



# MONTHLY NEWSLETTER

VOLUME XLIV,  
ISSUE 11 • NOVEMBER 2015



**BRIAN MCCARTHY, PRESIDENT**  
**MOBILE BAR ASSOCIATION**

## President's Comments

Several years ago, I went to **J. H. RANCH**, a parent/child camp in northern California. I went three times over the course of four years, once with each of my children. My children and I had a wonderful and meaningful experience. I know many members of our Bar have gone to **J. H. RANCH**, but I suspect that most of our members have not. There are several sayings and quotes used at **J. H. RANCH** to stimulate and inspire deep thought about life and the way we live it. Below are some of the ones that are meaningful to me:

- You only live life once, but if you live it right, once is enough.
- A life not evaluated is not worth living.
- Change is temporary; transformation is forever.
- You will never experience significance in life until what you do contributes to the welfare of another person.
- Circumstances do not make or break you, they reveal you.
- Love means you go first.
- Character is who you are when nobody is looking except God.
- "A man will become successful through adversity and then with his success, banish from the lives of his children the very thing that made him successful."  
-Unknown
- "My supreme purpose is to please God- And to share the light he has given me with others."  
-George Washington

There is a lot of wisdom in these words. And, with serious contemplation, the wisdom and importance of these words become exponentially greater. For those of you who have gone to **J. H. RANCH**, I thought you might appreciate seeing these words of wisdom again. For those of you who have not, I thought you might enjoy reading them.

Until next time,  
Brian

### *In This Issue...*



Browsing with Barbara	.....page 2
Significant Decisions	.....page 4
Volunteer Service Committee	.....page 5
Calendar of Events	.....page 10

## 2015 OFFICERS

- PRESIDENT – **BRIAN P. MCCARTHY**
- PRESIDENT ELECT – **PETER S. MACKEY**
- VICE PRESIDENT – **J. GREGORY CARWIE**
- SECRETARY – **KRISTINE K. MCCULLOCH**
- TREASURER – **BESS P. CRESWELL**
- ASSISTANT TREASURER – **ANNA L. SCULLY**
- PRESIDENT Y. L. – **JONATHAN R. MAPLES**
- EXECUTIVE DIRECTOR – **BARBARA C. RHODES**
- EDITOR – **FERRELL S. ANDERS**

## PROGRAM

THE NOVEMBER MONTHLY LUNCHEON WILL BE  
FRIDAY, NOVEMBER 13, 2015, 11:45 AM AT  
THE BATTLE HOUSE HOTEL, MOONLIGHT BALLROOM  
THE SPEAKER WILL BE:

U. S. REPRESENTATIVE **BRADLEY BYRNE**  
MEMORIAL RESOLUTION FOR  
SIDNEY HENSON "SID" SCHELL

SPONSORS:  
AIM

ATTORNEYS INSURANCE MUTUAL OF THE SOUTH, INC.



## *Browsing the Bar With Barbara*

Well, I am sure you can hear the pounding, sawing etc. resounding from this office wherever you might be in Mobile. I hear it in my sleep! However, the repairs are coming along nicely.

The repair of plaster and painting in the conference room is complete. This is the third day the flooring crew has been here tearing up the floor and making ready to replace. Once that is complete, they will sand the new floor, stain and add the sealant. During that process we will be out of the office for a couple days (we will send out an email blast to let you know when we will be closed). Once all of that is complete, ServPro will return all of the furnishings to the conference room. We will have the computer and copy machine moved back into the conference room and then we should be back up and running at full speed! Thanks for your patience – this has been going on since June 30!



*I've learned... That opportunities are never lost; someone will take the ones you miss.*



**MARRIED: MARY KATHRYN CUNNINGHAM**, the daughter of MBA member **WILLIAM "BILLY" MITCHELL CUNNINGHAM, JR.** and **KATHY**, was married on October 17, 2015 to **ROBERT EVAN LEVY** at The Episcopal Church of the Advent, Lillian, Alabama. The bride is the niece of **FRANK CUNNINGHAM**.



