

# 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](http://www.MobileBarNews.com)

We do not have a monthly meeting in July, but there is plenty going on. We have traditionally skipped July in an effort to avoid a conflict with the **ALABAMA STATE BAR** meeting. That meeting is **JULY 18-21 AT BAYTOWNE WHARF, SANDESTIN, FLORIDA** and I encourage each of you to attend.

There are plenty of opportunities to become involved in Bar activities. **HENRY CALLAWAY** appointed an ad hoc **PUBLIC SERVICE COMMITTEE** that sponsored a partnership with the **YMCA'S BIG BROTHERS AND BIG SISTERS** program at local schools. **ALEC MOSELEY** is the current chairman of that committee and has recently reported to the membership at one of our meetings about the work being done by the volunteers who are in that program. They are rendering a valuable service and have every reason to find that experience personally gratifying. It certainly reflects very favorably on lawyers and the **MOBILE BAR ASSOCIATION**. The **PUBLIC SERVICE COMMITTEE** is currently evaluating some additional projects that will provide opportunities for lawyers to become directly involved in rendering similar types of public service. Please look for the announcements of these projects and consider volunteering.

Civility extends beyond the expectation that lawyers can be adversaries tenaciously representing their clients and still have a civil relationship with their legal adversaries when away from court hearings, depositions and negotiations. We need to remember that we have an obligation to be civil to the people we encounter who are not lawyers. Having the power to subpoena a person to come to court or a deposition without attempting to coordinate that with them does not mean that we should behave in that fashion. We all would do well to reflect on the impact exercising some of the powers given to lawyers has on the people we interact with and think about whether our actions reflect well or poorly on our profession. **SANDY ROBINSON** chairs a committee that is tasked with trying to resolve conflicts between lawyers which I am certain is a far better way to react to confrontational behavior between lawyers than repeated escalations.

### PROGRAM

THERE WILL NOT BE A

JULY MONTHLY LUNCHEON DUE TO  
ALABAMA STATE BAR ANNUAL MEETING

JULY 19-22, 2012

SAN DESTIN BAYTOWN WHARF, FLORIDA

THE NEXT MBA MONTHLY LUNCHEON  
WILL BE

FRIDAY, AUGUST 17, 2012,

THE GUEST SPEAKER WILL BE  
DANNY SHERIDAN

NOTED AUTHOR AND SPORTS PROGNOSTICATOR  
(THIS IS HIS 26TH YEAR!)



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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*

Summer is here and hopefully July will be a slow month at the MBA Headquarters so we can get caught up! Seems like 2012 is moving mighty fast! Maybe the second half will slow down a bit so we can catch our breath.

Dues collection is a little slower coming in this year than last. Please double check to make sure you have not overlooked your 2012 payment. We desperately need new computers here at the Headquarters - Tammy's freezes up a couple times a day and the Lawyer Referral computer is older than dirt. Please don't hesitate to call us if you have a question – we look forward to hearing from you.



Please check the CLE lineup for the 2012/2013 season. There are some old favorites and some new ones on the list. Mark your calendar now to make sure you do not come up short at the end of the year and have to attend a seminar that you care nothing about!

**Do you know what the Top 10 Most Common Phobias are? Well, guess no longer –**

1. Spiders
2. People and social situations
3. Flying
4. Open spaces
5. Confined spaces
6. Heights
7. Vomiting
8. Cancer
9. Thunderstorms
10. Death

**AND, did you know -**

- Some species of bamboo can grow 3 feet in 24 hours?
- The original value of the Greek drachma was equal to a handful of arrows?
- More than a million tons of honey are produced annually throughout the world?



### **REMINDER**

The Mobile Bar Association has established a **PROFESSIONALISM SUPPORT COMMITTEE** that is designed to foster civility and professionalism among members of the Bar, and to provide a means for early intervention and counseling in connection with matters that do not appear to rise to the level of a breach of the **ALABAMA RULES OF PROFESSIONAL CONDUCT**. All referrals to the committee are **CONFIDENTIAL** and are not reported to the Alabama Bar Association. If you know of a matter that might be appropriate for action by this committee, contact Sandy Robinson at 415-7308 or [sgr@cabaniss.com](mailto:sgr@cabaniss.com).



# Significant Legal Decisions

In *Jackson v. Wells Fargo Bank, N.A., No. 1100594* (Ala., February 17, 2012), the Supreme Court that when the mortgage required the bank to give notice of an “intent to accelerate” the debt but the bank sent notice declaring that the debt had in fact been accelerated, the terms of the mortgage had been breached by the bank, there was no acceleration, and the subsequent foreclosure was in doubt. The Court discussed the fact that there are two types of acceleration clauses - one requiring notice of intent followed by a second notice within a stated time period actually accomplishing the acceleration, and the other merely requiring the second notice.

