



MONTHLY BULLETIN

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

President's Comments



WES PIPES, PRESIDENT
MOBILE BAR ASSOCIATION



www.MobileBarNews.com

It seems to me that there is so much electronic communication that most of us simply assume that everyone else has access to it; uses it; and that it has become their preferred, if not sole, means of "written" communication. Based on that it is the method used by the **MOBILE BAR ASSOCIATION** to distribute the Bar Bulletin and communicate with the members. That assumption is not always true, and from time to time we are reminded that our efforts to communicate electronically do not always reach all of our members. We ask for your help in running a little test. If you know someone that you suspect may not be receiving or opening their electronic mail please ask them if they regularly receive the Bar Bulletin and if they do not, please call bar headquarters and let us know their name. We would like to see if we can correct any errors in addressing material to them on our side, and if they simply don't want to receive things by email, we will make an effort to communicate with them in some other way. **THE MOBILE BAR ASSOCIATION** just needs to make a concerted effort to keep up with everyone's changes of address and we need your assistance.

Our first monthly meeting at the **BATTLE HOUSE** seems to have been a success and we will once again be meeting at the **BATTLE HOUSE** on September 21st when **ATTORNEY GENERAL LUTHER STRANGE** will be our speaker. I encourage everyone to attend to hear what he has to say and enjoy the facilities. We are trying to determine whether to move all of the meetings to the Battle House or return to the Admiral Semmes and need your input.



MBA SEPTEMBER LUNCHEON PROGRAM

FRIDAY, SEPTEMBER 21, 2012 11:45 AM
BATTLE HOUSE

GUEST SPEAKER

LUTHER STRANGE,

ATTORNEY GENERAL STATE OF ALABAMA

MEMORIAL RESOLUTIONS

JUDGE VIRGIL PITTMAN

JUDGE JAMES LACKEY

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2012 OFFICERS

- President - Wes Pipes
- President Elect - Michael E. Upchurch
- Vice President - J. Michael Druhan
- Secretary - Latisha "Tish" Rhodes
- Treasurer - Thomas M. Wood
- Assistant Treasurer - Meegan B. Nelson
- Pres Young Lawyers - E. Glenn Smith, Jr.
- Executive Director - Barbara C. Rhodes
- Editor - Ferrell S. Anders

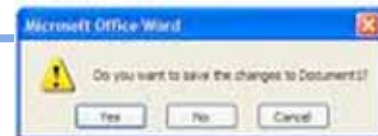
Browsing the Bar With Barbara



Once again the “**FAMILY LAW ‘STARS ACROSS THE BAY’**” seminar was a great success! Great speakers, many vendors with door prizes, wine raffle and cocktail party with live music! It doesn’t get any better than that! Thanks to **VIRGINIA HAAS** and her very able “crew” for all the hard work it took to pull it together and make it such a success.

Watch next month’s publication for the nominees for 2013 MBA Officers. It is hard to believe that it is that time again. Also in the October Bulletin, there will be in-depth coverage regarding the **BENCH & BAR CONFERENCE** at the Grand Hotel. Please mark your calendar. This is one function designed with every practicing lawyer and judge in mind and one that you do not want to miss. There are also a number of other MBA CLE opportunities between now and the end of the year, including the CLE By-The-Hour.

P.S. I have often wondered if I am the only one who is slightly terrified when I exit out of Word and it asks me if I want to save any changes to my ten-page technical report that I swear I did not make any changes to?!



NEW MEMBERS

LESLIE WINN McELDERRY,

University of Alabama School of Law 2011; Alabama State Bar 2012; sole practitioner

A. KELLY SESSOMS,

University of Mississippi Law School 1992; Mississippi State Bar 1992;
Alabama State Bar 2010; with Phelps Dunbar LLP

SHERRI JOHNSON SMELLEY,

Jones School of Law 2011; Alabama State Bar 2012; with L. D. Holt & Associates, P.C.