# ANNOUNCEMENTS

**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](mailto:crowe@evanscrowe.com)

**YOUNG ATTORNEY SEEKING POSITION IN MOBILE: VEDRAN DEDIC**, a fellow MBA member, is seeking employment with law firms in Mobile and is looking to move to the area. He is licensed in Alabama and Mississippi and has two years of experience. He currently practices in Bay St. Louis, MS in the following areas: personal injury with a heavy emphasis on medical malpractice, bankruptcy and family law, but also has some experience in contract disputes. If any law firms are interested, he can be reached at [vedran.dedic1@gmail.com](mailto:vedran.dedic1@gmail.com) or at 251.604.9040.

**LAST WILL AND TESTAMENT:** Anyone with knowledge of the Last Will and Testament of **CAROLYN ELIZABETH WILSON**, age 74, address 400 S. Dearborn Street, please contact **LISA ROBERTSON**, 770.788.8847.

**LAST WILL AND TESTAMENT: PAMELA MILLSAPS**, Attorney at Law, is seeking information regarding the last will and testament of **FRANK WEST DuBRUYNE** who died on or about October 11, 2015. He is and was for many years (maybe his whole life) a resident of Mobile. He was not married and his brother is looking for any information. Contact Pamela Millsaps, 251.476.4917

**LAST WILL AND TESTAMENT:** Anyone with information regarding a last will and testament for **ANN RENEE DOUGLAS** (she went by **RENEE DOUGLAS**), who passed away on August 1, 2015. Please contact either **BRANDY GARTMAN** at 251.459.9358 or **APRIL CAYTON** at 251.401.5091

**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 area attached to corner office, conference room, waiting area, kitchen and file storage area. Contact **JIM JEFFRIES** at 251-445-5522 or [jim@jeffriesfamilylw.com](mailto:jim@jeffriesfamilylw.com).





# SIGNIFICANT DECISIONS

BY DUANE GRAHAM

Continuing the trend of recent decisions, the Supreme Court in *J. Don Gordon Construction Co. v. Brown*, No. 1131129 (Ala., June 5, 2015), continued the general jurisprudence that virtually no relief will be granted on an appeal from an arbitration decision, notwithstanding the fact that the arbitrator submitted affidavit testimony in the case to negate a claim of bias.

In a case of apparent first impression, the Supreme Court in *Courtyard Citiflats, LLC v. Courtyard Citiflats, LLC*, No. 1140264 (Ala., June 12, 2015), held that an action filed without payment of the requisite filing fee and prior to approval by the trial court of the hardship filing under Ala. Code § 12-19-70, was due to be dismissed on petition for mandamus filed after the requisite statute of limitations had expired.

Holding that a trial court was required to conduct a hearing on a motion to seal the filing of a motion to stay, the Supreme Court in *Ex parte Barze*, No. 1131394 (Ala., June 26, 2015), held that it was error for a trial court to order a motion to stay sealed without conducting a hearing on the question.



## YOUNG LAWYERS JONATHAN MAPLES, PRESIDENT

The **YOUNG LAWYERS** would like to thank **THE CITRIN LAW FIRM** for hosting our October meeting. We had a tremendous turnout.

The November meeting is TBA. Be on the lookout for an e-mail announcement with date, time and location.

We are pleased to announce that the Young Lawyers donated \$10,000.00 to **RONALD McDONALD HOUSE CHARITIES OF MOBILE**. We would once again like to thank all of you for your generosity and participation in this year's golf tournament, which along with the hard work of those involved in putting the tournament together, made this donation possible.

If you are not on the Young Lawyers e-mail list and would like to be, or if you have any suggestions, questions, concerns, or comments, please e-mail me ([jmaples@carrallison.com](mailto:jmaples@carrallison.com)), Vice-President Russ Johnson ([RJohnson@asilpc.com](mailto:RJohnson@asilpc.com)), or Treasurer Tim Heisterhagen ([tah@ajlaw.com](mailto:tah@ajlaw.com)). Also, if you have any events to share with your fellow YOUNG LAWYERS, let us know and we will be sure to include it on our YL Facebook Page.



