



MONTHLY BULLETIN

Mobile Bar Association 153 Government Street Mobile, Alabama 36602 (251) 433-9790

President's Comments



**HENRY CALLAWAY, PRESIDENT
MOBILE BAR ASSOCIATION**



JUDGES GRADDICK and LOCKETT met with the MBA executive committee in August to go over the effect of recent budget cuts on our local state court system. In short: it's gonna be ugly.

The clerks' office in our local state court was already understaffed before the judicial cutbacks. In 2003, there were over 90 employees in the clerk's office; in August 2011, we had 60. But here's the bad part: from that reduced count of 60 employees, the clerk's office is losing 21 more, down to 39. The domestic relations division alone is losing five of nine employees. Try explaining that to your client who has to live in a house with his or her soon-to-be-ex-spouse waiting for a divorce to be processed.

The cutbacks take effect September 1st. We local lawyers have been somewhat sheltered from the court system's budget problems until now because **CIRCUIT CLERK JOJO SCHWARZAUER** and **PRESIDING JUDGE CHARLIE GRADDICK** have scrambled for funds in order to preserve services as much as possible, but they are reaching the end of the line. JoJo hopes to obtain funding to keep about eight of her former employees on as hourly contract workers, but they will lose their benefits, regular pay, and state employee status -- not much incentive for these experienced workers to stick around.

There are normally 34 weeks of jury trials a year; in 2012 there will be 8 weeks of civil jury trials and 13 weeks of criminal. Oh, and if you want to subpoena a witness, you better get your subpoena in several weeks ahead of time.

The Mobile County clerk's office handled 87,393 new case filings for the year ending July 15th. The cases keep coming even as the resources to deal with them diminish. And, as JoJo points out, the irony is that her office collects substantial funds for the state, the processing of which will be slowed.

The legislature seems to think that cutbacks in the court system affect only lawyers and judges, but it's the members of the public who suffer when they can't get the child support they need, the restraining order entered, or the workman's comp settlement approved.

JUDGES LOCKETT and GRADDICK have asked our local legislators to pass an act establishing a \$50 add-on filing fee for local cases, which money would remain here. They are not enthusiastic about an increase in filing fees but see it as the only viable alternative in a bleak state budget situation. Please let your local legislators know your concerns:

SENATORS: VIVIAN DAVIS FIGURES, BEN BROOKS AND RUSTY GLOVER

REPRESENTATIVES: YVONNE KENNEDY, NAPOLEON BRACY, JAMES BUSKEY, VICTOR GASTON, JAMIE ISON, CHAD FINCHER, JOSEPH C. MITCHELL, JIM BARTON AND DAVID SESSIONS.

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2011 OFFICERS

PRESIDENT – HENRY CALLAWAY
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PROGRAM

FRIDAY, SEPTEMBER 26, 2011, 11:45 A.M.

RADISSON ADMIRAL SEMMES HOTEL

SPEAKER: DENNIS KNIZLEY

will be the speak on representing high profile criminal defendants.

Browsing the Bar

With Barbara



A minister decided that a visual demonstration would add emphasis to his Sunday sermon.

Four worms were placed into four separate jars.

The first worm was put into a container of alcohol.

The second worm was put into a container of cigarette smoke.

The third worm was put into a container of chocolate syrup.

The fourth worm was put into a container of good clean soil.

At the conclusion of the sermon the minister reported the following results:

The first worm in alcohol:

DEAD

The second worm in cigarette smoke:

DEAD

Third worm in chocolate syrup:

DEAD

Fourth worm in good clean soil:

ALIVE



So the minister asked the congregation, "What can you learn from this demonstration?"

Maxine who was setting in the back, quickly raised her hand and said, "As long as you drink, smoke and eat chocolate, you won't have worms!"

That pretty much ended the service.

MORAL?

Sometimes, no matter how clearly you think you said it,

People can still misunderstand you.

