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2014 OFFICERS
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Editor – Ferrell S. Anders

President’s Comments

AN HOUR OF PEACE

For some reason, I have always considered November a somber month. It begins in earnest the shortening of daylight and the first cold winds of the North. It reminds me of All Souls Day, November the second and the end of Camelot November 22, 1963. Even Thanksgiving Day in a strong sense is a day for giving thanks for all we have as Americans. Our lives are truly bountiful and blessed.

But NOVEMBER THE SOMBER also brings us back to the real roots of America, the remembrance on November 11th of our Veterans of many wars, near and distant, where our fathers, forefathers and all of our patriotic lineage are honored for their sacrifices, bravery and constancy in the face of deadly peril. Mothers and fathers remember to tell your children when they ask “what is a veteran” that a Veteran is someone who, at one time or another in their lives, wrote out a check payable to the United States of America for an amount up to and including their life.

Please remember to say a prayer for our veterans, living and dead, and those who will be veterans, as we again send our young men and women into harms’ way following the Flag. I am often reminded of a prayer I learned from my wartime Battalion Chaplain, a Lutheran Padre, as he came down the line of our mechanized column following a makeshift roadblock and harassing fire. He was going from track to track checking for casualties and he told me to pray, not for anything big like getting off that road to safety, he said just "pray for an hour of peace in a peaceless place." I’ve never forgotten that place on a causeway along the Hoc Mon Canal in Hau Nghia Province Vietnam, nor the little prayer he commended to us.

Lord, I know not where I lay my head tonight, or if,
But I thank you for the kindness shown to me today and to my brothers,
fallen now in body, mind or spirit, who cannot themselves thank you.
Lord where shots fall and bullets fly,
please just grant us an hour of peace in this peaceless place.
Amen. God Bless America!

PROGRAM

The November Monthly luncheon will be:
Friday, November 14, 2014, 11:45 AM
The Battle House Hotel Moonlight Ballroom
SPEAKER:
JUDGE C. ROGER VINSON,
Senior Federal Judge,
United States District Court, Northern District of Florida
"Reflections as a Member of the FISA Court”

MEMORIAL RESOLUTION
Vivian G. “Sec” Johnston, Jr.
Maury Friedlander

LUNCHEON SPONSORED BY: MOBILE BAY REPORTING
Browsing the Bar With Barbara

DID YOU COMPLETE YOUR MBA COMMITTEE PREFERENCE FORM?
I certainly hope so because the forms will be used by incoming President Brian McCarthy to make appointments for committees and sections so, unless you let him know your choices, you may be on a committee not of your choosing.

Please check your ASB CLE COMPLIANCE FORM to make sure you have all of your hours for the year. The MBA will offer 20 hours between now and the end of 2014 so you have no excuse. Check elsewhere in this publication for time and place.

Our appreciation to the following lawyers/firms for their contribution to THE JUROR COFFEE FUND:
Delashmet & Marchand, PC
L. Daniel Mims
Alford Bolin, LLC
Irvin Grodsky, PC
Luther Oldenburg & Rainey, PC
Rockwell & Kaufman

Please mark your calendars for the November 14 Monthly Luncheon – our speaker will be Judge Jerry D. Vinson, Jr. and the Resolutions Committee will present the memorial resolution for Vivian G. “Sec” Johnston, Jr.

REMEMBER:
Do not corner something that you know is meaner than you are.
It don’t take a very big person to carry a grudge.
When you wallow with pigs, expect to get dirty.
Most of the stuff people worry about, ain’t never gonna happen.
Don’t judge folks by their relatives.
And MOST IMPORTANT:
Remember that silence is sometimes the best answer!