# MOBILE BAR ASSOCIATION PUBLIC SERVICE COMMITTEE'S NOVEMBER VOLUNTEER OPPORTUNITY SPOTLIGHT:

## FEED THE POOR AT RANSOM CAFÉ

By: Banks C. Ladd



**Ransom Café** offers one of the easiest ways for you and your firm to volunteer and give back to the community. **Ransom Café** serves lunch to the poor and homeless every day of the week at various pre-scheduled locations around town. Here are the locations and corresponding days of the week for volunteer opportunities:

**Mondays, 11 am to 2 pm:**

First Christian Church, 1419 Government St., Mobile, AL 36607.

**Tuesdays, 11 am to 2 pm:**

Trinity Family Church, 2467 Victory Ave., Mobile, AL 36617.

**Wednesdays, 11 am to 2 pm:**

West Mobile Baptist Church "The Hanger", 7485 Airport Blvd., Mobile, AL 36608.

**Thursdays, 11 am to 2 pm (Two Locations):**

Christ United Methodist Church, 6101 Grelot Rd., Mobile, AL 36609; and  
First Baptist Church of Theodore, 7126 Bellingrath Rd., Theodore, AL 36582.

**Fridays, 11 am to 2 pm:** Fairhope United Methodist Church, 155 S. Section St.,  
Fairhope, AL.

Call 251-751-0044 or email [info@ransomcafe.com](mailto:info@ransomcafe.com) to schedule your firm's opportunity to serve.

I recently served for the first time. I showed up unannounced. There were lots of others serving including many of the patrons. It was so easy. I wasn't intimidated at all. Many of the volunteers serve every week, and will show you what to do and how to do it. You will also meet the homeless who might teach you a lot about life, love, and Jesus Christ.





# SAVLP

## SOUTH ALABAMA VOLUNTEER LAWYERS

ARIANA H. MOORE, EXECUTIVE DIRECTOR

Many thanks to everyone who helped SAVLP celebrate Pro Bono month in October. With your help, we opened over 100 cases and provided a wide range of services to the community! Thanks to the following people who volunteered at SAVLP's October events:

**SENIORS WILLS CLINIC:** CARVINE ADAMS, KEVIN BOUCHER, PETE BURNS, BILLY CUNNINGHAM, SCOTT HETRICK, PETE MACKEY, CAROLINE PRYOR, TROY SCHWANT, AND VANESSA SHOOTS

**LEGAL ISSUES FOR NONPROFITS SEMINAR:** MEEGAN COLCLOUGH, SCOTT HETRICK, MATT McDONALD, ALEXA STABLER, GREG VAUGHAN, AND MICAH WHEELER (CPA)

**WILLS FOR HEROES:** WILL ANDERSON, MEEGAN COLCLOUGH, RUDENE CROWE, ERIN FLEMING, LAURA LIVAUDAIS, SUMPTER MCGOWIN, JESSICA MILLING, AND MARGIE WILLIAMS

**MOBILE COUNTY COURTHOUSE ADVICE CLINIC:** JEFF GLIDEWELL, JIM ROBERTSON, AND HENDRIK SNOW

**SAVLP CLE SPEAKERS:** JUDGE DON DAVIS, CRAIG BAAB AND KEN RIEMER

**AUGUSTA EVANS PARENTS DAY SPEAKER:** PROBATE COURT DEPUTY CHIEF OF STAFF MARK ERWIN

**AUGUSTA EVANS GUARDIANSHIP CLINIC:** HANK CADDELL, ANNETTE CARWIE, BARNEY MARCH, PAMELA MILLSAPS, BRENDA PIERCE, JEAN POWERS, AND PENNY SLAWKOWSKI