By James Watt

Good News Newsletter May-June 2009

New Members

JUDSON ERIC CRUMP,
UNIVERSITY OF ALABAMA SCHOOL OF LAW 2009;
ALABAMA STATE BAR 2009;
WITH LORIS LAW FIRM.

BRIAN K. SMITHWECK,
CUMBERLAND SCHOOL OF LAW 2010;
ALABAMA STATE BAR 2010;
WITH SILVER, VOIT & THOMPSON

JAMES K. HARRED,
BIRMINGHAM SCHOOL OF LAW 2010;
ALABAMA STATE BAR 2011; SOLE PRACTITIONER

KATRIESA ANN CRUMMIE,
UNIVERSITY OF ALABAMA SCHOOL OF LAW 2010;
ALABAMA STATE BAR 2010;
WITH MOBILE COUNTY DISTRICT ATTORNEY'S OFFICE

S. ERIC LEE,
TULANE UNIVERSITY SCHOOL OF LAW 2010;
SOUTH CAROLINA STATE BAR 2010;
ALABAMA STATE BAR 2011; WITH BURR & FORMAN LLP

JONATHAN E. McCONNELL,
UNIVERSITY OF ALABAMA SCHOOL OF LAW 2010;
ALABAMA STATE BAR 2011; WITH MERIDIAN GLOBAL CONSULTING LLC

WILLIAM D. STOKES,
UNIVERSITY OF ALABAMA SCHOOL OF LAW 2010;
ALABAMA STATE BAR 2011; WITH CUNNINGHAM BOUNDS LLC

STEPHEN M. COLLINS, JR.,
JONES SCHOOL OF LAW 2010;
ALABAMA STATE BAR 2010; WITH GREENE & PHILLIPS

JOHN DANIEL HAWKE,
JONES SCHOOL OF LAW 2010; ALABAMA STATE BAR 2011



ANNOUNCEMENTS

As a brief introduction, my name is **J. B. HORST**. I do business under the corporate name **I. I. M. S.**, Inc. and my detailed information is available at the Office of the Mobile Bar Association. My panel card may be viewed on the web site of the **American Arbitration Association (aaa.org)**. I am an experienced, trained and well qualified Construction and Commercial Arbitrator, and would appreciate your consideration whenever you need a non-attorney arbitrator, whether as a sole arbitrator or member of an arbitration panel. Jbh1942@gulftel.com

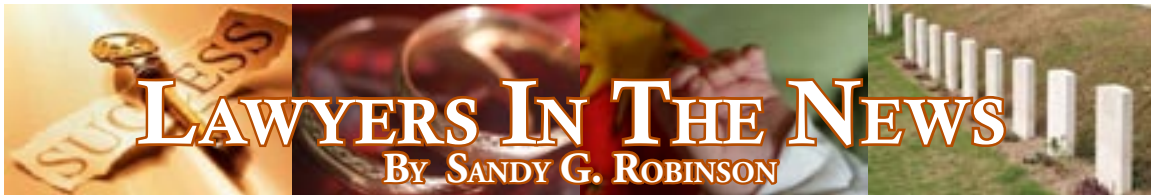
STARNES DAVIS FLORIE is pleased to welcome **RICK HARRIS OF COUNSEL** to the firm. Following his 21 years of experience with the **ALABAMA DEPARTMENT OF PUBLIC HEALTH**, Rick's practice will focus on regulatory compliance and risk management for long term care and other healthcare providers.

EXPERIENCED PARALEGAL seeking full or part time position. Rate negotiable. Call Andie Bender, 251.209.2019

OFFICE SPACE AVAILABLE: 166 Government Street Suite 110, corner of Government and Conception Streets. Utilities included in rent. For more information please call 251.434.9444 or email brown8912@att.net

IF YOU HAVE an original Will, signed copy or unsigned copy that you know to have been signed by **JIMMY GEORGE LOWE, JR.**, please contact **MARK KIRKPATRICK** at Coale, Dukes, Kirkpatrick & Crowley, P.C., telephone 251.471.2625

