



MONTHLY NEWSLETTER

Volume XLV,
Issue 5 • May 2016

President's Comments



**PETE MACKEY, PRESIDENT
MOBILE BAR ASSOCIATION**

Carol and I attended a wedding this weekend that included a sit down dinner. The priest who conducted the wedding said the blessing. A good part of his prayer was devoted to thanking those folks who prepared and served our meal, from the farmers to the kitchen workers to the servers. “Someone has to pick those green beans you are about to eat.”

As he spoke, I began to think about the people that make a lawyer’s job so much easier (forgive me Lord, but my mind wanders when I’m hungry). Secretaries, paralegals, runners, the clerks and other staffers – where would we be without them? I started a conversation on the subject with those around me at the table. A retired small-business owner spoke respectfully of his long time receptionist. “She was my Director of First Impressions.”

I dictated my first letter almost 32 years ago. My secretary Elizabeth was very experienced and had also taught high school English for 14 years. I, by contrast, struggled mightily with my dictation machine and was addicted to legalese (the more the better, right?). She would tactfully pare down my three page monstrosities to three tight paragraphs on one page. And I got all the credit for a job well done from whichever partner I was working for at that moment. And that has never changed.

It’s something that a lawyer gets used to. Legal staffers do all the heavy lifting in a law office – managing our calendars, typing, filing, even balancing checkbooks and making sure that birthdays, anniversaries and court dates are not forgotten. They make us feel so much important than we really are. It’s something most lawyers start taking for granted. I know I have.

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2016 OFFICERS

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PROGRAM

THE MAY MONTHLY LUNCHEON WILL BE
ANNUAL LAW DAY LUNCHEON
 FRIDAY, MAY 20, 2016, 11:45 AM, THE ADMIRAL HOTEL

THE SPEAKER WILL BE
JOHN L. CARROLL,
 FORMER DEAN OF

**CUMBERLAND SCHOOL OF LAW
 AND FORMER CHIEF U.S.**

MAGISTRATE JUDGE FOR THE MIDDLE DISTRICT OF ALABAMA

WE WILL HONOR

**THE LIBERTY BELL AWARD WINNER
 ESSAY CONTEST WINNERS**

Browsing the Bar *With Barbara*

The **LAW DAY** activities are off to a rousing start with the **ANNUAL NATURALIZATION CEREMONY** at the **U.S.S. ALABAMA**. Next is the **LAW HELP LINE** on Tuesday, May 3, from 6:00am to 5:30pm at Local TV 15. If you have not participated in this activity you have missed out – spending a couple of hours with fellow lawyers and trying to answer some of the “interesting” questions that callers come up with makes for life-long friends. Call Tammy and sign up NOW, you will not regret it!



The **ANNUAL LAW DAY LUNCHEON** is Friday, May 20, 11:45am at **THE ADMIRAL HOTEL**. The guest speaker is already known to many of you, **JOHN L. CARROLL**, former Dean of Cumberland and former Chief U.S. Magistrate Judge for the Middle District of Alabama, will address the **LAW DAY THEME OF MIRANDA: MORE THAN WORDS**. The **LIBERTY BELL** winner and Essay Contest winners will be honored. Please mark your calendars now and try not to miss this very special program.

Law Day 2016

MIRANDA
more than words

President's Comments *continued from Page 1*

When a lawyer wants to get a haircut, she gets her haircut at 10 a.m. on a Thursday. She's not doing it on Saturday, why inconvenience one's weekend? When a lawyer wants to leave early for a PTA meeting, he says goodbye and walks out the door. When a staffer needs to make a personal appointment, she has to balance taking vacation time against doing it after work or on the weekend.

I remember complaining to Carol one time because one of our assistants had the audacity to take off all day for a school field trip, leaving me high and dry. I don't remember exactly how that darkened my day – but I am sure that I had to dig through a filing cabinet to find the deposition copy I was looking for, pickup my own lunch or suffer some other horror.