SPECIAL NOTICE

MEETING OF STATE DISTRICT COURT SECTION

SEPTEMBER 28, 2012--2:00 PM, COURTROOM 4300

I am honored to serve as the MBA District Court Section Chairman this year, and am happy that we have such a great committee. We need to have a section meeting, and in my discussion with District Court Presiding Judge Hardesty, we figured a great time to have it will be on Judge McMaken's last day of work before he retires from the bench after nearly 26 years!

Please mark your calendar to attend the meeting on Friday, September 28, 2012 at 2:00 PM in Courtroom 4300 (Judge Hardesty's courtroom). In addition to thanking Judge McMaken in person for his distinguished 25 years of service, we will discuss all topics about District Court that need to be discussed.

Please send me any topics which you wish to discuss at least a week in advance of the meeting, and I will add them to the agenda. Remember, when you submit a topic, you will be called upon to lead the discussion of that topic! Judge Hardesty has promised to submit several topics on behalf of the judges, and I will also see if Jo Schwarzauer has any topics on behalf of the clerk's office.

Thank you for attending this meeting, and please contact me should you have any topics to discuss, questions or comments.

Judson Wells, MBA District Court Section Chairman

NEWS FROM MOBILE COUNTY PROBATE COURT

The Court is pleased to announce implementation of a new records search feature, which provides real property "direct" and "reverse" indices for documents filed from 1813 through 1983. For the first time, ALL real property indices of the Court are available through the Court's web site. At this time any document recorded from April 1990 to the present time is available for viewing and copying through the Court's web site at no expense to the viewer.

The Court would note that Ala. Act 2012-494 became effective on August 1, 2012. This new statute changes what information must be furnished when documents relating to the transfer of real or personal property are filed of public record in an Alabama probate court. Information regarding this new statute is available through the Court's "Attorneys" page on the Court's web site.

Don Davis, Judge of Probate



ANNOUNCEMENTS

SATTERWHITE, BUFFALOW & TYLER, LLC takes pleasure in announcing that **GABRIELLE E. REEVES** is now associated with the firm.

JONES WALKER is pleased to announce that **KIMBERLY L. BELL** has joined the firm's Mobile Office. Kim Bell is an associated in the firm's Business & Commercial Litigation Practice Group.

OFFICE SPACE FOR LEASE: 205 N. Joachim Street in historic De Tonti Square. Within walking distance of federal courts and post office. Included in rent: onsite parking, client lobby, conference room; kitchen; VOIP telephone, internet, email, fax machine and large copier/scanner. Contact Evans Crowe at 251.431.6011

FOR RENT: Law office space in midtown at 1751 Dauphin Street. \$375/month – 2 rooms available. Contact Chris McGough at 251.366.6949

OFFICE SPACE AVAILABLE with WIFI, \$200/month. Call Joe Altadonna at 251.656.5700

The attorneys of **CUNNINGHAM BOUNDS, LLC** are pleased to announce **GRAYSON KNIGHT LANGAN** has joined the firm as an Associate. Ms. Knight Langan earned a Bachelor of Arts, magna cum laude, in Political Science and Broadcast Journalism from the **UNIVERSITY OF SOUTHERN MISSISSIPPI** Honors College. Upon graduation, Ms. Knight Langan served as a judicial intern for the Mobile County District Attorney's Office and for the Forrest County Prosecutor's Office in Hattiesburg, Mississippi.



DIED: JAMES C. NELSON, FATHER OF MBA MEMBER **NOEL NELSON**, DIED ON JULY 23, 2012 AT THE AGE OF 85. HE WAS A NATIVE AND LIFELONG RESIDENT OF MOBILE AND A GRADUATE OF MURPHY HIGH SCHOOL. HE SERVED IN THE U. S. NAVY IN THE PACIFIC DURING WWII. HE WAS A GRADUATE OF SPRING HILL COLLEGE AND WAS ACTIVE IN MANY CIVIC AND BUSINESS ORGANIZATIONS. HE IS SURVIVED BY HIS WIFE OF 65 YEARS, THREE CHILDREN AND FIVE GRANDCHILDREN, ALL OF THE MOBILE AREA.