EXPRESS SHRED & DIGITAL IMAGING offers several solutions for your business or residence: document destruction; hard drive shredding; computer recycling; digital imaging of documents. Call 251.478.8262



LEGAL MILESTONES:

DIED: BARBARA DERAMUS ANDERSON, MOTHER OF MBA MEMBER **DOUG ANDERSON**, DIED IN FAIRHOPE ON AUGUST 9, 2011. SHE WAS AN ACTIVE MEMBER OF **FAIRHOPE UNITED METHODIST CHURCH** AND IS SURVIVED BY 2 CHILDREN, 5 GRANDCHILDREN, AND THREE GREAT-GRANDDAUGHTERS.

DIED: ANN SALTER JOHNSTON, MOTHER OF MBA MEMBER **ROBERT JOHNSTON**, DIED AUGUST 13, 2011 IN ALEXANDRIA, LOUISIANA. SHE WAS BORN IN GEORGIANA, AND GRADUATED FROM **HUNTINGDON COLLEGE** IN MONTGOMERY. SHE WAS A MEMBER OF **ST. STEPHEN'S EPISCOPAL CHURCH** IN BREWTON, ALABAMA AND ENJOYED PLAYING GOLF, READING AND OTHER HOBBIES. SHE IS SURVIVED BY 4 CHILDREN, EIGHT GRANDCHILDREN, AND SEVEN GREAT-GRANDCHILDREN.

CONGRATULATIONS: MBA MEMBER **JONATHAN GARDBERG** WAS HONORED BY **OZANAM CHARITABLE PHARMACY**, WHICH ESTABLISHED A **COMMUNITY LEADERSHIP AWARD** WHICH WAS INSPIRED BY AND NAMED FOR HIM. THE PHARMACY'S MISSION IS TO PROVIDE NEEDED MEDICATION TO THE POOR AND UNINSURED. JONATHAN WAS INSTRUMENTAL IN ESTABLISHING THE PHARMACY'S ANNUAL FUNDRAISER, A RUBBER DUCK RACE, AND HAS RECRUITED FAMILY, FRIENDS AND STAFF TO ASSIST WITH THE EVENT. THE AWARD WAS ESTABLISHED TO RECOGNIZE HIS WORK AND TO ENCOURAGE OTHERS TO MAKE A DIFFERENCE IN THE COMMUNITY. CONGRATULATIONS AND THANK YOU TO JONATHAN!

CONGRATULATIONS: MBA MEMBER **JAIME BETBEZE** AND HIS FATHER **GAINES BETBEZE** WERE RECOGNIZED AND PICTURED IN AN ARTICLE REGARDING THE **MUSICA SACRA CHOIR'S** RECENT VOCAL PERFORMANCE OF A LATIN MASS AT THE CATHEDRAL OF THE IMMACULATE CONCEPTION IN MOBILE. THAT SINGING TALENT RUNS IN THE FAMILY

MICHAEL AND KRISTI GALLOWAY ANNOUNCE THE BIRTH OF **WILLIAM ROBERT GALLOWAY**, JULY 29, 2011, WEIGHING IN AT 7 LBS 7 OZS., IN ALEXANDRIA, VIRGINIA. **WILLIAM ROBERT** IS THE FIRST GRANDCHILD OF MBA MEMBER **ROBERT** AND WIFE **ANNIE HUNTER GALLOWAY**. HE IS THE GREAT GRANDSON OF MBA MEMBER **THOMAS** AND WIFE **ALMA GALLOWAY** AND GREAT NEPHEW OF MBA MEMBER **TOM GALLOWAY, JR.** CONGRATULATIONS TO ONE AND ALL!

VOLUNTEER LAWYERS PROGRAM

BY: BLAKELY H. DAVIS

In honor of the National Pro Bono Celebration,
the MBA Volunteer Lawyers Program
presents the 3rd annual
"can't miss"
Dinner Theater and Silent Auction Fundraiser

Broadway Briefs – Lawyers Take the Stage

An exciting and entertaining performance by an all-
star, all-lawyer cast presenting scenes and songs
from law-related shows

October 27, 2011

6:00 – 9:00p.m.