She lit into me for a good minute or so about how spoiled I was, how hard our staff worked and how little recognition they got beyond their annual free lunch on Secretaries Day. I am sure that I justified my feelings on the basis that neurotic whining merits some enabling consolation. That's the type of thinking that a lot of us fall into.

When I view it honestly, however, I see men and women walking across the Grand Canyon on a high wire two to three days a week to make sure that their boss's fat is kept out of the fire. Working in a law office is stressful, no matter what type of practice it is – particularly when the lawyer decides at four that this brief really needs to be filed by five, even though he has not yet begun dictating.

And those who work at the courthouses ... it gets tougher every year. It's the perfect storm at the County Courthouse – the stress of a law office, combined with no pay raises and annual staffing cuts. When you think of the staffing levels now compared to what they were seven years ago, even accounting for a paperless system, it is amazing that things run as smoothly as they do.

To Jojo and her staff at the County Courthouse and the Youth Center, to Joe and his staff in Probate Court, to Chuck and his staff at the Federal Courthouse, and to Lisa and her staff at City Court, our hats are off to you for the great work that you do and how you all ease the lives of both the lawyers and judges who work in your courts.

To Julie, Tonya, Barbara and Matt, thank you all for the hard work you do at our firm. And the same thank you goes to all of the secretaries, paralegals, runners and office administrators throughout the Mobile Bar for the work you do to keep your lawyers and firms afloat. All of you deserve much more credit than you get. We could not do it without you, we just think we could ... Oh, and last, but certainly not least, thank you Barbara and Tammy – you have certainly made my life easier this year.

YOUNG LAWYERS

RUSSELL JOHNSON, PRESIDENT

The YOUNG LAWYERS are pleased to thank BURR & FORMAN for a great April meeting. BURR & FORMAN hosted a great evening at the Haberdasher which was enjoyed by our biggest crowd yet this year.

The May meeting will be hosted by ALEXANDER SHUNNARAH & ASSOCIATES on MAY 19th beginning at 5:30 PM. Please stay tuned for our announcement for the location of this month's meeting which should be announced soon.

REMINDER - The YOUNG LAWYERS are hosting THE JUSTIN PARSONS MEMORIAL GOLF TOURNAMENT this year on FRIDAY, JUNE 10th at TIMBER CREEK, to benefit Justin's two, young daughters, Palmer and Perry. To enter a team and/or sponsor a hole, please contact me (rjohnson@alexandershunnarahlaw.com), Vice-President Tim Heisterhagen (tah@ajlaw.com), Treasurer Kate Browning (kmb@rebpc.net), or our invaluable Golf Tournament Chair, Weathers Bolt (wbolt@starneslaw.com). Checks can be made payable to "Mobile Young Lawyers" and delivered or mailed to Kate Browning at The Browning Firm, 258 State Street, Mobile, AL 36603.

BIG THANKS - Funfest was April 23 at St. Mary's Home. We had an excellent showing by our young lawyers. The children had a great time, and we were able to donate \$1,000.00 to the home. We would like to thank those who donated and made Funfest possible this year: Tobias, McCormick & Comer; Armbrecht, Jackson; Hand, Arendall; Alexander Shunnarah & Associates; Helmsing, Leach; Gardberg & Kemmerly; Luther, Collier, Hodges, & Cash; and Stone, Granade & Crosby. Thank you everyone!

