

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

Thanks to **WENDY BITZER** and **MICHAEL UPCHURCH** for organizing **LAW DAY** and the May meeting of the Mobile Bar Association. Wendy was Chairman of Law Day events this year and along with her committee did everything that could have been done. **OFFICER STEVE GREEN** was posthumously awarded the **LIBERTY BELL AWARD** and **MICHAEL UPCHURCH** followed through with a moving presentation honoring Officer Green and his widow.

The recent news concerning an increase in court costs to assist in funding the court system is good news because it does not appear there will be any further layoffs. That certainly helps the employees who might have been laid off and will allow the remaining employees to have some support as they continue to try to serve the lawyers and the general public but we all need to remember that the judicial system is going to be short-staffed. **JOJO SCHWARZAUER** is confident that she and her staff are not receiving unnecessary calls from lawyers and asked that we publish the names of the people who are available to be called in the clerk's office.

- | | |
|---|--------------------------------|
| JoJo Schwarzauer (574-8786) | jo.schwarzauer@alacourt.gov |
| Tachonda Smith-Domestic (574-5934) | tachonda.smith@alacourt.gov |
| Chuck Lewis-Circuit Civil (574-8425) | charles.lewis@alacourt.gov |
| Terrie Geter-Circuit Criminal (574-8434) | terrie.geter@alacourt.gov |
| Kim Earl-District Criminal (574-5450) | kim.earl@alacourt.gov |
| Shirley Mitchell-District Civil/Small Claims (574-8517) | shirley.mitchell@alacourt.gov |
| Michelle Patronas-Youth Center (574-5257) | michelle.patronas@alacourt.gov |

You should also know that the Circuit Judges welcome calls from lawyers whenever a lawyer thinks a call is needed. Their numbers have already been published.

PROGRAM

MBA JUNE 2012 MONTHLY LUNCHEON
FRIDAY, JUNE 15, 2012, 11:45 AM,
ADMIRAL SEMMES HOTEL

SPEAKER
CONNIE HUDSON, MOBILE COUNTY
COMMISSION PRESIDENT

MEMORIAL RESOLUTIONS
FREDERICK G. HELMSING, SR.
JUDGE LIONEL NOONAN

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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*



The **LAW DAY** Activities were outstanding this year – kudos to **WINDY BITZER** and the Committee for an outstanding job. June is going to be a very active month also what with the **YOUNG LAWYER’S ANNUAL GOLF TOURNAMENT** and the **VOLUNTEER LAWYERS BATTLE OF THE BAY**. All of it sounds like fun, be sure to mark your calendars.

Summertime is upon us and, hopefully, things will slow down a bit so we can get “caught up”. Please let us know of any happenings that need to be published in the Monthly Bulletin. Remember, the deadline is the 15th of each month.

A very “special” person emailed the following quotes to me the other day and I cannot resist (even though you have probably already seen them) sharing them with you. Hopefully I will not get in trouble for plagiarism! These are from a book called *Disorder in the American Courts*, and are things people actually said in court published by court reporters that had the torment of staying calm while these exchanges were actually taking place.

ATTORNEY: What was the first thing your husband said to you this morning?

WITNESS: He said, “Where am I, Cathy?”

ATTORNEY: And why did that upset you?

WITNESS: My name is Susan!

ATTORNEY: What gear were you in at the moment of the impact?

WITNESS: Gucci sweats and Reeboks

ATTORNEY: She had three children, right?

WITNESS: Yes

ATTORNEY: How many were boys?

WITNESS: None

ATTORNEY: Were there any girls?

WITNESS: Your Honor, I think I need a different attorney. Can I get a new attorney?

ATTORNEY: The youngest son, the 20-year-old, how old is he?

WITNESS: He’s 20, much like your IQ.

ATTORNEY: How was your first marriage terminated?

WITNESS: By death

ATTORNEY: And by whose death was it terminated?

WITNESS: Take a guess!