ATTENTION VETERANS: DUE TO THE ENTHUSIASTIC RESPONSE LAST YEAR, WE ARE PLANNING TO REPEAT OUR SPECIAL VETERAN'S DAY RECOGNITION OF MBA MEMBERS WHO ARE VETERANS. IF YOU ARE A VETERAN, OR CURRENTLY SERVING IN THE U. S. ARMED FORCES, AND HAVE NOT PREVIOUSLY SUBMITTED YOUR INFORMATION AND A PHOTOGRAPH, PLEASE DO SO NOW! EMAILS TO SGR@CABANISS.COM, OR HAND DELIVER TO THE BAR ASSOCIATION HEADQUARTERS NO LATER THAN OCTOBER 15.



YOUNG LAWYERS

E. GLENN SMITH, JR., PRESIDENT

Let me start by thanking all of our sponsors who helped make the Band Party a tremendous success: Hand Arendall, Tobias Comer, Mobile Bay Reporting, Source One, Henderson and Associates, and Freedom Court Reporting. Thanks to their generous sponsorship, and the money we collected at the door, we will be able to make a very nice donation to our charity for the event, the Bay Area Food Bank.

This month's meeting is sponsored by Cunningham Bounds, LLC, and will be held Thursday, September 13th at the "Soon-to-Open" Catt's Avalon located at 360 Dauphin Street from 5:30 to 8:00 p.m. I am attaching a flyer for the event that you can access by clicking here: [YL September Meeting](#). As always, all Mobile & Baldwin County Lawyers, Judges, & Staff are invited. This meeting is always a top-notch event, and we certainly hope you can make it.



MOBILE BAR ASSOCIATION ANNOUNCEMENTS

PUBLIC SERVICE COMMITTEE ANNOUNCES CLOTHING DRIVE TO BENEFIT THE WATERFRONT RESCUE MISSION OF MOBILE

The drive will be held on October 12, 2012 and any clothing items for men, women and children can be donated. The Waterfront Rescue Mission runs Bargain Centers to serve the community through a small chain of thrift stores that provide affordable merchandise to the public. The Bargain Centers generate revenue by selling used but usable goods that have been donated. The items can be brought to a collection coordinator designated by each law firm to be delivered to the Mission office in Mobile on October 12th or lawyers and their staff may personally deliver their donated items to the Mission themselves on this date. We are very excited to serve our homeless community in this way in hopes of providing the Mission the means to support their various programs aimed at helping these men and women improve the quality of their lives.

MANDATORY E-FILING AND ELECTRONIC FILE MANAGEMENT

We have received word that the Chief Justice will be issuing an order that will establish MANDATORY e-filing and electronic file management in all CV, DV, SM, DR, and CS cases effective October 1, 2012. This means all pleadings, motions, and court orders must be filed electronically. For that reason we are strongly encouraging those that have not been active with Alacourt/Alafile to please begin NOW with your training.

REMINDER:

WHAT: Regional Alacourt training including many updates and enhancements.

WHEN: Friday, September 7, 2012

WHO: Judges and Court staff 8:00-12:00
Lawyers/secretaries 1:00-4:00pm

WHERE: Baldwin County Courthouse

Eric Anderson and Jason Hodges from AOC will join us.

There is no costs but we would appreciate knowing if you will be attending for space purposes.

Please call Judge Floyd's office to confirm your attendance.

J. Langford Floyd, Circuit Judge

PLEASE SAVE THE DATE!

October 25, 2012

6:00 – 9:00p.m.

Mobile Marriott – Airport Blvd.