JUROR COFFEE FUND

Thank you to the following named firms/attorneys who have contributed to the Juror Coffee Fund:

ALEX W. ZOGHBY
ARMBRECHT JACKSON LLP
BOTELER FINLEY & WOLFE
BRADY RADCLIFF & BROWN L.L.P.
BRISKMAN & BINION, P.C.
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CARTER LAW FIRM, P.C.
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& ROUSE P.C.
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ANNOUNCEMENTS

ASSOCIATE ATTORNEY WANTED. Medium-sized growing law firm needs litigation associate. Salary commensurate with experience. Contact firm administrator by emailing your resume and contact information to: Mobilelawoffice@gmail.com

DOWNTOWN OFFICE SPACE AVAILABLE: 209 N. Joachim Street in historic deTonti Square. Within walking distance of federal courts. Amenities: VOIP telephone, internet, WIFI, email, fax machine, large color copier/scanner, onsite parking, lobby conference room and kitchen. Contact EVANS CROWE at 251.431.6011 or crowe@evanscrowe.com

MIDTOWN OFFICE SPACE FOR LEASE: Midtown Office Suite suitable for one to two lawyers with up to three staff available for lease. Convenient and highly visible location at 2053 Dauphin St. with private parking lot and signage available. Building has CAT5 wiring, internet and phone system in place. Includes private meeting attached to corner office, conference room, waiting area, kitchen and file storage area. Contact Jim Jeffries at 251.445.5522 or jim@jeffriesfamilylaw.com

THE ALABAMA FELLOWS OF THE AMERICAN COLLEGE OF TRIAL LAWYERS announces that **BRIAN P. McCARTHY**, 2014 MBA President, and **MICHAEL E. UPCHURCH**, 2013 MBA President, were recently inducted into the fellowship.

CARR ALLISON shareholder and retired Mobile County District Judge **JUDSON W. WELLS, SR.** has been elected to the prestigious **BLACKBURN INSTITUTE ADVISORY BOARD**, a division of Student Affairs at the **UNIVERSITY OF ALABAMA**.

LAWYERS IN THE NEWS

BY SANDY G. ROBINSON

LEGAL MILESTONES:

DIED: MBA MEMBER JUSTIN PARSONS PASSED AWAY ON MARCH 31, 2016 AT THE AGE OF 35. HE WAS A GRADUATE OF THE UNIVERSITY OF NORTH ALABAMA AND THE UNIVERSITY OF ALABAMA SCHOOL OF LAW, WHERE HE WAS A MEMBER OF THE ALABAMA LAW REVIEW. HE WAS A PARTNER WITH CARR ALLISON IN DAPHNE. HE IS SURVIVED BY HIS WIFE, AMY LOVE PARSONS; TWO DAUGHTERS, PERRY AND PALMER; HIS MOTHER, GINGER SLATON (JIM), AND FATHER, GEORGE A. PARSONS, JR. (CATHERINE), A SISTER, GRANDPARENTS, AND MANY FRIENDS.

DIED: LORRAINE NELSON BENTON, MOTHER OF MBA MEMBER TOM BENTON, PASSED AWAY ON MARCH 23, 2016 AT THE AGE OF 88. SHE WAS A NATIVE OF BARNWELL AND A LONGTIME RESIDENT OF BON SECOUR. SHE IS SURVIVED BY THREE CHILDREN, SEVEN GRANDCHILDREN, ONE GREAT GRANDCHILD. A BROTHER AND TWO SISTERS. SHE WAS A DEVOTED WIFE, MOTHER, GRANDMOTHER, SISTER, AND FRIEND.

SAVLP

SOUTH ALABAMA VOLUNTEER LAWYERS

BY ARIANA H. MOORE



A great big THANK YOU
to the 2016 Battle of the
Bay sponsors!



ANDY CITRIN
— INJURY ATTORNEYS —



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MOBILE BAR ASSOCIATION WOMEN LAWYERS

By: ALEXANDER K. GARRETT

MBAWL is excited to announce that Celia Collins of Johnstone Adams, LLC has been selected as this year's Trailblazer. MBAWL will honor Celia at its 5th annual Trailblazer Tea on May 24, 2016 at 11:30 a.m. in the Crystal Ballroom at the Battle House Renaissance Hotel. Tickets will be sold at the door and cost \$20 for members and \$25 for non-members.