**BALDWIN COUNTY TENANTS' RIGHTS AND RESPONSIBILITIES CLINIC:** JOSH GRANTHAM AND ROSE METZGER

And special thanks to the following attorneys who accepted or closed cases in September: FERRELL S ANDERS, GORDON G ARMSTRONG, III, MICHAEL E BALLARD, JOHN G BAYLOR, JR., MARY ALLIE E BOLLER, KNOX BOTELER, MICHAEL E BOX, DANIEL L BURKARD, ELLA L BYRD, C. S. CHIEPALICH, JAMES PAUL CLINTON, HARWELL E COALE, JR., F. LUKE COLEY, JR., CHRISTOPHER T CONTE, ROBERT J CRANE, JUDSON E CRUMP, GILLIAN G EGAN, CHARLES J FLEMING, TIMOTHY W FLEMING, THOMAS F GARTH, JOSHUA M GRANTHAM, CHRISTINE HARDING HART, R. SCOTT HETRICK, JENNIFER HOLIFIELD, SCOTT W HUNTER, R. EDWIN LAMBERTH, FARAH MAJID, JAMES H McDONALD, JR., MATTHEW C McDONALD, AUGUSTINE MEAHER, III, KENNETH A METZGER, S. C. MIDDLEBROOKS, MOSHAE E MOORE, PAUL BRADLEY MURRAY, NARISSA NELSON, KIRKLAND E REID, ROBERT RICCIO, MATHEW B RICHARDSON, BRADLEY R SANDERS, CLIFFORD C SHARPE, D. TRICE STABLER, KENNETH S STEELY, LEWIS J STEIN, III, T. JEFF STEIN, RENEE E THIRY, RICHARD R WILLIAMS, MARION E WYNNE, JR., AND MELODY M ZEIDAN.



# **"BENCH & BAR 2015"**

December 4-6, 2015

Marriott's Grand Hotel, Prichard, AL, Conference Center Grand Ballroom

Seminar – 5 hours MCLB Credits, including 1 hour Ethics Credit - Young Lawyers/ Judges Mixer - LD br. MCLB Credit  
Conference General Registration Fee \$200 - Golf \$25 extra

Young Lawyers Registration Fee \$100 (Young Lawyers are those under 36 years of age OR practicing five years or less)

Room reservations must be made with the Grand Hotel, 1.800.544.9933 before November 6, 2015. Room rates for two-night stay are \$128 Resort View Room, and \$468 Bayview, plus tax and gratuity. Make your reservations now, rooms are limited.

Friday, December 4, 2015

9:30am – 2:30 pm

## **REGISTRATION**

10:00am – 11:00am

## **WOMEN LAWYERS- HAVE A SEAT AT THE WOMEN'S BAR- MORNING MINDSAS**

Conference Center, Beach Side Room

11:00am – 12:30pm

## **YOUNG LAWYERS - FEDERAL & STATE TRIAL JUDGES LUNCHEON MIXER**

Conference Center, Grand Ball Room

1:00 – 6:00

## **BENCH & BAR CONFERENCE**

**WELCOME and INTRODUCTION** – Alex W. Zoghby, Esquire

1:00 – 2:00

**ETHICS UPDATE: "Ethical Dilemmas Are Like Peanut Butter – They Both Start With Nuts"**  
I. Anthony "Tony" McLain, General Counsel, Alabama State Bar

2:00 – 3:00

## **EVIDENTIARY ISSUES**

Honorable Scott Donaldson, Judge, Alabama Circuit Court of Appeals, former Circuit Judge Tenth Judicial Circuit, adjunct professor at the University of Alabama School of Law

"Quick Six" – an overview of current issues in Alabama on Relevance, 403, Character, Hearsay, Business Records, and Experts.

3:00 – 3:10

## **WHAT THE BAR CAN DO FOR YOU**

Robert Thornhill, Program Director, Alabama State Bar Lawyer Assistance Program

3:10 – 3:25

## **HOWELL T. HEPLIN HONOR & INTEGRITY AWARD**

Presented By: Brian P. McCarthy, President Mobile Bar Association

John W. Beck, President Baldwin County Bar Association

3:25 – 3:50

## **CRIMINAL LAW PRISON REFORM OVERVIEW**

Timothy J. Douthett, Assistant District Attorney of Mobile County.

