



# MONTHLY NEWSLETTER

VOLUME XLV,  
ISSUE 3 • MARCH 2016

## President's Comments



**PETE MACKEY, PRESIDENT  
MOBILE BAR ASSOCIATION**

Less than two hours after **JUSTICE SCALIA'S** death was announced, the partisan shouts about choosing his successor hit a fever pitch. Each side stood fully convinced that their view was right and their opponent's was wrong. One had to dig through the Google search results to get to what we normally see when a public person of note passes on – the accolades for, and fond remembrances of, a fallen friend. This fracas was just the latest in a long line of issues polarized by extremists and egged on by the press and in the social media.

A common denominator in each of these dustups is the inability or unwillingness of opposing viewpoints to listen to each other. We fail to consider that maybe we are both some right and some wrong – that we share common ground. There is a full spectrum of one-issue special interest groups that push this no compromise approach. We have become so polarized that the notion that we might actually learn from our opponent is absurd. We have forgotten how to listen. Can you imagine the legal arena without compromise – no plea bargains, no civil settlements, no red-lined leases or contracts, every divorce case tried?

Of course not - we all know in our rational minds that such a system would fail under its own weight. At the same time, though, we refuse to listen to the other side. Sure, we get it, but this case is different ... we are right on this one! We are trained advocates. Even when we acknowledge the truth, listening is not practical.

We just don't have the time. The demands of our practices are increasing, our profit margins are shrinking and competition is increasing. Our clients don't want to pay for thought - they want action. Common sense loses out – often at the cost of a win/win resolution. We no longer take the time to sit down with our opponent and listen to what they have to say. Our clients want win – not win/win. They expect it, don't they? At least they are told they should, in a variety of ways from a variety of mediums.

Trying my first divorce case oh so many years ago brought on the realization that there is always pretty of blame to go around. I learned the hard way, more than once, that the best way to represent one's client is to listen to what the other side had to say. Like much of the practice of law, though, listening is easier said than done. All but the best listeners stray far and often. But the more one listens, the easier it is to hear.

By listening to an opponent's concerns, a lawyer is often able to craft a resolution that takes those concerns into account without sacrificing anything his client really wants out of the deal. By listening to her own clients, she understands what they really need. By listening to the other side, a lawyer can pick up information that may be valuable if the matter is not resolved. Sometimes having someone listen to their problem is all they really want ...



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### 2016 OFFICERS

- PRESIDENT – PETER S. MACKEY
- PRESIDENT ELECT – J. GREGORY CARWIE
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- SECRETARY – MOSHAE E. MOORE
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- ASSISTANT TREASURER – ROBERT J. RICCIO
- PRESIDENT Y. L. – RUSSELL D. JOHNSON
- EXECUTIVE DIRECTOR – BARBARA C. RHODES
- EDITOR – FERRELL S. ANDERS

### PROGRAM

THE MARCH MONTHLY LUNCHEON WILL BE  
 FRIDAY, MARCH 18, 2016, 11:45 AM,  
 THE ADMIRAL HOTEL  
 THE SPEAKER WILL BE  
**MS. AMY RICE,**  
 PROJECT MANAGER  
 U.S. COURTHOUSE

*Who will tell us all there is to know about the*  
**NEW UNITED STATES**  
**COURTHOUSE**  
**HONOR 50 YEAR LAWYERS**  
 JUDGE CHARLES R. BUTLER, JR.  
 WILLIAM H. HARDIE, JR.  
 JUDGE DOUGLAS INGE  
 JOHNSTONE  
 VINCENT F. KILBORN, III  
 JOHN N. LEACH  
 SUSAN S. LEACH  
 YANCY DAVIS "BAY" LOTT, JR.  
 WESLEY PIPES

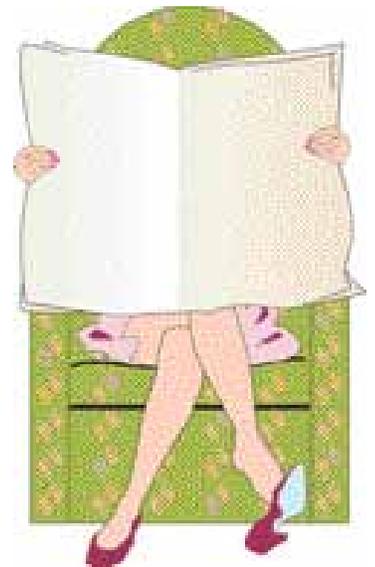


# BROWSING THE BAR WITH BARBARA

The appointments to the MBA Committees and Sections are complete and a full list is available to review on the MBA website. Please review and let us know (251.433.9790) as soon as possible of any changes, etc. or if you wish to be assigned to a particular Section or Committee. Many of the Sections and Committees have already scheduled an organizational meeting and your input is valued.

Please note the March Monthly luncheon speaker, **MS. AMY RICE, PROJECT MANAGER U.S. COURTHOUSE.** The new U.S. Courthouse is of major interest to the legal community and being informed of all the plans on the ground floor will certainly be of interest to most every lawyer in Mobile and surrounding areas. Mark your calendars now for March 18, 11:45 am The Admiral Hotel and remember, if you have to drive into town, the parking in the County Garage is complimentary.