Announcement from Probate Court

The Probate Court of Mobile County is now offering its Petition for Adoption form as a fileable PDF. Any attorney filing an adoption petition is encouraged to use this form, which is available under the Judicial Forms section of ROAM, the web component of the Probate Court’s case management system. For more information, please contact Probate Court Paralegal, Samantha Booker, at 251-574-6019 or sbooker@probate.mobilecountyal.gov.
DIED: FRANK LEON PARKER, SR., father of MBA member FRANK PARKER died on September 19, 2014. He was a Mobile native, a graduate of Auburn University and a resident of Fairhope and Point Clear for many years. He was a member of Grace Anglican Church. He is survived by his wife, three children and eight grandchildren.

ANNOUNCEMENTS

JOHN TEAGUE has opened his own practice, JOHN M. TEAGUE, PC, located at 3755 Professional Parkway, Suite B. Phone 251.623.0285; jmt@johnteaguelaw.com. He will be handling family law, landlord/tenant matters, corporate law and other legal matters.

SATTERWHITE & TYLER, LLC attorneys at law is pleased to announce that J. MICHAEL DRUHAN, Jr. and THOMAS O. GAILLARD, III have joined the firm as partners, and TIFFANY B. SMITH has joined the firm as an associate, and the firm name has changed to SATTERWHITE, DRUHAN, GAILLARD & TYLER, LLC. Mobile office: 1325 Dauphin Street, Mobile 36604. Fairhope Office: 50 North Green Road, Fairhope 36532. Phone 251.432.8120 www.satterwhitelaw.com

New firm information for CHRISTOPHER B. ESTES, ESTES LAW FIRM, LLC, 59 St. Joseph Street, Mobile 36602; P. O. Box 2921, Mobile 36652; Phone 251.476.9009; Fax 251.445.3269; Email cestes02@gmail.com; www.esteslegal.com

JEFFREY R. SPORT has relocated his practice to THE LAW OFFICE of JEFFREY R. SPORT, 3755 Professional Parkway, Suite B, Mobile 36609; Phone 251.308.1001; Fax 251.308.1002; Email jeff.sport@sportlaw.us.

When small firms handle big cases, sometimes they need help. JOHN STUART CAMPBELL has been a bar member in Mississippi since 1988 and in Alabama since 1997. He is a former practitioner and law clerk to federal judges in both jurisdictions and is now providing brief-writing and legal consulting services to small firms and sole practitioners. You can reach John by email at ConsultingAttorney@yahoo.com or by phone at 251.605.5675.

DOWNTOWN OFFICE SPACE AVAILABLE: 209 N. Joachin 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

The MBA PUBLIC SERVICE COMMITTEE has again partnered with the Bay Area Food Bank for the annual Canned Food Drive. Many picked up boxes for their offices at the October Luncheon; however, if you did not, we have a few here at the Bar Headquarters. The FULL BOXES can be dropped off at the November 14 Monthly Luncheon at the Battle House or at the Bar Headquarters.

CASA (Court Appointed Special Advocate), an organization that serves children that are in custody at Strickland, will have a fundraiser – “Changing Lives with Art, Wine and Cuisine” - at the Athelstan Club on Thursday, November 6, 2014 at 6:00 pm. Tickets are $40 pp or $75 per couple and may be purchased at www.CASAMobile.org or by calling 251.574.5277.
In a case of first impression, the Supreme Court in *State v. Moyer*, No. 1130611 (Ala., August 29, 2014), held that a capital offense for purposes of determining bail meant a crime for which either the death penalty or life imprisonment without parole was a possible penalty. Accordingly, the Court held that bail could be denied in a case involving a capital offense, even if the State was not seeking the death penalty, as long as the trial judge concluded that the preliminary evidence reflected that the offense was committed, the defendant is likely guilty, and he would probably be punished capitally if convicted.

In an interesting procedural decision, the Court of Civil Appeals ruled in *Ex parte Lucas*, No. 2130849 (Ala., August 29, 2014), that when a petition for writ of mandamus was filed seeking a change of venue but when no transcript of the proceedings below was included, the appellate court would necessarily have to conclude under the ore tenus rule that the trial court had acted correctly.

