



MONTHLY NEWSLETTER

VOLUME XLIV, ISSUE 1 • JANUARY 2014

President's Comments



**BRIAN MCCARTHY, PRESIDENT
MOBILE BAR ASSOCIATION**



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2015 OFFICERS

- PRESIDENT – BRIAN P. MCCARTHY
- PRESIDENT ELECT – PETER S. MACKAY
- 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

If I Had a Mulligan.....

When I first started practicing law, I had mentors who provided me with much needed guidance and very sage advice. Each of them strongly encouraged me to actively participate in the **MOBILE BAR ASSOCIATION (“MBA”)**. Instead of heeding their advice, I focused my efforts on billing hours and developing clients, leaving the business of the MBA to others. In hindsight, this was a mistake.



Through active participation in the MBA over the last several years, I have learned about the many programs and committees sponsored and supported by the MBA that help members of our community and our fellow lawyers. These programs and committees include: **LAW DAY, VOLUNTEER LAWYERS, LAWYER MENTORING, LAWYER ASSISTANCE, BIG BROTHERS/BIG SISTERS, CANNED GOOD DRIVE, C.A.R.E.**, numerous initiatives and fundraisers sponsored by the **YOUNG LAWYERS** and **WOMEN LAWYERS**, and others. The privilege of helping members of our bar and community is satisfying beyond measure and certainly more meaningful than a billable hour.

By actively participating in the MBA, you will have an opportunity to meet and get to know lawyers whose paths you otherwise may not have crossed. The backgrounds, experiences and talents of the members of our bar are amazingly broad and diverse. Members of our bar are doctors, musicians, actors, athletes, artists, authors, coaches, teachers, singers, entrepreneurs, congressmen, ministers, pilots, veterans, former

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PROGRAM

THE JANUARY 2015 MONTHLY LUNCHEON WILL BE FRIDAY,
JANUARY 16, 2015, 11:45 AM

THE BATTLE HOUSE HOTEL MOONLIGHT BALLROOM
SPEAKERS:

- CHIEF U. S. DISTRICT JUDGE WILLIAM H. STEELE
- CHIEF U. S. BANKRUPTCY JUDGE WILLIAM SHULMAN
- PRESIDING CIRCUIT JUDGE CHARLES A. GRADDICK, 13TH JUDICIAL CIRCUIT
- PRESIDING DISTRICT JUDGE GEORGE N. HARDESTY, JR., 13TH JUDICIAL CIRCUIT
- MOBILE COUNTY JUDGE OF PROBATE DON DAVIS
- JAMES B. NEWMAN, CHAIR MBA GRIEVANCE COMMITTEE

Browsing the Bar - With Barbara



We are once again beginning a new year, 2015, *may it be one long remembered for its peace and prosperity.*

I am looking forward to working with the new administration – please note the 2015 officers on page 1 of this publication and let us know if there is any way in which we can assist you during the coming year. Please do not hesitate to call on MBA Officers or Staff.

As I review 2014 it is with both pleasure (we admitted 37 new members) and sadness (we lost 12 MBA members – **MAURY FRIEDLANDER, LESTER BRIDGEMAN, TIM GROGAN, SID SCHELL, GREG EVANS, CHARLIE HICKS, BILL HARVEY, DAVID CONRAD, MIKE MCMAKEN, BOB MCDONALD** and just this past month **HERNDON INGE, JR. AND J. “PAT” PALUGHI**). We genuinely welcome our newest members and hope they will let us know if there is any way in which we can assist them as they endeavor to make their mark in the Mobile legal community.

Please watch your mail for the 2015 Dues Notice. The **2015 MBA BUDGET COMMITTEE** will meet the second week in January to plan for 2015 and, as you well know, things are tough all over but we look to your dues for the lions share of the budget. Thank you for being faithful and involved in the Mobile Bar Association.

To those of you who have agreed to serve as Chair of or on a Committee or Section of the MBA - Thank You. Your leadership is valued and we would not be the outstanding Bar that we are if it were not for your dedication and involvement. Please let us know when we can be of assistance.

I've learned... That I can always pray for someone when I don't have the strength to help him in some other way.

President's Comments *continued from page 1*

prisoners of war, and judges. Working and socializing with people having these diverse talents and experiences is nothing short of fascinating and rewarding.

