



MONTHLY NEWSLETTER

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President's Comments



**PETE MACKEY, PRESIDENT
MOBILE BAR ASSOCIATION**

*There is no effective weapon against the persuasive power of good works
- David Ball*

A summary of the work done by members of the Mobile Bar would impress any objective observer, particularly by our positive impact in our community. The South Alabama Volunteer Lawyer Program is putting up numbers that would make Nick Saban proud. We have lawyers in every area of practice who are as good as they come and are also standouts in their churches, synagogues and civic organizations. Our Bar consists of actors, authors, artists, gardeners, musicians, youth sports coaches and civic leaders. We are involved in non-profit organizations and charitable endeavors of every shape, color and size. The Mobile Bar has a rich history of giving back to the community.

Unfortunately, not every good story is told, not every observer is objective and many view our profession with a jaundiced eye. It is too easy to find remarks and stories – even whole web sites – excoriating the criminal defense lawyer who kept a “danger to society” out of jail, as well as the judge who had the gall to grant bail in the case. There are stories about the “greedy lawyers” trying to “gouge” insurance companies or BP, as well as the lawyers who are “mere skills” for those institutions. None of them let the facts stand in the way of their opinion. Though all of us – lawyers and judges – make mistakes from time to time, those mistakes are the exception, not the rule. Why is it so hard to find the stories about the good things that lawyers do every day?

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2016 OFFICERS

- PRESIDENT – PETER S. MACKEY**
- PRESIDENT ELECT – J. GREGORY CARWIE**
- VICE PRESIDENT – JEAN M. POWERS**
- SECRETARY – MOSHA E. MOORE**
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- PRESIDENT Y. L. – RUSSELL D. JOHNSON**
- EXECUTIVE DIRECTOR – BARBARA C. RHODES**
- EDITOR – FERRELL S. ANDERS**

PROGRAM

**THE JANUARY 2016 MONTHLY LUNCHEON WILL BE FRIDAY,
JANUARY 15, 2016, 11.45 AM**

THE ADMIRAL HOTEL BALLROOM

SPEAKERS:

- CHIEF U. S. DISTRICT JUDGE**
- CHIEF U. S. BANKRUPTCY JUDGE**
- PRESIDING CIRCUIT JUDGE, 13TH JUDICIAL CIRCUIT**
- PRESIDING DISTRICT JUDGE, 13TH JUDICIAL CIRCUIT**
- MOBILE COUNTY JUDGE OF PROBATE**
- MBA GRIEVANCE COMMITTEE CHAIRMAN**

HAPPY
NEW YEAR



Browsing the Bar – With Barbara

Tammy and I wish each of you a Happy New Year! We especially want to thank BRIAN MCCARTHY for an excellent year. He has been great to work with and his staff has been a tremendous help – Kevin has been “johnny on the spot” when we needed something picked up or delivered (he even helped me with my iphone)– thank you!

We still are not “back to normal” here at the Bar headquarters but who can say what is normal anymore? We do not have the rug in place under the conference table as yet, had to wait a period of time for the stain on the floor to set, but we do have most of the boxes back in the attic and are working on rearranging files, etc.

Mardi Gras is just a few days away so dust off your tuxedos and ball gowns (or skis and Mickey Mouse ears, depending on where you plan on celebrating the MG season). Maybe just maybe after the MG madness is over we can get back to business before school is out for the summer!



*THANKS TO LEAVELL INVESTMENT MANAGEMENT FOR
SPONSORING OUR DECEMBER LUNCHEON*



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President's Comments

Continued from page 1

This bad perception is fixable if we just show the good that we do. Several years ago, I had the good fortune to attend a talk by David Ball, an author who has written several books on proving damages. "There is nothing a lawyer on either side of the case can tell a jury that will convince them that he is doing anything other than trying to earn enough to put another Lexus in his garage," he said, "but he can show them by his good works that lawyers are, in fact, something that society needs." He titled his concept "being good by doing good."

How do we do that? First, by doing good works, both in and outside the courtroom or boardroom. Second, by publicizing those good works in a professional, tasteful and positive way. We are talking Tom Hanks or Denzel Washington. We are not talking "The Alabama Hammer." Third, by mentoring young lawyers and guiding them in the way things should be done, both in the office and at home.

In the coming months, we will be sharing stories from the lawyers who have volunteered to be part of this effort. These are the souls who make us proud to practice in this profession. We hope these stories will inspire you, and hope they will educate the public about the many faces of service found in the Mobile Bar. We will also be telling you how you can be part of this effort. Please be part of being good by doing good.