Mobile Marriott – Airport Blvd.

All sponsored tables will receive two bottles of complimentary wine with
Dinner. Your ticket price will include dinner and "The show"
A cash bar will be available

Producers' Tables

\$750 and up – Reserved seating for 8 and sponsorship recognition

Directors' Tables

\$400 – Reserved seating for 4 and sponsorship recognition

\$200 – Reserved seating for 2 and sponsorship recognition

Black Debe Society Tables

Limited to the judiciary

\$150 – Reserved seating for 2 and sponsorship recognition

Individuals eating - \$50 each

Space is limited so reserve your tickets now!

Call the VLP office for reservations or further information – 438-1102
or email info@vlpmobile.org

Please make plans to attend the MBA
VLP ANNUAL BROADWAY BRIEFS DINNER
THEATRE, Thursday, October 27, 2011.
This exciting evening is always "sold out"
so call today for reservations. You will be
treated to a uniquely legal experience!

Congratulations to HENRY CALLAWAY for
his recent National Pro Bono recognition.
His leadership and dedication to serve is
mirrored by over 750 panel attorneys and
the entire Mobile legal community! One
recent caller to the VLP office, left this
voice mail: *"God bless you! I got your
number out of the paper. At this time, I
do not need you but I wanted to clarify it
was the right number and I want to say
thank you, thank you, thank you, from
about a million people in Mobile County.
God bless your heart! That is the greatest
thing I've ever seen! Thank you!"*

We also thank you for always being
available to assist the poor with their
civil legal needs and special thanks to the
following attorneys who accepted and/or
concluded VLP cases in July: FERRELL S.
ANDERS, KATHERINE B. ARNOLD, J. DANIEL
BARLAR, JR., EATON G. BARNARD, PAUL T.
BECKMANN, RUSSELL E. BERGSTROM, HENRY
H. BREWSTER, ANN Y. BROWN, DOUGLAS
L. BROWN, JENNIFER C. BYRD, HENRY H.
CADELL, HENRY A. CALLAWAY, III, JAMES
P. COLEMAN, F. LUKE COLEY, JR., CELIA J.
COLLINS, J. P. COURTNEY, III, ROBERT J.

CRANE, DANIEL A. DENNIS, IV, JOSH D. FRIEDMAN, ROBERT M. GALLOWAY, GEORGE C. GASTON, J. W. GOODLOE,
JR., TIMOTHY M. GROGAN, KATIE L. HAMMETT, THOMAS E. HARRISON, TIMOTHY A. HEISTERHAGEN, FREDERICK G.
HELMSING, JR., R. SCOTT HETRICK, JENNIFER HOLIFIELD, LYMAN F. HOLLAND, JR., JACK F. JANECKY, LINDA COLLINS
JENSEN, GREGORY R. JONES, KATHLEEN COBB KAUFMAN, GILBERT B. LADEN, WILLIAM R. LANCASTER, JOHN V. LEE,
FRANCIS E. LEON, JR., DANIEL L. MCCLEAVE, LYNN MCCONNELL, W. CHRIS MCGOUGH, AUGUSTINE MEAHER, III,
S. C. MIDDLEBROOKS, J. RICHARD MOORE, D. BRIAN MURPHY, FAITH A. NIXON, RYAN T. NORTHRUP, WILLIAM
C. POOLE, JEAN M. POWERS, LATISHA RHODES, ROBERT RICCIO, JAY N. ROBINSON, JANNEA S. ROGERS, HENRY R.
SEAWELL, IV, KENNETH S. STEELY, T. JEFF STEIN, DAVID A. STRASSBURG, JR., JAMES B. VOLLMER, PATRICK J. WARD,
WILLIAM W. WATTS, III, RICHARD R. WILLIAMS, RONNIE L. WILLIAMS, THOMAS M. WOOD, RANDOLPH T. YANCE, AND
THOMAS T. ZIEMAN, JR.