The Trailblazer is a woman lawyer or jurist who has overcome challenges, accomplished great things, and blazed the path for future generations. MBAWL accepts nominations for Trailblazer from its members each Spring, and the honoree is chosen by an anonymous, rotating selection committee made up of women lawyers from various practice areas. Past Trailblazers include Helen J. Alford (2012), Merceria Ludgood (2012), Frankie Fields Smith (2012), the Honorable Callie V. S. Granade (2013), Beth Marietta-Lyons (2014), and the Honorable Margaret A. Mahoney (2015).

At MBAWL's April luncheon, Leslie Fields of Davis & Fields, P.C. presented "Navigating the World of Trusts," a CLE focusing on trust litigation and fiduciary duties.



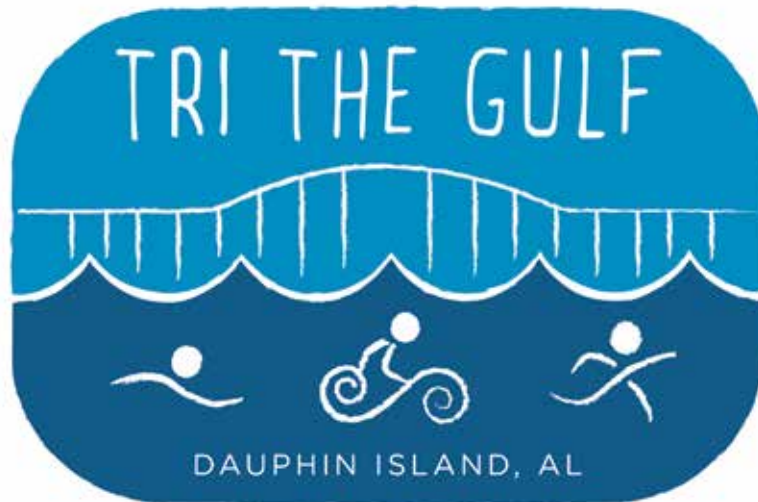
SIGNIFICANT DECISIONS

BY DUANE GRAHAM

Continuing a lengthy line of cases involving wrongful death claims and associated probate proceedings, the Supreme Court in *Alvarado v. Estate of Kidd*, No. 1140706 (Ala., January 29, 2016), held that the issuance of letters of administration did not relate back to the filing of his petition for letters so as to vitiate the filing of a wrongful death claim prior to the issuance of the letters. The Court noted that the probate court had processed the request for letters in a timely fashion and distinguished the case from *Ogle v. Gordon*, 706 So.2d 707 (Ala.1997), in which it was determined that the probate court had delayed an inordinate time in issuing the letters.

In what appears to be a case of first impression, the Court of Civil Appeals in *Berg v. Nguyen*, No. 2140774 (Ala. Civ. App., January 8, 2015), held that a landlord was not liable to a third party who was bitten by the tenant's dog off the leased premises, even though the landlord knew that the tenant maintained the dogs in question.

MOBILE BAR FOUNDATION TO SPONSOR FIRST ANNUAL “TRI THE GULF”



The **MOBILE BAR FOUNDATION** has decided to sponsor a triathlon that will be held on Dauphin Island on October 15, 2016, as a fundraising event. The Foundation needs **EVERY** member of the Association to assist in this effort. There are needs associated with the triathlon, including: financial sponsors, participants in the triathlon (either as individuals or as part of a relay team), assist in the pre-event administrative activities, assist in the set-up of equipment immediately prior to the commencement of the triathlon, help promote safety on the bike and run courses during the triathlon, assist in the triathlete check-in process, and assist with post-event party. The triathlon has a web site and a Facebook page. The web site address is www.trithegulf.com. The FaceBook page is <https://www.facebook.com/trithegulf>. Registration for the triathlon has commenced. If you have any questions or desire to be a volunteer, please contact **BRANDY HAMBRIGHT**, volunteer coordinator, at 251.438.2700 or brandy@hmhlawyers.com. If you are interested in providing financial support, please contact Jean Powers, sponsor coordinator, at 251.432.0043 or jean@jeanpowerslaw.net.