LAWYERS IN THE NEWS

BY SANDY G. ROBINSON

DIED: MBA member **DESMOND TOLER** died in Mobile on November 24, 2015 at the age of 74. He was a graduate of LSU and the University of Alabama School of Law, and also received a Master of Religious Education degree from New Orleans Baptist Theological Seminary. He practiced law in Mobile for many years and was also a Municipal Judge for the City of Mobile. He also served on staff at several churches, and was a member of Cottage Hill Baptist Church at the time of his death. He is survived by his wife, three children, six grandchildren, and many other relatives and friends.

DIED: MBA member **GREG BUFFALOW** died on December 4, 2015 at the age of 61. He was a graduate of the University of Alabama School of Law and received an LL.M. from New York University. He was a member of the Maritime Law Association and other professional organizations. He is survived by his wife, two children, and other relatives and friends.



ANNOUNCEMENTS

ANDY CITRIN INJURY ATTORNEYS AND EATON BARNARD

PROUDLY ANNOUNCE THEY HAVE MERGED THEIR PRACTICES.

EATON WILL BE MANAGING THE NEW **ANDY CITRIN INJURY ATTORNEYS'** OFFICE LOCATED AT 1904 DAUPHIN ISLAND PARKWAY AND **ANDY CITRIN INJURY ATTORNEYS** WILL MAINTAIN THEIR DAPHNE OFFICE. EATON BARNARD CAN BE REACHED AT 251.300.2291.

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@JEFFRIESFAMILYLAW.COM

KARLA BAKER, DAUGHTER OF GERTRUDE BAKER,

DECEASED, IS SEARCHING FOR HER MOTHER'S WILL. IF YOU HAVE ANY INFORMATION THAT MAY BE HELPFUL, PLEASE CALL HER AT 251.473.2646 OR 251.645.4756.

FOR SALE/LEASE: CLASS-A OFFICE BUILDING IDEALLY SUITED FOR LAW FIRM – 5,016 SQ/FT, 2-STORY, 960 DAUPHIN ST. MULTIPLE LARGE OFFICE SPACES BOTH UPSTAIRS AND DOWN, WITH LARGE CONFERENCE ROOM AND KITCHEN. ALL NEW ELECTRICAL AND PLUMBING IN 2014. ZONED B-1. FOR SALE - \$529,000. FOR LEASE- \$12 S/F, NNN – ALL TERMS NEGOTIABLE. CONTACT 251.895.2612

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 US IN CONGRATULATING THE FOLLOWING 2015 WINNERS:

Volunteer of the Year- Robert Riccio, Esq.

Community Partner of the Year- Housing First, Inc.

SAVLP Young Lawyer of the Year- Joseph D. Thetford, Jr., Esq.

Pro Bono Appreciation Award- Jessica McDill, Esq.

Leadership Award- Gregory E. Vaughan, Esq.

Ben Kilborn Mobile Bar Association Lawyer of the Year- John G. Baylor, Jr., Esq.

750 Hours of Service- Gilbert B. Laden, Esq., J. Burruss Riis, Jr., Esq.

500 Hours of Service- J. Craig Campbell, Esq. and Clifford C. Sharpe, Esq.

250 Hours of Service- Benjamin Y. Ford, Esq., Peter S. Mackey, Esq., Augustine Meaher, III, Esq., Henry T. Morrissette, Esq., Ian D. Rosenthal, Esq.

100 Hours of Service- Edward G. Bowron, Esq., Brent T. Day, Esq., Margaret F. Demeranville, Esq., Charles J. Fleming, Esq., Matthew R. Jackson, Esq., W. David Johnson, Jr., Esq., Lynn F. McConnell, Esq., S. Wesley Pipes, V, Esq., Robert J. Riccio, Esq., Joseph D. Steadman, Esq., Renee E. Thiry, Esq.

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

RUSSELL D. "RUSS" JOHNSON, PRESIDENT



THE YOUNG LAWYERS COMMITTEE is coming off a highly successful 2015 in terms of fundraising and increased attendance at the monthly meetings last year. As always, our success is owed to the overwhelming generosity of our sponsors, the hard work of the officers and Executive Committee, and the involvement and interest of the Bar as a whole. We look forward to building on this momentum and another great year for the **YOUNG LAWYERS**. Before moving forward, we must thank **JONATHAN MAPLES** for all of his hard work as President which led to outstanding donations to both the **St. Mary's Home** and our local **Ronald McDonald House**.

This year's Executive Committee took over the **YOUNG LAWYERS** on January 1, 2016. I work for **ALEXANDER SHUNNARH GULF COAST, LLP** and can be reached at rjohnson@asilpc.com. Our incoming Vice President is **TIM HEISTERHAGEN** of **ARMBRECHT, JACKSON** (tah@ajlaw.com). Tim and I would like to welcome our new Treasurer (who needs no introduction), **KATE BROWNING** of **THE BROWNING LAW FIRM** (kmb@rebpc.net). We are wasting no time getting the year started off right as **PRO-LEGAL COPIES** will be sponsoring our first meeting of 2016 at **CALLAGHAN'S IRISH SOCIAL CLUB** (corner of Charleston & Marine) on January 21, 2016 at 5:30. Every year **MICHAEL CANNON** and **PRO-LEGAL** are strong supporters of the **YOUNG LAWYERS**, and we truly appreciate their continued support this year. We look forward to seeing everyone at Callaghan's for a great evening. As always, we encourage everyone involved with the Mobile Bar, firms, courts, etc. to attend. If you are not on the Young Lawyers e-mail list or need to update an e-mail address, please let Tim, Kate or me know.