Additionally, lawyers seem to handle cases more efficiently, and oftentimes more effectively, when we have a personal or professional relationship with those on the other side. In the same way, handling cases against lawyers we know oftentimes makes the case more civil and enjoyable. In a time in which there is so much concern about incivility in the bar, active participation in the MBA is an excellent means to promote civility among our members.

Barbara and Tammy also currently are working on securing new and additional benefits for MBA members, including discounts at hotels, restaurants, dry cleaners, office supply stores and other such benefits. Please contact Barbara or Tammy to get all of the details.

There are so many benefits to actively participating in the MBA that I could never mention them all here. Nor will I try. What I can say is that if I had a mulligan in my legal career, I would use it to become an active member of the MBA from my first day practicing law. For the many of you who do actively participate in the MBA, I want to sincerely thank you for your service, and I look forward to working with you this year. For those of you who have not been active, I strongly encourage you to become active now. It is never too late to join a committee or a section. Just give me a call or send me an email.

Here is your mulligan. Please use it now. I can assure you that you will be glad that you did.

Until next month.....

Brian



NEW MEMBERS

GINGER L. HARRELSON,

UNIVERSITY OF MISSISSIPPI SCHOOL OF LAW 2014;
ALABAMA STATE BAR 2014; LAW CLERK FOR JUDGE MICHAEL YOUNGPETER

CHELSEY MORGAN COLLINS,

UNIVERSITY OF ALABAMA SCHOOL OF LAW 2014; SOLE PRACTITIONER

PATRICK NELSON,

FAULKNER UNIVERSITY JONES SCHOOL OF LAW 2013;
ALABAMA STATE BAR 2013; LAW CLERK FOR JUDGE SARAH STEWART.

LUCAS BEDIA,

UNIVERSITY OF ALABAMA SCHOOL OF LAW 2014; ALABAMA STATE BAR 2014; SOLE PRACTITIONER.

KRISTINA MORGAN SANDERS HOFFERBER,

FAULKNER UNIVERSITY JONES SCHOOL OF LAW 2014; ALABAMA STATE BAR 2014;
WITH McDOWELL KNIGHT ROEDDER & SLEDGE, LLC

JOHN HARMAN LEECH, JR.,

LSU PAUL M HEBERT LAW CENTER 2014; ALABAMA STATE BAR 2014; WITH WARHURST AND BUFFALOW.

DANIELLE J. MASHBURN-MYRICK,

UNIVERSITY OF ALABAMA SCHOOL OF LAW 2013;
FLORIDA STATE BAR 2013; ALABAMA STATE BAR 2014; LAW CLERK FOR JUDGE MARGARET A. MAHONEY, U.S. BANKRUPTCY COURT.

PHILIP DANIEL MAHONEY,

UNIVERSITY OF MISSISSIPPI 2014;
MISSISSIPPI STATE BAR 2014; ALABAMA STATE BAR 2014; WITH HELMSING LEACH HERLONG NEWMAN & ROUSE

WILLIAM KIRKLAND MATTEI,

CUMBERLAND SCHOOL OF LAW 2014; ALABAMA STATE BAR 2014; WITH HELMSING LEACH HERLONG NEWMAN & ROUSE.





ANNOUNCEMENTS

JEROME E. SPEEGLE, ANTHONY M. HOFFMAN, WM. STEELE HOLMAN II and **JENNIFER S. HOLIFIELD** take pleasure in announcing the formation of **SPEEGLE, HOFFMAN, HOLMAN & HOLIFIELD, LLC**. The firm's office remains at 5 Dauphin Street, Suite 301, Mobile, AL 36602

JASON GERTH and **CLAY ROSSI** are proud to announce the formation of their new law firm: **GERTH & ROSSI, LLC**, 1206 Dauphin Street, Mobile, AL 36604, Telephone 251.239.3113; Fax 251.239.5753. The firm's practice areas will include business law, civil litigation, personal injury, and probate and will serve clients in Alabama, Florida and Mississippi.

E. "GLENN SMITH, Jr., Counsel in the **CARR ALLISON'S** Mobile office has been selected to participate in **THE ALABAMA STATE BAR LEADERSHIP FORUM, CLASS 11**. The ASB Leadership Forum is honored as a dynamic and highly effective model for nurturing and developing leadership skills and values among a select group of qualified, promising lawyers each year. Mr. Smith is a graduate of **ST. PAUL'S EPISCOPAL SCHOOL** in Mobile, AL and went on to become a four-year letterman in football at **FURMAN UNIVERSITY** in Greenville, South Carolina. Glenn attended law school at **CUMBERLAND SCHOOL OF LAW** at Samford University in Birmingham, AL. He is the former president of the **MOBILE YOUNG LAWYERS**, has held positions on the **EXECUTIVE COMMITTEE OF THE MOBILE BAR ASSOCIATION** and is a former member of the Board of Directors for the **MOBILE BAR FOUNDATION** and **YOUNG LAWYERS SECTION OF THE ALABAMA DEFENSE LAWYERS ASSOCIATION**.