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, 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

BROOX G. HOLMES
has made a contribution to the
Mobile Bar Foundation in memory of

W. BOYD REEVES

THE ALABAMA LAWYER ASSISTANCE PROGRAM AND THE DISCIPLINARY PROCESS

LAWYER ASSISTANCE COMMITTEE

THE ALABAMA LAWYER ASSISTANCE PROGRAM is a confidential program. If a lawyer has been drinking alcoholically, or using illegal drugs, or legal drugs illegally, or has law practice issues because of depression or anxiety, but has not yet gotten into trouble with the Bar, the **ALABAMA LAWYER ASSISTANCE PROGRAM** will work with the lawyer with complete confidentiality. The primary goal of the Program is to reach out and provide assistance before the inevitability worsening negative consequences result in disciplinary actions and possible loss of license.

If a lawyer has become involved in the disciplinary process and the grievance is drug or alcohol related or has connections with a mental health issue, the **LAWYER ASSISTANCE PROGRAM** becomes involved. For those in the disciplinary process, the Program provides referrals for evaluation, treatment when indicated, and a monitoring program to document compliance with treatment recommendations going forward. There is no longer complete confidentiality because reports of non-compliance with treatment or monitoring must be reported to the **OFFICE OF GENERAL COUNSEL**.

Provided the lawyer maintains full compliance with provisions of their monitoring agreement, **ROBERT THORNHILL** and his staff will testify to this in a reinstatement or disciplinary hearing and provide support. We have been assured the testimony and the report from the **ALABAMA LAWYER ASSISTANCE PROGRAM** is significant and is taken into consideration by the Disciplinary Commission.

For free and confidential assistance, call the **ALABAMA LAWYER ASSISTANCE PROGRAM** at **334-834-7576**. Also, any member of the **MBA LAWYER ASSISTANCE COMMITTEE** will be pleased to offer assistance as well. Names and numbers below:

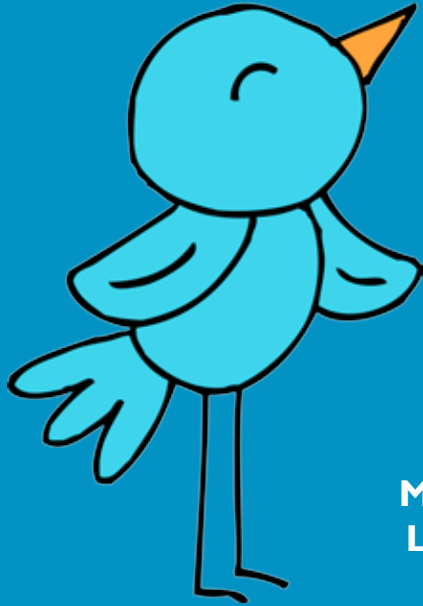
JOSH BRISKMAN (251) 433-7600

HANK CADDELL (251) 478-8880

JAY MCDONALD (251) 415-9236

MATT MCDONALD (251) 432-1414

BEN HEINZ (251) 327-5672



MAY

**MAY 3 - TUESDAY
LAW HELP LINE,
LOCAL TV 15,
6:00AM – 5:30PM**

**MAY 5 - THURSDAY
MBA GRIEVANCE COMMITTEE MEETING,
12 O'CLOCK NOON,
ATHELSTAN CLUB**

**MAY 10 - TUESDAY
WORKERS' COMP SECTION MEETING,
12 O'CLOCK NOON,
COVE ROOM OF THE ADMIRAL HOTEL**

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

**MAY 20 - FRIDAY
MBA ANNUAL LAW DAY LUNCHEON,
11:45AM,
THE ADMIRAL HOTEL**

**MAY 24 - TUESDAY
WOMEN LAWYERS 5TH ANNUAL TRAILBLAZER TEA,
11:30AM,
THE BATTLE HOUSE, CRYSTAL BALLROOM.**