Significant Legal Decisions

In a case of first impression, the Supreme Court in *Ex parte Casey, No. 1100444* (Ala., January 20, 2012), held that the same principles applicable to determining when an estate administration proceeding could be removed from probate to circuit court under Ala. Code § 12-11-41 applied to the removal of guardianship and conservatorship proceedings under Ala. Code § 26-2-2. Accordingly, because the probate court had not issued an order on the petition for guardianship, even though the petition had been filed and several orders requiring examination of the alleged ward had been entered, the appellate court determined that the administration proceedings had not begun and, thus, there was no jurisdiction to remove the case.

In *600, L.L.C. v. Virani, No. 1100447* (Ala., January 20, 2012), the Court clarified that upon redemption from a mortgage foreclosure, the redemption price was the amount paid at the foreclosure sale – not the amount for which that the purchaser thereafter sold the property – plus interest.

In an apparent case of first impression, the Supreme Court in *Ex parte Jim Walter Resources, Inc., No. 1110067*, (Ala., January 6, 2002), held that no mortgage recording tax was due under Ala. Code § 40-22-2 for the recordation of a mortgage that was executed to secure a contingent guaranty agreement.

Overruling *Zielke v. AmSouth Bank, N.A., 703 So. 2d 354* (Ala. Civ. App. 1996), the Supreme Court in *Heisz v. Galt Industries, Inc., No. 1100193* (Ala., January 6, 2012), held that evidence of matters occurring both before and after an alleged event of promissory fraud could be used as circumstantial evidence establishing the requisite present intent not to perform.

NEW MEMBERS

JULIA C. JAMES, University of Alabama School of Law 2011; Alabama State Bar 2011; with McDowell Knight Roedder & Sledge

CHRISTINE ELIZABETH HART, University of Southern California School of Law 2011; California State Bar 2011; Alabama State Bar 2012; with Hand Arendall, LLC

MATTHEW C. MYRICK, University of Alabama School of Law 2011; Alabama State Bar 2012; with The Kullman Firm

ALISON LEE TOMLINSON, Cumberland School of Law 2010; Alabama State Bar 2011; with Legal Services Alabama



ANNOUNCEMENTS

KATIE BRASWELL and **BRIAN MURPHY** are pleased to announce the formation of **BRASWELL MURPHY, LLC**. The firm's contact information is as follows: Braswell Murphy, LLC; 59 St. Joseph Street, Mobile 36602; Phone 251.438.7503; Fax 251.438.7949; www.braswellmurphy.com

HENDRIK S. SNOW announces the opening of **SNOW LAW FIRM P.C.** at 50 St. Emanuel Street, Mobile 36602; Phone 251.380.8108. He will be continuing to practice in personal debtor and small business bankruptcy and in worker's compensation and Probate Court matters.

ROBERT SHREVE, an associate with **LUTHER COLLIER HODGES & CASH, LLC**, was recently admitted to practice in the state of Florida.

OFFICE SPACE FOR LEASE: 209 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 machines and large copier/scanner. Contact **EVANS CROWE** at 251.431.6011.

LAW OFFICES OF VARIOUS SIZES available for rent on North Main Street in Daphne. Rent includes conference room, kitchen and reception area. Please call 251.626.2688 for availability and pricing.

IMMEDIATE OPENING in an insurance defense firm in Mobile, AL for an attorney with related experience. Salary is commensurate with experience. E-mail cover letter and resume to joy@slhpc.com or fax to 251.431.9364, Attention: Joy

REMINDER: Please mark your calendars now for the **ANNUAL BENCH & BAR CONFERENCE** at the Grand Hotel. This year's date is December 7-9, 2012.





LAWYERS IN THE NEWS

By SANDY G. ROBINSON

MARRIED: RACHEL CHRISTINE LUKER, daughter of MBA member **DANNY BARLAR**, was married to **JAMES LEE WILLIAMS, JR.** at the Bragg-Mitchell Mansion on May 5, 2012. Following a honeymoon in Hawaii, the couple will reside in Birmingham.