In a case of first impression, the Supreme Court in *Ex parte Water Works and Sanitary Sewer Board, No. 1101133*, (Ala., February 10, 2002), held that a statutory claim by the Alabama Insurance Guaranty Association for reimbursement of worker’s compensation benefits paid to an employee from the employer, where the employer’s insurance carrier had become insolvent and the employer satisfied the requirements of a high net worth insured, was subject to the six-year statute of limitations under Ala. Code § 6-2-34 as a recovery on a liquidated debt rather than the two-year statute under Ala. Code § 6-2-38.

In a case that must be carefully studied to be understood, the Supreme Court in *Ex parte T.J., No. 1101170* (Ala., February 10, 2012), held that, under the literal language of the presumption of paternity statute, Ala. Code § 26-17-204(a) (5), a man who was not biologically a child’s father could nevertheless still claim the presumption of paternity in a custody battle if the other evidence met those requirements.



## NEW MEMBERS

**RICHARD M. HINDS,**

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

**TANDICE LEIGH HOGAN,**

Gonzaga Law School 2011; Alabama State Bar 2011; District Attorney’s Office

**LAKELIA POWELL,**

The University of Alabama School of Law 2009; Alabama State Bar 2009; sole practitioner.



# ANNOUNCEMENTS

**ZIEMAN SPEEGLE JACKSON & HOFFMAN, LLC** takes pleasure in announcing that **JENNIFER S. HOLIFIELD** has become a member of the firm, and **LESTER M. BRIDGEMAN, W. BENJAMIN BROADWATER** and **BRIAN F. TRAMMELL** have become of counsel.

**ASHLEY R. WILKINSON** has joined the law firm of **SHANE A. TAYLOR, P.C.** as an associate.

**CHRIS N. GALANOS** is now a member of **THE ATCHISON FIRM, P.C.**, 3030 Knollwood Drive , Mobile , 36693; Phone 251.665.7200; fax 251.665.7250; email [chris.galanos@atchisonlaw.com](mailto:chris.galanos@atchisonlaw.com)

**OFFICE SPACE:** 3 attorneys, share expenses, furnished, conference room, kitchen, parking, Midtown – 1659 Government Street. Call 251.478.6031

**FANTASTIC OFFICE SPACE** at great location. 208 Dauphin Street, 2nd floor. Electro-magnetic secured, WiFi and parking included. \$650/mo. Phone 251.219.3847. One of the most beautiful spaces in Mobile.

**OFFICE SPACE FOR LEASE:** 209 N. Joachim Street in historic DeTonti 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

**OFFICE SPACE FOR LEASE:** Midtown Mobile, 3 miles from downtown. Private Parking, lobby/reception area, work room, conference room, kitchen. Available for use and in the office: Hi-speed internet (DSL), extra phone line, large copy, printer, scanner, fax machine. Contact **DEBBIE MURPHY** 251.510.4797

## LAST WILL AND TESTAMENTS

Anyone knowing the whereabouts of the Last Will and Testament of **PATRICIA ANN McKEE**, 915 Memory Lane, Mobile, AL 36608, please contact Jeff Stein at 251.433.72725.

Anyone with information regarding the Last Will and Testament of the late **RODNEY DEFFENBAUGH**, a Mobile Resident who died April 20, 2012, please contact Michael Holberg at 251.432.8863.



# LAWYERS IN THE NEWS

By SANDY G. ROBINSON

**MARRIED: ELIZABETH RAYE “BETSY” DAVIS**, daughter of MBA member **JUDGE DON DAVIS**, was married to **LEBERT WOODARD “TREY” HILL, III** on June 2, 2012 at Ashland Place Methodist Church followed by a reception at Five Rivers Delta Center. After a honeymoon in the Dominican Republic, the couple is residing in Birmingham where Betsy will attend the UAB School of Dentistry and Trey will be the contemporary worship leader at Trinity United Methodist Church in Homewood.

**DIED:** MBA member **JOE MATRANGA** died on June 3, 2012. Joe was a Mobile native, a graduate of McGill Institute where he was captain of the football team, and a graduate of the University of Alabama and the U of A law school. He served his country in the Marine Corps. He was an avid golfer and practiced law in Mobile for 54 years. He is survived by his wife, Vickie, five children, 11 grandchildren, brother MBA member **JUDGE DOMINICK MATRANGA**, and many other relatives and friends.