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

DOWNTOWN OFFICE SPACE AVAILABLE: High visibility, located at 1659 Government Street. Share building with fellow attorneys. Amenities: onsite parking, internet, office copier/scanner, large conference room and kitchen. Contact **DOUGLAS DUNNING** at 251.478.6031 or dkdunning_99@yahoo.com. All inquiries confidential.

SAVLP

SOUTH ALABAMA VOLUNTEER LAWYER PROGRAM



AWARDS ARE BESTOWED ANNUALLY ON ATTORNEYS WHO HAVE MADE A SIGNIFICANT CONTRIBUTION TO THE COMMUNITY THROUGH THEIR SERVICE TO THE SOUTH ALABAMA VOLUNTEER LAWYERS PROGRAM. JOIN ME IN CONGRATULATING THE FOLLOWING 2014 WINNERS:

Ben Kilborn Lawyer of the Year- Gus Meaher

SAVLP Volunteer of the Year- Henry Brewster

Community Partner of the Year- Legal Services of Alabama, Mobile

Extraordinary Legal Service- James P. "Jimbo" Coleman

SAVLP Young Lawyer of the Year- Judson Crump

250 Hours of Service- Henry Brewster, Megan Brooks, Robert Edington, Bill Goodloe, Herndon Inge III, Jack Janceky, Barney March, Ricardo Woods

100 Hours of Service- Bryan Duhe, John Bender, Barry Friedman, Andrew Jones, Bill Lancaster, Meegan Nelson, James Rebarchek, Bryan Thames



SIGNIFICANT DECISIONS

BY DUANE GRAHAM

In *Holt v. State ex rel. Jones, No. 2130726* (Ala., October 31, 2014), the Court of Civil Appeals observed that when a trial court had failed to rule on a post-judgment motion within the prescribed 90 days, that motion was denied by operation of law. Furthermore, when the trial judge entered an order purporting to deny the post-judgment motion two weeks after the 90-day period expired, that order was a nullity and the appeal time from the original judgment could not be based on that denial. Consequently, when the appellant filed his notice of appeal within 42 days of the purported denial order but not within 42 days of the expiration of the 90-day period, his appeal was untimely and due to be dismissed. In a companion case, *Holt v. State ex rel. Jones, No. 2130727* (Ala., October 31, 2014), the Court repeated its prior holding that the amendment of a post-judgment motion seeking relief on essentially the same grounds does not toll the running of the time for appeal.

In a case of apparent first impression, the *Court of Civil Appeals in Alabama Department of Revenue v. Frederick, No. 2130711* (Ala., October 24, 2014), held that a notice of appeal could not be filed electronically under the applicable electronic filing procedures. Accordingly, when the Department of Revenue electronically filed a notice of appeal with the trial court within the 42-day appeal period but didn't file a paper copy of that notice until after the 42-day period had expired, the notice of appeal was late and the appeal was due to be dismissed.

In another case of first impression, the *Court of Civil Appeals in E.L. v. V.L., No. 2130683* (Ala., October 24, 2014), held that a Georgia court order purporting to grant adoption rights to the same-sex partner of the children's biological mother was without subject matter jurisdiction because Georgia does not recognize same-sex marriage and, thus, the adoption could only have proceeded if the biological mother's parental rights had been terminated. Consequently, Alabama courts were not required to give full faith and credit to this order in an Alabama proceeding in which the biological mother objected to continued visitation rights by the partner, from whom she had now separated.

In a case seeking to reconcile several seemingly inconsistent prior opinions, the Supreme Court in *Givianpour v. Curtain, No. 1130098* (Ala., October 24, 2014), held that because a foreclosure sale purchaser had included in an itemized statement of charges for redemption purposes an item whose status as a lawful charge was subject to a bona fide dispute, the redeeming party was excused from paying any amount into court in order to file for redemption, even though the disputed item was not uncertain in amount but only as to its lawful status. The Court also held that partial payment to the trial court was not required in such a circumstance in order to invoke the court's jurisdiction over the redemption.