DIED: ESTELLE WEST CROSBY, wife of MBA member **JIM CROSBY**, died on April 26, 2012. Known as "Mickey," she attended Murphy High School and the Mississippi College for Women. She was a beautiful and gifted woman who worked for many years with her mother at Holiday. In addition to her husband, she is survived by her three children and four grandchildren.

DIED: MARGARET R. DUMAS, mother of MBA member **BARRE DUMAS**, died at Westminster Village at the age of 94. She was raised in Baldwin County and later moved to Mobile where she and her husband raised their family of six children. She was a member of Dauphin Way Methodist Church. She is survived by five of her children, thirteen grandchildren, 6 great grandchildren and many other relatives and friends.

DIED: LINDA WILDER WING KAISER, mother of MBA members **ANDREW** and **MICHAEL WING**, died on May 10, 2012. She was a native and lifelong resident of Mobile and was a lifetime member of Little Flower Catholic Church. She worked for many years in the banking industry in Mobile. In addition to her husband and her son, she is survived by four grandchildren, two brothers and many loving nieces and nephews.

CONGRATULATIONS!: On behalf of the **BOYS & GIRLS CLUBS OF SOUTH ALABAMA**, **BUZZ JORDAN**, MBA member and Chairman of the Metro Board of Directors, accepted a national award at the conference of the group in San Diego. The Metro Boys & Girls Club received one of only five Honor Awards for Program Excellence for its six-month "No Limits" aviation program for girls aged 9 to 15. The award carried with it a \$5,000 grant for our local organization. Good work, Buzz and all others who participate in this program!



YOUNG LAWYERS

E. GLENN SMITH, JR., 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 21 at **THE BULL** on Dauphin Street.

The annual **MOBILE YOUNG LAWYERS GOLF TOURNAMENT** will be held Friday, June 8 at **TIMBER CREEK GOLF CLUB** in Daphne. **PRO LEGAL COPIES** will provide a complimentary lunch with dinner being provided by **TAYLOR MARTINO**. **HENDERSON & ASSOCIATES** will provide on-course beverages, **TAMI S. GUTHANS COURT REPORTING** will provide all of the team prizes, and **CUNNINGHAM BOUNDS, LLC** is sponsoring the post-tournament cocktail party. Registration is still open and there are plenty of sponsorship opportunities available. For more information, please contact me (626-9340), **JOSH FRIEDMAN** (439-7400), **KASEE HEISTERHAGEN** (345-8244), 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 **CAMP RAP-A-HOPE**. **CAMP RAP-A-HOPE** is a one-week summer camp for children and teenagers who are battling cancer or who have ever been diagnosed with cancer and who are 7 to 17 years of age. It is 100% free of charge to the campers.

Finally, the firm of **TOBIAS & COMER** is throwing a pre-tournament party on Thursday, June 7 at 5:30 at the **GARAGE** at Conti and Washington. The pre-tournament party is always a great time, and we hope you can all attend.



MOBILE BAR ASSOCIATION

YOUNG LAWYERS GOLF TOURNAMENT

THE MOBILE BAR ASSOCIATION YOUNG LAWYERS GOLF TOURNAMENT is scheduled for Friday, June 8, 2012, at Timber Creek Golf Club in Daphne, Alabama. 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 **CAMP RAP-A-HOPE**. Recipients in the past include: **THE MOBILE SOCIETY FOR THE PREVENTION OF**

CRUELTY TO ANIMALS, THE PRESCHOOL CENTER FOR THE SENSORY IMPAIRED, MITCHELL CANCER CENTER, MULHERIN CUSTODIAL HOME, MULTIPLE SCLEROSIS SOCIETY, AMERICAN CANCER SOCIETY, L'ARCHE, and THE ALABAMA SCHOOL FOR THE DEAF AND BLIND.

This year's tournament will be held on all three courses at **TIMBERCREEK** and we expect to have a full field of 180 golfers. Participants include local judges, lawyers, and other members of the legal community.

