN 17 – FRIDAY – BANKRUPTCY LAW, 1:30 – 4:45 PM,
3.0 HRS. MCLE CREDITS

MAR 21 – FRIDAY – E DISCOVERY CHANGES,
1:30 -4:45 PM, 3.0 HRS. MCLE CREDITS

APR 18 – FRIDAY – ANNUAL DO’S & DON’TS,
1:30 – 4:45 PM, 3.0 HRS. MCLE CREDITS



JUNE 2013

JUNE 4 - TUESDAY
WOMEN LAWYERS LUNCHEON

JUNE 7 - FRIDAY
**YOUNG LAWYERS
ANNUAL GOLF TOURNAMENT,
TIMBER CREEK GOLF CLUB**

JUNE 12 - WEDNESDAY
**MBA EXECUTIVE COMMITTEE MEETING,
12 O'CLOCK NOON**

JUNE 21 - FRIDAY
**MBA MONTHLY LUNCHEON,
11:45 AM, BATTLE HOUSE HOTEL**

JUNE 27 - THURSDAY
**MBA GRIEVANCE COMMITTEE MEETING, 12
O'CLOCK NOON,
MBA HEADQUARTERS**



JUNE 28 - FRIDAY
**LEXIS/NEXIS
LUNCHEON AND 2-HOUR SEMINAR,
11:45 AM, FREE TO ALL ATTENDEES.**



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, paid in up to 5 annual installments)

Partner (\$500 or more)

Associate (\$100 or more)

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