*Let's celebrate every aspect of VLP and the people that make it possible this
October during - NATIONAL PRO BONO CELEBRATION MONTH!*



SIGNIFICANT DECISIONS

BY DUANE GRAHAM

Relying on *Ford v. Jefferson County*, 774 So.2d 600 (Ala.Civ.App.2000), the Supreme Court in *Hobbs v. Mobile County*, No. 1100004 (Ala., April 22, 2011), held that a claim for mandatory injunction to abate a trespass or nuisance against a county was not subject to the claim presentment requirements of Ala. Code § 6-5-20 and Ala. Code § 11-12-8. The Court specifically rejected the notion that a claim to abate a nuisance - an affirmative injunction – was outside the parameters of historical, common-law injunctive claims.

Overruling *Ex parte Byrom*, 895 So.2d 942 (Ala.2004), to the extent deemed inconsistent, the Supreme Court in a divided opinion held that the “legal causation” test was applicable, not the “but-for” test, in determining whether an employee’s injury was a compensable on-the-job injury under the workers’ compensation statutes. Accordingly, an employee, who inexplicably fell and broke her wrist while walking in her place of employment, was required to prove that this injury arose as a result of her employment.

Distinguishing *Fogarty v. Parker, Poe, Adams & Bernstein, L.L.P.*, 961 So.2d 784 (Ala.2006), the Supreme Court in *Roberts v. Lanier*, No. 1100045 (Ala., April 15, 2011), held that the Alabama Legal Service Liability Act, Ala. Code § 6-5-570, et seq., applied to a claim by a non-Alabama attorney who provided legal representation to an Alabama client in conjunction with an Alabama lawyer.

In *Ingram v. Van Dall*, No. 1091563 (Ala., April 8, 2011), the Supreme Court ruled that the probate court of the county where an accident resulting in the decedent’s death occurred did not have jurisdiction, solely as a result of that fact, over the administration of the decedent’s estate where the decedent resided in and has assets located in another county.

THE DELANO PALUGHI CHAPTER OF THE ST. THOMAS MORE SOCIETY WILL SPONSOR THE ANNUAL RED MASS CELEBRATION on Friday, September 30, 2011,

12 o’clock noon at the Cathedral of the Immaculate Conception.

A brief reception will be held following the Mass. Your support and attendance would be deeply appreciated.

If you have any questions, please contact **Greg McAtee at 251.661.9399**

YOUNG LAWYERS

TOM RADCLIFF - PRESIDENT

Let me start by thanking all of our sponsors who helped make the **BAND PARTY** a tremendous success: **ALEX ZOGHBY, HAND ARENDALL, FREEDOM COURT REPORTING, MOBILE BAY REPORTING, THE BEN BROOKS JUDICIAL CAMPAIGN COMMITTEE, AND THE COMMITTEE TO ELECT EATON BARNARD FOR CIRCUIT JUDGE.** Thanks to their generous sponsorship, and the money we collected at the door, we will be able to make a very nice donation to our charity for the event, the **WILMER HALL CHILDREN'S HOME.**

This month's meeting is sponsored by **CUNNINGHAM BOUNDS, LLC,** and will be held **THURSDAY, SEPTEMBER 15TH** at **TRUE** from 5:00 to 9:00. **TRUE** is located at 9 Dhu Rhu Drive on the east side of I-65 off of Dauphin Street. This meeting is always a top-notch event, and we certainly hope you can make it.



YOU'RE INVITED!

Mobile Young
Lawyers Meeting

Thursday, September 15, 2011
5:30 - 8:00 p.m.

Cocktails, Hors D'oeuvres,
& Live Music!

at
TRUE

9 Dhu Rhu Drive
in Legacy Village

All Mobile & Baldwin County
LAWYERS, JUDGES & STAFF
are invited!