South Alabama Volunteer Lawyers Program presents
the 4th Annual “can’t miss”

Broadway Briefs – Lawyers Take the Stage

Dinner Theater, Awards Ceremony, and
Silent Auction Fundraiser

Featuring an award-winning menu by Chef Chris Lambert

Join for a night of fun and folly to celebrate the good works of
South Alabama’s volunteer lawyers

In Honor of National Pro Bono Celebration

Special thanks to the following attorneys who opened or closed cases in July: **JOSHUA J BATES , JOHN G BAYLOR JR., RUSSELL E BERGSTROM, W. DONALD BOLTON JR., EDWARD G BOWRON, MICHAEL BOX, HENRY H BREWSTER, DAVID P BROOME, JOHN C BRUTKIEWICZ, PETER F BURNS, ELLA BYRD, JENNIFER C BYRD, HENRY H CADDELL, ROBERT P CATER, WALTER G CHAVERS, C.S. CHIEPALICH, ELIZABETH A CITRIN, ANGELIQUE M COOPER, RICHARD E CORRIGAN, WILLIAM M CUNNINGHAM JR., EDWIN J CURRAN JR., BRIAN A DASINGER, BRENT T DAY, MARGARET F DEMERANVILLE, CAROLYN M DOHN, BRYAN G DUHE’, CULLAN B DUKE, BEN FORD,, JOSH D FRIEDMAN, WILLIAM J GAMBLE JR., JASON C GERTH, DUANE A GRAHAM, TIMOTHY M GROGAN, WARREN T HARBISON, MICHAEL R HOLBERG, JENNIFER HOLIFIELD, LYMAN F HOLLAND JR., RYAN P HOLLOWAY, WESLEY J HUNTER, HERNDON INGE III, MATTHEW R JACKSON, JAMES D JEFFRIES JR., KATHLEEN COBB KAUFMAN, ROBERT D KEAHEY JR., BANKS C LADD, GILBERT B LADEN, R. EDWIN LAMBERTH, ROBERT S LEWIS, DARLETT LUCY GULLEY, GREGORY B McATEE, DEBORAH D MCGOWIN, THOMAS J MERCADO, S. C. MIDDLEBROOKS, JENNIFER S MORGAN, JOSHUA P MYRICK, MEEGAN NELSON, BLAIR NEWMAN JR., THOMAS B NORTON JR., LOUIS C NORVELL, BRIAN R OVERSTREET, TERRIE OWENS, JAMES D PATTERSON, LARKIN H PETERS, JOSEPH T PILCHER IV, KIRKLAND E REID, LATISHA RHODES DAVIS, IAN ROSENTHAL, SARAH RUTLEDGE, WILLIAM E SCULLY JR., TIMOTHY M SHEPARD JR., SHERRI J SMELLEY, TIFFANY B SMITH, HENDRIK SNOW, JEFFREY R SPORT, WILLIAM D STOKES, EUCELLIS SULLIVAN, JOHN M TEAGUE, RAY M THOMPSON, J. ROBERT TURNIPSEED, MICHAEL UPCHURCH, PETE J VALLAS, GREGORY VAUGHAN, LAWRENCE B VOIT, JAMES B VOLLMER, WILLIAM W WATTS III, JARROD J WHITE, JOHN L WHITE, MICHAEL A WING, AND THOMAS T ZIEMAN JR.**



SIGNIFICANT DECISIONS

BY DUANE GRAHAM

Overruling *McKenzie v. Killian*, 887 So.2d 861 (Ala.2004), the Supreme Court in *Ex parte Capstone Building Corp., No. 1090966* (Ala., March 16, 2002), held that a claim of wantonness was not governed by the six-year statute of limitations in Ala. Code § 6-2-34 but rather by the two-year statute under Ala. Code § 6-2-38.

In *Ex parte Mohobbat, No. 1110503* (Ala., April 6, 2012), the Supreme Court held that a trial court had no authority to reduce the amount of a supersedeas bond pending appeal and that only an appellate court could do so.

Strictly enforcing the rule that guarantees of indebtedness were discharged when the loan was modified beyond that contemplated or agreed to by the guarantor, the Supreme Court in *Eagerton v. Vision Bank*, No. 1101045 (April 6, 2012), held that when a guarantee covered the original debt and all “extensions, renewals or replacements” thereof, the guarantee did not cover an indebtedness that consisted of the original debt, plus a consolidated debt, as ordered by the court in a bankruptcy proceeding. The Alabama Court concluded that this was a new indebtedness and not one agreed to by the guarantor.