MBA WOMEN LAWYERS

By: Alexandra K. Garrett

On Friday, December 4, 2015, the MBA Women Lawyers hosted “**HAVE A SEAT AT THE WOMEN’S BAR: MORNING MIMOSAS**” in conjunction with the **27TH ANNUAL BENCH AND BAR CONFERENCE** at the Grand Hotel in Point Clear, Alabama.

Women lawyers and judges mixed and mingled over coffee and mimosas while reflecting on the last year’s challenges and successes and next year’s goals. Author **PARIS LOVE** facilitated candid discussions between attendees and a panel composed of **JUDGES SARAH STEWART, KRISTI DUBOSE, SHANTA OWENS,** and **ROSEMARY CHAMBERS** about current issues affecting women lawyers, including work-life balance, managing personal and professional expectations, perception in the courtroom, and goal setting and achievement. **JUSTICE LYN STUART** and **JUDGES TERRI THOMAS** and **JILL PHILLIPS** also participated.

MBAWL collected toys and donations for **BIG BROTHERS BIG SISTERS OF SOUTH ALABAMA** at the door. **YOUNG LAWYERS** graciously donated all profits raised at the Sunday golf tournament to **MBAWL’s** drive, and **HENDERSON & ASSOCIATES COURT REPORTERS, INC.** generously matched the donation, helping make the drive a great holiday success! **BIG BROTHERS BIG SISTERS OF SOUTH ALABAMA** will distribute the toys to children in the community and will use the donation to purchase books for its school-based programs.

FUSION SPA & SALON and **PNUEMA YOGA/MOVEMENT STUDIO** donated door prizes for the event, which was chaired by **MBAWL VICE PRESIDENT SUNTREASE WILLIAMS-MAYNARD**.

MBAWL will resume its regular monthly lunch meetings on January 12, 2016 at noon at **TP CROCKMIERS**. Anyone interested in joining **MBAWL** or serving as an officer in 2016 should contact **MBAWL PRESIDENT ABBY RICHARDSON** at abby@richardsonlawllc.com



MBAWL VICE PRESIDENT SUNTREASE WILLIAMS-MAYNARD presenting the group’s donation to **BIG BROTHERS BIG SISTERS OF SOUTH ALABAMA**.



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 DONATIONS MADE

in Memory of

DAVID W. SHIPPER

(BROTHER OF MBA MEMBER MICHAEL M. SHIPPER)

WAS GIVEN BY P. BRADLEY MURRAY, ESQUIRE

in Memory of

GREGORY C. BUFFALOW, ESQUIRE

WAS GIVEN BY

THE MOBILE COUNTY CIRCUIT JUDGES AND THE PROBATE JUDGE

JANUARY 2016



**JANUARY 1 - FRIDAY
HOLIDAY – NEW YEARS DAY**

**JANUARY 7 - THURSDAY
MBA BUDGET COMMITTEE MEETING,
3:30 PM
MBA HEADQUARTERS**

**JANUARY 14 - THURSDAY
MBA EXECUTIVE COMMITTEE MEETING,
12 O'CLOCK NOON,
THE ATHELSTAN CLUB**

**JANUARY 15 - FRIDAY
MBA MONTHLY LUNCHEON,
11:45 AM,
THE ADMIRAL HOTEL BALLROOM**

**JANUARY 15 - FRIDAY
CLE – “OPINIONS FROM THE BENCH”
3.0 HRS. MCLE CREDITS INCLUDING 1.0 HR. ETHICS,
1:30 – 4:45 PM,
THE ADMIRAL HOTEL**

**JANUARY 18 - MONDAY
HOLIDAY – MARTIN LUTHER KING BIRTHDAY**

**JANUARY 21 - THURSDAY
MBA GRIEVANCE COMMITTEE MEETING,
12 O'CLOCK NOON,
THE ATHELSTAN CLUB.**

CONTINUING EDUCATION 2016

**FRIDAY - JANUARY 15
OPINIONS FROM THE BENCH
3.0 HRS.**

**FRIDAY - MARCH 18
EMPLOYMENT LAW,
3.0 HRS.**

**FRIDAY - APRIL 18
APPELLATE SEMINAR –
INCLUDING CRIMINAL & CIVIL ISSUES,
3.0 HRS.**