Sponsored By:


CUNNINGHAM
BOUNDS, LLC
Founded in 1988

MOBILE BAR FOUNDATION

The Bar Foundation has "Kicked Off" a raffle for footballs autographed respectively by COACH CHIZIK and COACH SABAN. Tickets are \$10 each/ three for \$20. Answer a question about your favorite team and select the drawing of your choice. Support YOUR Bar Foundation, the charity arm of the MBA!

Drawing to be held November 18, 2011. Tickets are available for purchase at the Bar Office or from any member of the BAR FOUNDATION BOARD: KATHY MILLER, MARY MARGARET BAILEY, BRANDY HAMBRIGHT, SHELBONNIE COLEMAN-HALL, NANCY BUSEY, JOHN CROWLEY, IAN ROSENTHAL, TOM RADCLIFF, HENRY CALLAWAY, WESLEY PIPES OR FERRELL ANDERS.



MEMORIALS

FREDERICK G. HELMSING, SR.

By LARRY U. SIMS

RALPH G. HOLBERG, III

FOR THE FIRM

MR. AND MRS. CAINE O'REAR

FUNDRAISERS

KICKBALL TOURNAMENT

By YOUNG LAWYERS SECTION



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



September

SEPTEMBER 2011

SEPTEMBER 5 - MONDAY
LABOR DAY HOLIDAY

SEPTEMBER 8 - THURSDAY
EXECUTIVE COMMITTEE MEETING,
12 O'CLOCK NOON,
HAND ARENDALL CONFERENCE ROOM

SEPTEMBER 14 - WEDNESDAY
WORKERS' COMP SECTION MEETING,
12 O'CLOCK NOON, ADMIRAL SEMMES

SEPTEMBER 14 - WEDNESDAY
BENCH & BAR COMMITTEE MEETING,
12 O'CLOCK NOON, FELIX'S

SEPTEMBER 16 - FRIDAY
MBA MONTHLY LUNCHEON,
11:45 A.M.,
ADMIRAL SEMMES HOTEL

SEPTEMBER 16 - FRIDAY
BANKRUPTCY SEMINAR,
1:30 – 4:45 P.M., ADMIRAL SEMMES HOTEL

SEPTEMBER 22 - THURSDAY
GRIEVANCE COMMITTEE MEETING,
12 O'CLOCK NOON, MBA HEADQUARTERS

SEPTEMBER 30 - FRIDAY
**ST. THOMAS MORE SOCIETY RED MASS
CELEBRATION & RECEPTION,**
12 O'CLOCK NOON,
CATHEDRAL OF THE IMMACULATE CONCEPTION

CONTINUING EDUCATION 2011

Sept. 16	1:30 - 4:45	Bankruptcy	3.0 hrs.	
Oct. 11	10:30 - 4:30	New Lawyer Orientation	5.0 hrs	
Oct. 14	1:30 – 4:45	The New Virtual Law Office	3.0 hrs.	1.0 Ethics
Oct. 21	1:30 - 4:45	VLP Annual Seminar	3.0 hrs	1.0 Ethics
Oct. 28	8:30 - 4:45	Workers' Compensation	6.0 hrs	1.0 Ethics
Nov. 11	1:30 - 4:45	Law Office Management & Attorney Ethics	3.0 hrs	1.0 Ethics
Nov. 18	1:30 - 4:45	Appellate Practice	3.0 hrs.	
Dec. 2	11:00 – 12:30	Working Lunch-Young Lawyer Mixer	1.0 hrs.	
Dec 2	12:00 – 6:00	Bench & Bar Conference	5.0 hrs	1.0 Ethics.
Dec. 9	8:00 - 5:00	CLE By the Hour	8.0 hrs.	1.0 Ethics
Dec. 17	1:30 - 4:45	Civil Law Update	3.0 hrs	

CONTINUING EDUCATION 2012

Jan. 20	1:30 - 4:45	Probate Practice	3.0 hrs
March 16	1:30 - 4:45	The Modern Law Practice	3.0 hrs.
April 20	1:30 - 4:45	Drug Court	3.0 hrs
May 18	1:30 - 4:45	Words from On High	3.0 hrs