In a case of first impression, the Supreme Court in *Kirksey v. Johnson, No. 1130385* (Ala., October 17, 2014), held that a probate court did not have subject matter jurisdiction to oversee the distribution of monies resulting from a wrongful death action on the ground that such funds were not assets of the decedent's estate and were not subject to estate administration.

YOUNG LAWYERS

Jonathan Maples, President

THE YOUNG LAWYERS had a phenomenal year in terms of fundraising and overall atmosphere at the monthly meetings last year, neither of which would have been possible without the generosity of our sponsors and the hard work of the officers and Executive Committee. We are looking forward to another great year for the **YOUNG LAWYERS** as we try to build upon the great job **KASEE HEISTERHAGEN** did last year as President. I took the reins of the **YOUNG LAWYERS** on January 1, 2015 as the incoming President. I work for **CARR ALLISON** and can be reached at jmaples@carrallison.com. Our incoming Vice President is **RUSSELL JOHNSON** of **ALEXANDER SHUNNARAH GULF COAST, LLP** (RJohnson@asilpc.com). This year we welcome **TIM HEISTERHAGEN** of **ARMBRECHT JACKSON** (tah@ajlaw.com) as our new Treasurer. We are wasting no time getting the year started off right as **PRO-LEGAL COPIES** will be sponsoring our first meeting of 2015 at **CALLAGHAN'S IRISH SOCIAL CLUB** (corner of Charleston & Marine) on January 22, 2015 at 5:30. Every year **MICHAEL CANNON** and **PRO-LEGAL** are strong supporters of the **YOUNG LAWYERS**, and we truly appreciate their continued support. We look forward to seeing everyone at Callaghan's for what is always a great time. If you are not on the **YOUNG LAWYERS** e-mail list and would like to be, please let Russ, Tim, or me know.

NOTICE 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.



LAWYERS IN THE NEWS

BY SANDY G. ROBINSON

DIED: MBA MEMBER JUDGE HERNDON INGE, JR. (“WANK”) DIED ON **DECEMBER 17, 2014** AT THE AGE OF **94**. HE DROPPED OUT OF **MURPHY HIGH SCHOOL** DURING THE **GREAT DEPRESSION** TO HELP SUPPORT HIS FAMILY, AND LATER ATTENDED **SPRING HILL COLLEGE** AND THE **UNIVERSITY OF ALABAMA**. DURING **WORLD WAR II**, HE WAS AN **INFANTRY LIEUTENANT** AND **PLATOON LEADER** IN THE **94TH INFANTRY DIVISION** IN **GENERAL GEORGE PATTON’S THIRD ARMY** AND PARTICIPATED IN THE **NORMANDY, BRITTANY, ARDENNES AND CENTRAL EUROPE** CAMPAIGNS. HE WAS CAPTURED DURING THE **BATTLE OF THE BULGE** AND SPENT THREE MONTHS AS A **GERMAN PRISONER OF WAR**. HE WAS AWARDED THE **COMBAT INFANTRY BADGE, PURPLE HEART AND BRONZE STAR**. AFTER THE WAR, HE OBTAINED HIS LAW DEGREE FROM THE **UNIVERSITY OF ALABAMA** AND SERVED AS **JUVENILE COURT JUDGE** IN **MOBILE** FOR **17 YEARS**. HE WAS LATER ELECTED **CIRCUIT COURT JUDGE** IN **DOMESTIC RELATIONS**. HE RETIRED FROM THE BENCH AND PRACTICED LAW UNTIL HE WAS **88**. HE WAS A LONG TIME MEMBER OF **ST. PAUL’S EPISCOPAL CHURCH** AND A MEMBER OF NUMEROUS CIVIC CLUBS AND MYSTIC SOCIETIES. HE IS SURVIVED BY HIS WIFE, THREE SONS, INCLUDING **MBA MEMBER HERNDON INGE, III**, EIGHT GRANDCHILDREN AND **12 GREAT-GRANDCHILDREN** AND MANY OTHER RELATIVES AND FRIENDS.

DIED: JOSEPHINE BATTAGLIA COLLINS, MOTHER OF **MBA MEMBER CELIA COLLINS**, DIED AT THE AGE OF **90** AT HER HOME IN **MOBILE** ON **NOVEMBER 29, 2014**. SHE WAS AN ACTIVE MEMBER OF **ST. IGNATIUS CATHOLIC CHURCH** AND A VOLUNTEER WITH THE **MOBILE INFIRMARY AUXILIARY**. SHE IS SURVIVED BY THREE CHILDREN, FIVE GRANDCHILDREN, AND MANY OTHER RELATIVES AND FRIENDS.