For your sponsorship, the Young Lawyers will provide a sign on the course with your company or

firm's name. Recognition will also be provided at the awards ceremony and in the Mobile Bar Association's monthly bulletin. The golf tournament is always one of the year's largest events associated with the Mobile Bar Association, so you can expect maximum exposure. There are a number of sponsorship opportunities available, including: hole sponsorships (\$200); longest drive/closest to the pin sponsorships (\$300); and, hole-in-one sponsorships. Please contact Steven Savarese at ssavarese@hglawpc.com for more information regarding sponsorship opportunities. The team entry fee is \$500.00/team or \$125.00/individual.

We truly appreciate all sponsorships. On behalf of the Mobile Young Lawyers Section and the various charities we support, I would like to thank you for your patronage. If you have any questions, please contact me at (251) 626-9340. If you already know your team, please e-mail the names of all of your players to Jordan Gerheim at Jgerheim@starneslaw.com, and all checks can be made payable to "Mobile Young Lawyers" and mailed to our treasurer, Kasee Heisterhagen at Burr & Forman, P.C., P.O. Box 2287, Mobile, AL. 36652-2287.





VLP

VOLUNTEER LAWYER PROGRAM


Even with the presence of programs like VLP, many low-income Alabama residents with legal problems are unable to find assistance for these matters. This has resulted in an increase in the number of pro se litigants and a growing burden for the court system. All would agree that litigants are better prepared and better served when represented by an attorney. “On March 26th, the Alabama Supreme Court adopted changes to the Rules of Civil Procedure and the Rules of Professional Conduct which establish procedures for limited scope representation (LSR). Sometimes called “unbundling,” limited scope representation means agreeing with the client that the lawyer will provide services regarding only a certain area or task rather than the entire legal matter. Limited service representation can take place either out-of-court -- such as drafting of pleadings or trial preparation -- or in-court, such as a specific hearing. LSR has always been permissible under Rule of Professional Conduct 1.2, and the bar’s general counsel’s office issued an opinion in 2010 that it was permissible for a lawyer to draft court pleadings without signing them or revealing his or her involvement to the court. However, because there were no procedures as to how to do LSR, it has not been used much in Alabama in the past. The new rules regulate and codify how limited scope representation should take place -- for the benefit of clients, lawyers and the courts. The state bar pro bono committee which drafted them believes that the new rules will create a “win-win” situation for everyone: the clients get legal help they could not otherwise have afforded, lawyers earn fees they would not otherwise have received, and the courts benefit from better pleadings and better-prepared litigates.”

(Excerpted from <http://www.courts.mo.gov/page.jsp?id=42938> and www.alabar.org) For details of specific rule changes, please see www.alabar.org. Also see <http://apps.americanbar.org/litigation/taskforces/modest/report.pdf>.

**DON'T FORGET TO REGISTER FOR
THE BATTLE OF THE BAY
SAVLP'S CANOE AND KAYAK RACE
JUNE 9, 2012 AT THE BLUEGILL!
Go to www.savlp.org for more details.**