"An Overview of Prison Reform Law to take effect in February 2016"

3:50 – 5:15

## **TOPICS OF INTEREST FROM THE BENCH**

*Summary Judgment Practice; Jury Selection; Pre-Trial Orders & Motion Practice; Docketing System for Municipal, State, & Federal Court; Time Management for Lawyers; Appeals from Municipal to Circuit Court; Expert Reports*

Judges: Honorable J. Langford Floyd, Honorable Benjamin H. Brooks, III, Honorable

Kristi DuBoise, Honorable Guines C. McCasquodale, Honorable Shellmarie Hall

5:15 – 5:30

**SOUTH ALABAMA VOLUNTEER LAWYER PROGRAM PRO BONO AWARD  
SPONSOR DOOR PRIZE DRAWINGS**

5:30 – 6:00

**KEYNOTE ADDRESS: U.S. Senator Jeff R. Sessions (R-AL)**

## **COCKTAIL PARTY**

Grand Hotel Conference Center Ballroom, Friday, December 4, 2015

6:00 – 7:30 p.m.

Spouses and Guests Invited

Saturday, December 5, 2015

## **2015 GOLF TOURNAMENT**

Lakeswood Golf Club, Shotgun Start at 9:00 am

You must be registered for the Seminar in order to play golf and be eligible for prizes.

Participation is limited so begin making plans now.



  
**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: \_\_\_\_\_

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

## MEMORIAL GIFT

*in Memory of*

**IN MEMORY OF**

**DORIS ANDERS HERRING,**

**MOTHER OF FERRELL ANDERS**

**BY**

**ROBERT J. AND MALIA M. MULLICAN**





# NOVEMBER 2015



## **NOVEMBER 6 - FRIDAY**

SEMINAR: CLE BY-THE-HOUR,  
THE BATTLE HOUSE HOTEL,  
MOONLIGHT BALLROOM

## **NOVEMBER 12 - THURSDAY**

MBA EXECUTIVE COMMITTEE MEETING,  
12 O'CLOCK NOON,  
ATHELSTAN CLUB

## **NOVEMBER 13 - FRIDAY**

MBA MONTHLY LUNCHEON,  
1:45 AM,  
THE BATTLE HOUSE HOTEL,  
MOONLIGHT BALLROOM

## **NOVEMBER 13 - FRIDAY**

SEMINAR: HOW TO AVOID PUTTING  
YOUR CARRIER ON NOTICE,  
1:30 – 4:45 PM,  
THE BATTLE HOUSE HOTEL,  
MOONLIGHT BALLROOM

## **NOVEMBER 19 - THURSDAY**

MBA GRIEVANCE COMMITTEE MEETING,  
12 O'CLOCK NOON,  
ATHELSTAN CLUB

## **NOVEMBER 20 - FRIDAY**

NATURALIZATION CEREMONY,  
11:00 AM,  
FEDERAL COURTHOUSE,  
COURTROOM 2A

## **NOVEMBER 26-27**

THURSDAY & FRIDAY  
THANKSGIVING HOLIDAYS

## CONTINUING EDUCATION

### **NOVEMBER 6**

**CLE BY-THE-HOUR,**  
8.0 HRS. MCLE CREDITS  
INCLUDING 1.0 HR. ETHICS

### **NOVEMBER 13**

**HOW TO AVOID PUTTING  
OUR CARRIER ON NOTICE,**  
3.0 HRS. MCLE CREDITS

### **DECEMBER 4**

**BENCH & BAR  
YOUNG LAWYERS/JUDGE MIXER,**  
1.0 HR. MCLE CREDITS

### **DECEMBER 4-6**

**ANNUAL BENCH & BAR CONFERENCE,**  
MARRIOTT'S GRAND HOTEL,  
POINT CLEAR, AL  
5.0 HRS. MCLE CREDITS  
INCLUDING 1.0 HR. ETHICS

### **DECEMBER 11**

**ALTERNATIVE DISPUTE RESOLUTION,**  
1.5 HRS MCLE CREDITS

### **DECEMBER 18**

**ALABAMA CIVIL LAW UPDATE,**  
3.0 HRS. MCLE CREDITS INCLUDING 1.0 HR. ETHICS

### **2016**

### **JANUARY 15**

**OPINIONS FROM THE BENCH,**  
3.0 HRS. MCLE CREDITS INCLUDING 1.0 HR. ETHICS

### **MARCH 18**

**CRIMINAL LAW UPDATE,**  
3.0 HRS. MCLE CREDITS.