**DIED:** Mobile lawyer **JENNIFER CLARK** died on May 26, 2012 at her home in Mobile. She attended Auburn University and Jones School of Law in Montgomery. She is survived by her parents, **LARRY** and **HILDA CLARK** of Flowery Branch, Georgia, a sister and other relatives and friends.

**DIED: JOHN CHARLES SCRIBNER PIERCE, JR., “CHAS”**, son of MBA member **JOHN PIERCE** and grandson of MBA member **DON PIERCE**, died June 4, 2012 at the age of 14. In addition to his parents and grandparents, he is survived by his twin sister **ELLIE** and many aunts, uncles, cousins and beloved friends.

**BIRTHS: ATTORNEY SHANE TAYLOR** and wife **JACQUE** are proud to announce the birth of their first child, **ARYA ABNEY TAYLOR**, born May 25, 2012

**BIRTHS: THOMAS B. WALSH** became a daddy again on May 10, 2012. Tom and wife **CAROLINE** welcomed a son, **THOMAS BRIAN WALSH, JR.** who weighed 7 lbs. 9 ozs and was 21 inches long. Tom Jr. has two sisters, **CATHERINE** 12 and **LEE** 2. With two sisters, I wonder if Mom and Dad will get a chance to hold young Tom!

**BIRTHS: MARGIE Y. WILLIAMS** (Cunningham Bounds) and husband **MATT** are proud to announce the birth of a son, **JAXON DALLAS WILLIAMS**, born May 2, 2012. He has an older sister, **MARLEY**, who is four.

**CONGRATULATIONS!:** It’s graduation time, and many children of MBA members have been recognized for outstanding achievement, including:

- KATHLEEN POWERS**, daughter of MBA member **SUSAN POWERS**, was named the “Ideal Graduate” at McGill-Toolen High School;
- MICHAEL PATRICK STEADMAN**, son of MBA member **JOE STEADMAN**, was Valedictorian at St. Paul’s Episcopal School;
- MARY HARTWELL KITTRELL**, daughter of MBA member **JUDGE BRAXTON KITTRELL**, was named Salutatorian at The Arnold School.

If we have overlooked your special graduate, email [sgr@cabaniss.com](mailto:sgr@cabaniss.com) so we can recognize others in a later publication.



# YOUNG LAWYERS

**E. GLENN SMITH, JR., PRESIDENT**

I want to thank **ARMBRECHT JACKSON** for sponsoring another great meeting last month at **THE BULL** and **TOBIAS COMER** for sponsoring our “Tee-Off” party before the Golf Tournament. I really cannot thank everyone enough for their support of this year’s Golf Tournament. We certainly could not have done it without our generous sponsors, and I would like to thank them once again. First, I want to thank **PRO-LEGAL COPIES** for sponsoring lunch, **TAYLOR MARTINO** for sponsoring the dinner, and **CUNNINGHAM BOUNDS, LLC** for sponsoring another successful cocktail party after the tournament. Right now, we do not have a sponsor for the July meeting, so if you are interested in sponsoring the July meeting, please let me know.

I also want to thank **DONNA HENDERSON** and everyone at **HENDERSON & ASSOCIATES** for not only contributing so much in the way of sponsorships, but also for contributing their hard work from registration through the cocktail party in physically making the tournament run as smoothly as it did. Thank you also to **TAMI GUTHANS** and **GUTHANS & HOWARD COURT REPORTING** for their generous donations which made our winners’ prizes and door prizes possible and to **DANNY SHERIDAN** for providing entertainment during the cocktail party.

Finally, I want to say a special word of thanks to the **YOUNG LAWYERS’ GOLF TOURNAMENT COMMITTEE** who worked so hard to help make the tournament happen. Tournament Co-Chairs **STEVEN SAVARESE, JORDAN GERHEIM, LACEY SMITH,** and **ERICK BUSSEY,** and committee members **JONATHAN MAPLES, TRIP SMALLEY, JASON STEELE, MEGAN BROOKS, ANNIE DIKE, TAE PHILLIPS, JOSEPH DENNIS, JOSH BOONE, RUSS JOHNSON,** and **ALEX TERRY** worked tirelessly in helping to secure sponsors and participants. Last but not least, I want to thank **JOSH FRIEDMAN** our Vice President and **KASEE HEISTERHAGEN** our Treasurer for all of their selfless work as well. Thank you again to everyone who participated, and we hope to present a donation to **CAMP RAP-A-HOPE** at an upcoming monthly bar meeting.



## PROBATE COURT

### ATTENTION ATTORNEYS

The Probate Court has revised its practice/procedure relating to restrictions on Letters of Administration and the distribution of litigation settlement proceeds.