In *Ex parte Morton*, No. 1130302 (Ala., August 29, 2014), the Supreme Court held that the defendant was entitled to a transfer of venue under the “interest-of-justice” branch of the forum non conveniens theory because Macon County had little connection to the injury in question (even though the plaintiff lived there) and it would be an undue burden on that county to have the case litigated there rather than in Jefferson County where the accident occurred.

Withdrawing its opinion of January 2013, the Supreme Court in *Wyeth, Inc. v. Weeks*, No. 1101397 (Ala., August 15, 2014), nevertheless maintained its prior holding that a brand name drug manufacturer could be held liable for fraud or misrepresentation based on statements made in connection with the manufacture of the brand name drug by a plaintiff who was injured upon taking a generic brand of the drug.
Local attorney, **SIDNEY M. HARRELL, JR.**, has been named **CRIMINAL JUSTICE ACT (CJA) ATTORNEY OF THE YEAR FOR 2014**. The announcement was made at a luncheon held on October 17, 2014, at the Battle House Hotel in downtown Mobile. The award is given by the **U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA** and is designed to recognize an attorney on the Court’s CJA panel of attorneys who has provided outstanding legal representation to indigent federal criminal defendants and has consistently demonstrated the high ideals of professionalism and excellence expected of panel attorneys. Mr. Harrell, who has practiced law in Mobile for twenty years, was commended for his distinguished service on the panel.

**NEW MEMBERS**

**ELIZABETH SCISSUM,**
Cumberland School of Law 2014; Alabama State Bar 2014; sole practitioner

**MARY EMILY MONROE,**
University of Mississippi 2007; Mississippi State Bar 2007; Alabama State Bar 2009; with McDowell Knight Roedder & Sledge, LLC

**REED M. COLEMAN,**
Loyola University of New Orleans College of Law 2011; Louisiana state bar 2011; Alabama State Bar 2014; with Hill, Hill, Carter, Franco, Cole & Black

**JOHN STUART CAMPBELL,**
University of Mississippi 1988; Mississippi State Bar 1988; Alabama State Bar 1997; sole practitioner

**SEAN D. PHINNEY,**
Western Michigan University 2003; Alabama State Bar 2014; The Phinney Law Firm

**RHONDA KINARD,**
Regent University School of Law 2009; Virginia State Bar 2009; California State Bar 2010; Alabama State Bar 2011; Kinard Law Office

**EDWARD BURNS**

**MICHAEL A. BERSON,**
Cumberland School of Law 2006; Alabama State Bar 2006; Georgia State Bar 2007.

**Associate Membership:**

**ERICA R. HILLIARD,**
University of Mississippi 2012; Mississippi State Bar 2012; law clerk with Judge Callie V.S. Granade.
As is our tradition, we recognize and honor our MBA members who have served our country in the Armed Forces:

**JERRY McDOWELL:** U. S. Army 1957-1961, 1st Lt. as Army Aviator, fixed wing and helicopter pilot.

**JACK JANECKY:** Graduated from the Air Force Academy in 1966; flew 2 combat tours in Viet Nam in the KC-135; also served as Liaison Officer to the Air Force Academy while in Law School at the University of Alabama (photo at right).

**RON MCBAY:** U. S. Marine Corps, served in Japan and Philippines; also currently serves in the Alabama Army National Guard as the Deputy Staff Judge Advocate for the 167th Theater Sustainment command in Anniston, with prior National Guard deployments to Kabul, Afghanistan; Baghdad, Iraq; and Bagram, Afghanistan, working as a Medical Logistics Officer and a Judge Advocate. (see photo below with MBA member Mike Anderson).