PLEASE GIVE
 Name: _____
 Address: _____
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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)

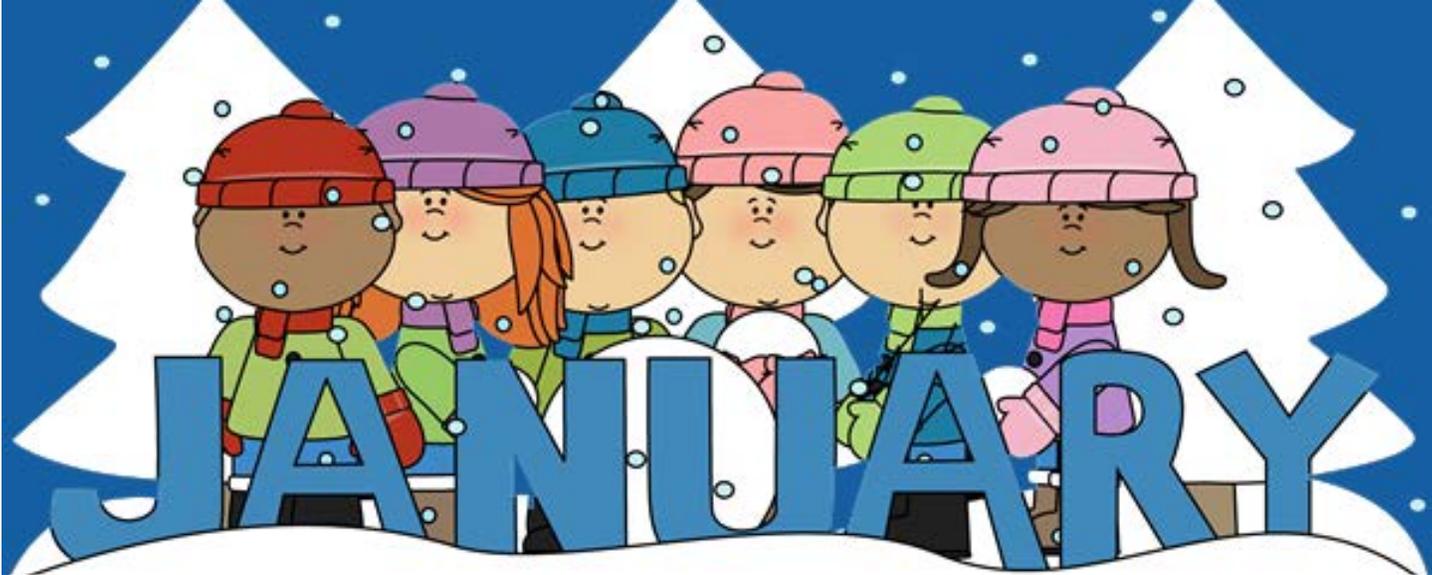
I would like information on including the Foundation in my estate planning.
 Signature _____ Exp. _____

Mail to: Mobile Bar Foundation, P.O. Drawer 2005, Mobile, AL 36652



MEMORIAL GIFT

A gift in memory of
CHARLES “CHARLIE” HICKS, ESQUIRE
 Was given by
JUDGE SONJA BIVINS
 and
JUDGE KATHERINE NELSON



**JANUARY 1 – 2 THURSDAY & FRIDAY
NEW YEAR HOLIDAY**

JANUARY 8 - THURSDAY

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

12 - MONDAY

**2015 MBA BUDGET COMMITTEE MEETING,
3:30 PM, MBA HEADQUARTERS**

15 - THURSDAY

**GRIEVANCE COMMITTEE MEETING,
12 O'CLOCK NOON,
MBA HEADQUARTERS**

16 - FRIDAY

**JANUARY MONTHLY LUNCHEON,
11:45 AM,
MOONLIGHT BALLROOM, THE BATTLE HOUSE HOTEL**

16 - FRIDAY

**SEMINAR: JUDGES PANEL: DO'S & DON'TS, RULE CHANGES,
1:30 – 4:45 PM,
MOONLIGHT BALLROOM, THE BATTLE HOUSE HOTEL**

CONTINUING EDUCATION 2015

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.**