Please visit the Court's web site at  
[www.probate.mobilecountyal.gov](http://www.probate.mobilecountyal.gov)

on the Attorneys page for more information concerning these matters.

Thanks. Don Davis, Judge

## PROBATE COURT

### NOTICE TO THE BAR

Please visit the Court's web site at  
[www.probate.mobilecountyal.gov](http://www.probate.mobilecountyal.gov)

A Notice Memo has been issued regarding certain matters and changes in Court operations. The Memo outlining this information is accessible on the web in the the "Scrolling News Section" and on the "Bulletins" page.

Thanks. Don Davis, Judge

## ATTENTION

### NEW BIG BROTHERS AND BIG SISTERS VOLUNTEERS

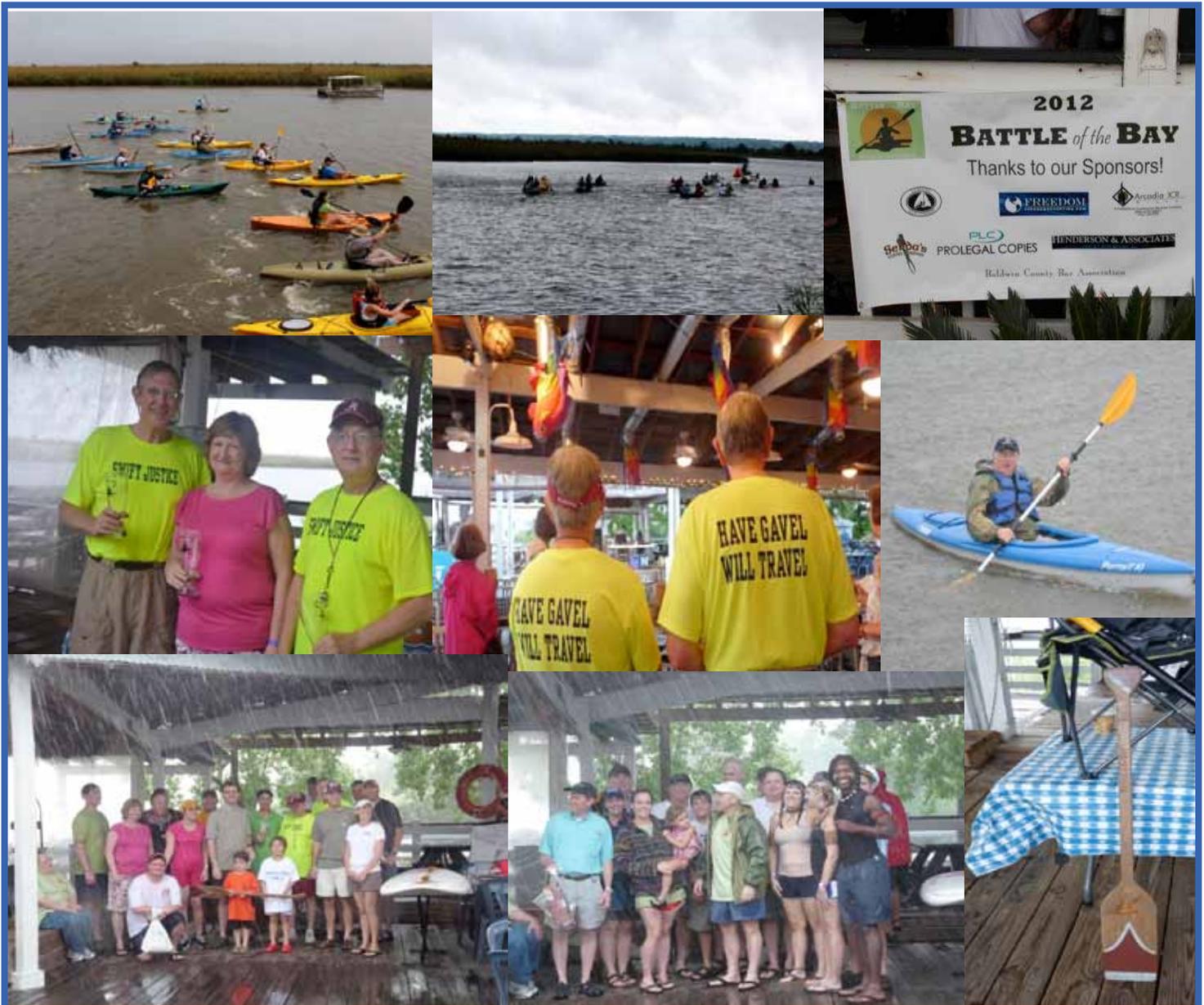
The Littles are excitedly awaiting assignment of their new mentors, and the BBBS staff is ready to make it happen. **Training sessions (short – about an hour) are scheduled for July 10 at noon, July 12 at 5:00 p.m., and July 25 at noon, all at the Hand Arendall offices in the RSA Tower .** Please make a commitment to participate in this important, and rewarding, effort. It's important to let **KATRINA EVANS** know of your interest, so she can send the enrollment package to you in advance of training, and it would help if you'd let her know which session you want to attend. Katrina's email address is [kevans@ysal.org](mailto:kevans@ysal.org). BBBS mentors enjoy the program, and do a lot of good for young students. If you haven't made your mind up about volunteering, the BBBS staff will be happy to come to your office and discuss the program. Call Aimee Risser at 251 344 0536.