In *City of Birmingham v. Orbitz, LLC, No. 1100874* (April 13, 2012), the Supreme Court held that online travel companies, such as defendant Orbitz, were not liable for the collection of municipal lodging taxes levied against hotel stays. The Court noted that, while not binding, it was persuasive that the Department of Revenue had determined that such companies were not liable for state lodgings taxes.

**THE DELANO PALUGHI CHAPTER
OF THE ST. THOMAS MORE SOCIETY
WILL SPONSOR THE ANNUAL RED MASS CELEBRATION
ON FRIDAY, SEPTEMBER 28, 2012
12 O’CLOCK NOON AT THE CATHEDRAL OF THE IMMACULATE CONCEPTION
A 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**



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



SEPTEMBER 2012

SEPTEMBER 3 - MONDAY
LABOR DAY HOLIDAY

SEPTEMBER 13 - THURSDAY
MBA EXECUTIVE COMMITTEE MEETING,
12 NOON, BIENVILLE CLUB

SEPTEMBER 13 - THURSDAY
YOUNG LAWYERS MEETING, 5:30 PM

SEPTEMBER 20 - THURSDAY
WORKERS COMP SECTION MEETING,
12 NOON, COVE ROOM ADMIRAL SEMMES

SEPTEMBER 21 - FRIDAY
MBA MONTHLY LUNCHEON,
12 NOON, BATTLE HOUSE

SEPTEMBER 21 - FRIDAY
BANKRUPTCY SEMINAR, 1:30 – 4:45 PM,
BATTLE HOUSE

SEPTEMBER 27 - THURSDAY
MBA GRIEVANCE COMMITTEE MEETING,
12 NOON, MBA HEADQUARTERS

SEPTEMBER 28 - FRIDAY
ANNUAL RED MASS, 12 NOON,
CATHEDRAL OF THE IMMACULATE CONCEPTION

SEPTEMBER 28 - FRIDAY
MBA DISTRICT COURT COMMITTEE MEETING,
2:00 PM, COURT ROOM 4300

CONTINUING LEGAL EDUCATION

SEPTEMBER 21 - FRIDAY
BANKRUPTCY SEMINAR,
3.0 HRS.

OCTOBER 19 - FRIDAY
ANNUAL VLP SEMINAR,
3.0 HRS INCLUDING 1.0 HR ETHICS

OCTOBER 26 - FRIDAY
ANNUAL WORKERS COMP SEMINAR,
6.0 HRS INCLUDING 1.0 HR ETHICS

OCTOBER - TBD
NEW LAWYER ORIENTATION,
5.0 HRS INCLUDING 1.0 HR ETHICS

NOVEMBER 2 - FRIDAY
ADR SEMINAR, 3.0 HRS.

NOVEMBER 9 - FRIDAY
ASB ROAD SHOW,
3.0 HRS. INCLUDING 1.0 HR. ETHICS

NOVEMBER 16 - FRIDAY
SOCIAL SECURITY, 3.0 HRS.

NOVEMBER 30 - FRIDAY
CLE BY THE HOUR,
8.0 HRS. INCLUDING 1.0 HR. ETHICS

DECEMBER 7 - FRIDAY
ANNUAL YOUNG LAWYER MIXER, 1.0 HR

DECEMBER 7-9 FRIDAY – SUNDAY
ANNUAL BENCH & BAR CONFERENCE ,
5.0 HRS. INCLUDING 1.0 HR ETHICS

DECEMBER 14 - FRIDAY
ANNUAL CIVIL LAW UPDATE,
3.0 HRS. INCLUDING 1.0 ETHICS

2013
JANUARY 18 - FRIDAY
PROBATE SEMINAR, 3.0 HRS.

MARCH 15 - FRIDAY
THE MODERN LAW OFFICE, 3.0 HRS.

APRIL 19 - FRIDAY
JUDGES PANEL DISCUSSION, 3.0 HRS.