Special thanks to the following attorneys who accepted and closed cases in April: **EATON G. BARNARD, BILLY C. BEDSOLE, RAYMOND L. BELL, JR., RUSSELL E. BERGSTROM, CHRISTINA M. BOLIN, W. BENJAMIN BROADWATER, MEGAN BROOKS, JENNIFER C. BYRD, HENRY A. CALLAWAY, III, CRAIG CAMPBELL, KENNETH PAUL CARBO JR., WALTER G. CHAVERS, F. LUKE COLEY, JR., ALLISON L. COLLINS, CHRISTOPHER T. CONTE, ANGELIQUE M. COOPER, JUDSON E. CRUMP, WILLIAM M. CUNNINGHAM, JR., T. JEFFERSON DEEN, III, MARGARET F. DEMERANVILLE, DANIEL A. DENNIS, IV, REBECCA DING, J. BRIAN DUNCAN, JR., BEN FORD, NATHAN FRIEDLANDER, BARRY A. FRIEDMAN, JOSH D. FRIEDMAN, JASON C. GERTH, MELODY C. GLENN, N. STEWART HANLEY, JAMES K. HARRED, KASEE HEISTERHAGEN, CHRISTINE C. HERNANDEZ, R. SCOTT HETRICK, ROSS HOLLADAY, CHRISTOPHER G. HUME, III, HERNDON INGE, III, GREGORY R. JONES, KATHLEEN COBB KAUFMAN, RICHARD M. KIRKPATRICK, R. EDWIN LAMBERTH, E. RUSSELL MARCH, III, JENNIFER E. McDONALD, MATTHEW C. McDONALD, S. C. MIDDLEBROOKS, JENNIFER S. MORGAN, NICHOLAS F. MORISANI, HENRY T. MORRISSETTE, MEEGAN NELSON, JOHN R. NIX, SONYA OGLETREE, JUAN ORTEGA, GUY C. OSWALT, III, MARY E. PILCHER, GABRIELLE REEVES, LATISHA RHODES DAVIS, JAY N. ROBINSON, CLIFFORD C. SHARPE, HENDRIK SNOW, SCOTT W. SOUTULLO, JOSEPH D. STEADMAN, WILLIAM D. STOKES, DAVID A. STRASSBURG, JR., SHANE A. TAYLOR, RENEE E. THIRY, RICHARD L. THIRY, STACEY L. THOMAS, RAY M. THOMPSON, DESMOND B. TOLER, PETE J. VALLAS, JAMES VANCLEAVE, JAMES B. VOLLMER, JASON R. WATKINS, WILLIAM W. WATTS, III, JARROD J. WHITE, RICHARD R. WILLIAMS, MICHAEL A. WING, RICARDO WOODS, AND GEORGE M. ZOGHBY (MOBILE COUNTY) AND W. DONALD BOLTON, JR., MICHAEL DASINGER, III, THOMAS DASINGER, TANYA HALLFORD, MARY A. HAMPTON, JESSICA M. McDILL, THOMAS B. NORTON, JR., BRUCE B. STONE, SR., MEREDITH L. TURPIN, PATRICIA K. WOOD, and MARION E. WYNNE, JR. (BALDWIN COUNTY).**



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

MEMORIALS

EDWARD J. VULEVICH, JR.

By

Charlie Fleming and Kathy Miller

Mr. and Mrs. W. Boyd Reeves

JUNE 2012

JUNE 5 - TUESDAY
LEXIS TRAINING SEMINAR,
2 PM, CITISMART ROOM,
GOVERNMENT PLAZA

JUNE 7 - THURSDAY
EXECUTIVE COMMITTEE MEETING,
12 O'CLOCK NOON, BIENVILLE CLUB

JUNE 8 - FRIDAY
YOUNG LAWYERS ANNUAL
GOLF TOURNAMENT,
1 PM, TIMBER CREEK GOLF CLUB

JUNE 9 - SATURDAY
THE BATTLE OF THE BAY,
VLP'S CANOE AND KAYAK RACE
AT THE BLUEGILL

JUNE 15 - FRIDAY
MBA MONTHLY LUNCHEON,
11:45 AM, ADMIRAL SEMMES HOTEL

JUNE 21 - THURSDAY
MBA WORKERS COMP SECTION MEETING,
12 O'CLOCK NOON,
ADMIRAL SEMMES HOTEL



JUNE 27 - WEDNESDAY
SEMINAR - "MANAGE YOUR ONLINE
PRESENCE TO GROW YOUR PRACTICE",
1:30 - 4:45 PM, ADMIRAL SEMMES HOTEL

JUNE 28 - THURSDAY
MBA GRIEVANCE COMMITTEE MEETING,
12 O'CLOCK NOON, MBA HEADQUARTERS

CONTINUING LEGAL EDUCATION

JUNE 5 - TUESDAY,
LEXIS TRAINING SEMINAR,
2 PM, CITISMART ROOM, GOVERNMENT PLAZA.
1.0 HR. CLE CREDIT HAS BEEN APPLIED FOR.
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JUNE 27 - WEDNESDAY,
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