# VLP

## VOLUNTEER LAWYER PROGRAM

Thanks to everyone who braved the rain and made the inaugural **BATTLE OF THE BAY** a huge success! Congratulations to the Baldwin County Bar for winning the legal community division. Battle of the Bay committee members will present the paddle at the June Baldwin County bar meeting. Clarke, Mobile and Washington county attorneys should start training now to win the paddle next year! Many thanks to **JUSTICE LYN STUART, JUDGE REID** and **JUDGE PARTIN** for their participation. Thanks, too, to our planning committee and volunteers: **GREG VAUGHAN, STEELE HOLMAN, JESSICA MCDILL, JEREMY TAYLOR, MEG DEMERANVILLE, BARNEY MARCH, SHELLIE BROOKS, MARCI JONES, LARKIN PETERS, HENRY CALLAWAY, and LISA COOPER.** Top finishers in the kayak division were **WILSON MCDUFF (1ST), WADE PERRY (2ND), and MIKELLE WILLIAMSON (3RD).** Canoe division top finishers were **HENRY AND MILLER CALLAWAY (1ST), RUSS COPELAND AND FRANK HOLLON (2ND), AND JODY AND MIKE CAMPBELL (3RD).** Top finishers in the "other" divisions were **SHAWN AND CAROLINE WILBUR (1ST), STEVEN SAVARESE AND KEN HITSON (2ND)** and **MICHAEL AND WILDER WING (3RD).** See SAVLP's Facebook page for more pictures.





  
**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

**MOBILE BAR FOUNDATION**

**MEMORIAL**

**ELIZABETH COOK BRUTKIEWICZ**

**By**

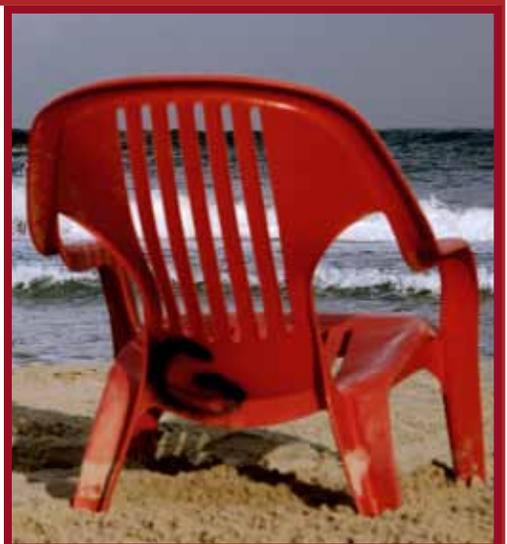
**Mary Margaret Bailey**

**Michael Murphy**

**DONATION**

**by**

**Ben H. Harris, Jr.**



# JULY 2012

**JULY 4 - WEDNESDAY**  
INDEPENDENCE DAY HOLIDAY

**JULY 12 - THURSDAY**  
EXECUTIVE COMMITTEE LUNCHEON,  
12 O'CLOCK NOON, BIENVILLE CLUB

**JULY 19 - THURSDAY**  
WORKERS COMP LUNCHEON,  
12 O'CLOCK NOON,  
ADMIRAL SEMMES HOTEL

**JULY 19-22 THURSDAY - SUNDAY**  
ASB ANNUAL MEETING,  
SAN DESTIN  
BAYTOWN WHARF, FLORIDA

**JULY 26 - THURSDAY**  
GRIEVANCE COMMITTEE MEETING,  
12 O'CLOCK NOON, MBA HEADQUARTERS



(Press-Register/Mike Kittrell)

## CONTINUING LEGAL EDUCATION

**AUGUST 17 - FRIDAY**  
CRIMINAL LAW UPDATE,  
3.0 HRS

**AUGUST 24 - FRIDAY**  
FAMILY LAW SEMINAR "STARS ACROSS THE BAY",  
8.0 HRS. INCLUDING 1.0 ETHICS

**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 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.