**CHIP MALDONADO:** Lt. Col. (retired), active duty in U. S. Army from 1968-2000; Viet Nam and Cambodia veteran.

**THANK YOU TO YOU AND ALL OUR MBA VETERANS!**
SAVLP thanks all those who volunteered and participated in **CELEBRATE PRO BONO EVENTS**, including: Retired Alabama Supreme Court Justice Champ Lyons, Jr., (Poverty Simulation CLE speaker), Farah Majid (CLE speaker), Duane Graham (CLE speaker), Alec Brown (CLE speaker), Wills for Heroes volunteers Scott Hetrick, Jared Lyles, Rose Metzger, Mary Pilcher, Tiffany Smith, and Margie Williams, and Mobile advice clinic volunteers Jackie Brown, Rudene Crowe, Jonathan Festa, and Josh Grantham. Many thanks to Burr Forman for sponsoring the Mobile Theatre Guild/South of the Salt Line fundraiser, “**Ambushed by the Tea Party**.”
Charity begins at the Bar

Ferrell S. Anders, President
MOBILE BAR FOUNDATION (MBF)

Your MBF just turned 20.
Happy Anniversary!

The MBF was founded with a goal of funding an endowment with regular contributions to assist worthwhile programs in the community. The MBF is a 501(c)(3) non-profit corporation.

MBF has supported our nationally recognized VLP (now SAVLP), with almost one-quarter of a million dollars. Almost $75,000.00 of interest income has gone to the Y to support various youth programs, with special emphasis on the Big Brothers/Big Sisters program. Over the past five years, MBF has provided over $30,000.00 to Legal Services of Alabama. We have supported over 70 programs over the years. A few years ago we changed our mission statement to limit our support to qualifying programs that have some connection to the legal justice system. Due to low interest rates, we only had $40,000 to distribute last year.

We need your pledge of financial support for MBF. A letter from me will be mailed before the end of the year asking for your annual commitment. Partners pledge at least $500.00 annually and Associates pledge at least $100.00 annually. Young lawyers who have practiced less than five years may pledge any amount – just please pledge. We only have 38 members who have committed to give annually at the Partnership or Associate level.

Charity begins at the Bar---- e-mail your pledge to the MBA office staff today!
**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

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**MEMORIAL GIFT**

*in Memory of*

CHARLES ANDREW “CHARLIE” HICKS, ESQUIRE

By Michel Nicrosi, Esquire • Judge Tamara and Mr. George Mitchell

*in Memory of*

DAVID S. CONRAD, ESQUIRE

By Judge Tamara and Mr. George Mitchell • John N. Leach, Jr., Esquire

*in Memory of*

JUDGE MICHAEL E. McMaken

By John N. Leach, Jr., Esquire

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NOVEMBER 6 - THURSDAY
EXECUTIVE COMMITTEE MEETING,
12 o’clock noon,
Athelstan Club, Queen’s Room

NOVEMBER 7 - FRIDAY
ANNUAL CLE BY-THE-HOUR,
8 am – 5 pm,
Battle House, Moonlight Ballroom

NOVEMBER 14 - FRIDAY
MBA MONTHLY LUNCHEON,
11:45 am,
Battle House, Moonlight Ballroom

NOVEMBER 17 - MONDAY
MBF BOARD MEETING,
12 o’clock Noon

NOVEMBER 20 - THURSDAY
MBA GRIEVANCE COMMITTEE MEETING,
12 o’clock Noon,
MBA Headquarters

NOVEMBER 27 – 28
THURSDAY – FRIDAY
THANKSGIVING HOLIDAYS

CONTINUING EDUCATION

NOVEMBER 7
ANNUAL CLE BY-THE-HOUR,
8.0 HRS. INCLUDING 1.0 HR. ETHICS

DECEMBER 5
26TH ANNUAL BENCH & BAR CONFERENCE
(5.0 HRS. 1.0 HR. ETHICS) AND
YOUNG LAWYER MIXER (1.0 HRS.)

DECEMBER 12
ASB ROAD SHOW, 3.0 HRS., INCLUDING 1.0 HR. ETHICS

DECEMBER 19
CIVIL LAW UPDATE, 3.0 HRS.

2016

JANUARY 16
JUDGES PANEL: DO’S & DON’TS, RULE CHANGES,
3.0 HRS.

MARCH 20
EMPLOYMENT LAW, 3.0 HRS.

APRIL 17
APPELLATE SEMINAR – INCLUDING CRIMINAL & CIVIL ISSUES, 3.0 HRS.