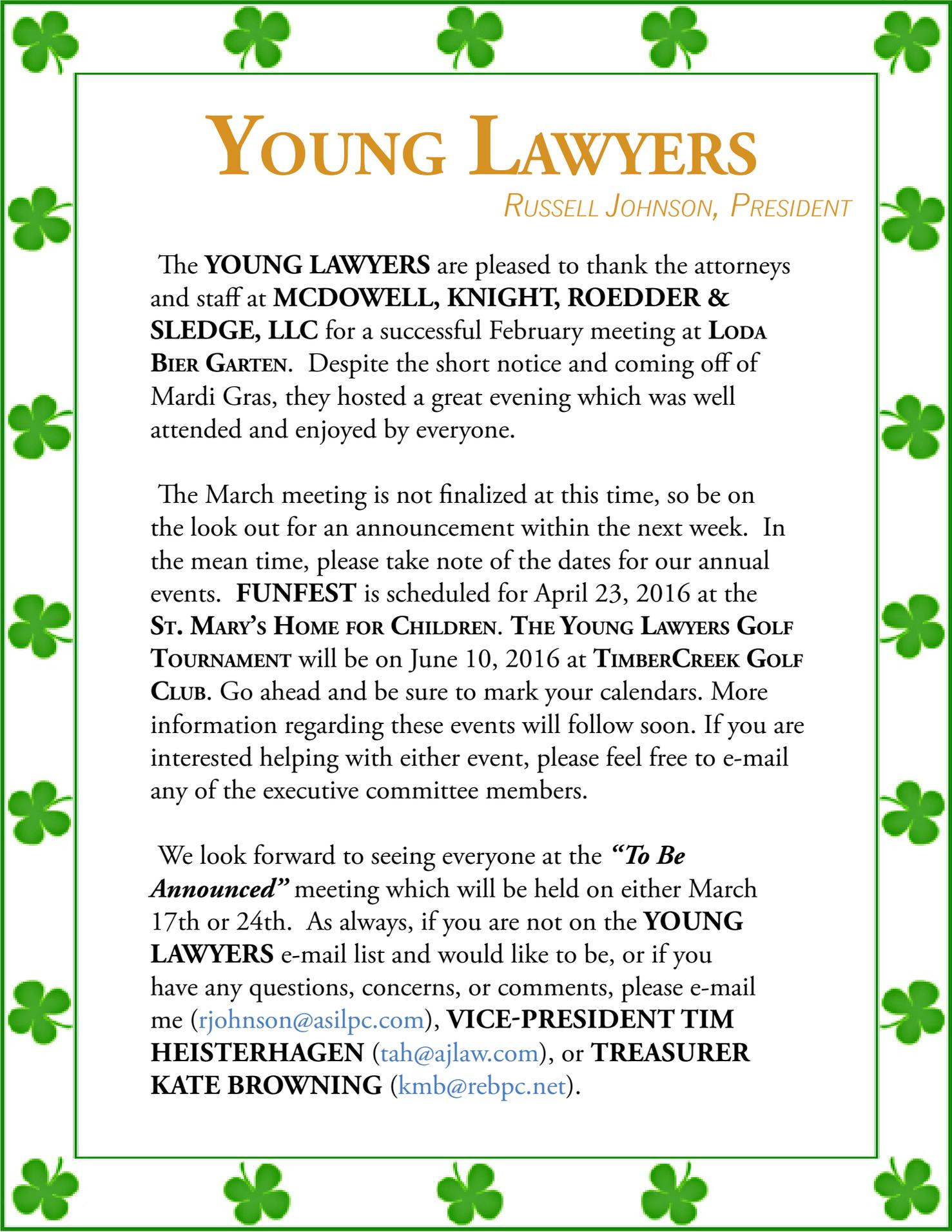
*...Nothing sucks more than that moment during an argument when you realize you're wrong!*



## MBA MENTORING COMMITTEE



On Tuesday, March 22, 2016, 12 o'clock noon at the **ATHELSTAN CLUB**, the **MBA MENTORING COMMITTEE** will host its first meeting of 2016. The purpose of the meeting is to organize and plan "**THE FUNDAMENTALS CLE**" mentoring project. The CLE will provide lawyers (practicing 5 years or less) and all other interested lawyers an opportunity to learn the fundamentals in a number of practice areas – taught by local lawyers. The lecturers will provide attendees with concise practical advice and forms that apply to their specific practice area. Attendees can also develop key contacts (i.e. mentors) in their practice area(s). The CLE will occur on August 12, 2016 (8am-5pm) and will include a social and networking hour afterwards.



# YOUNG LAWYERS

*RUSSELL JOHNSON, PRESIDENT*

The **YOUNG LAWYERS** are pleased to thank the attorneys and staff at **MCDOWELL, KNIGHT, ROEDDER & SLEDGE, LLC** for a successful February meeting at **LODA BIER GARTEN**. Despite the short notice and coming off of Mardi Gras, they hosted a great evening which was well attended and enjoyed by everyone.

The March meeting is not finalized at this time, so be on the look out for an announcement within the next week. In the mean time, please take note of the dates for our annual events. **FUNFEST** is scheduled for April 23, 2016 at the **ST. MARY'S HOME FOR CHILDREN**. **THE YOUNG LAWYERS GOLF TOURNAMENT** will be on June 10, 2016 at **TIMBERCREEK GOLF CLUB**. Go ahead and be sure to mark your calendars. More information regarding these events will follow soon. If you are interested helping with either event, please feel free to e-mail any of the executive committee members.

We look forward to seeing everyone at the *“To Be Announced”* meeting which will be held on either March 17th or 24th. As always, if you are not on the **YOUNG LAWYERS** e-mail list and would like to be, or if you have any questions, concerns, or comments, please e-mail me ([rjohnson@asilpc.com](mailto:rjohnson@asilpc.com)), **VICE-PRESIDENT TIM HEISTERHAGEN** ([tah@ajlaw.com](mailto:tah@ajlaw.com)), or **TREASURER KATE BROWNING** ([kmb@rebpc.net](mailto:kmb@rebpc.net)).



# SAVLP

## SOUTH ALABAMA VOLUNTEER LAWYERS



**PROJECT HOMELESS CONNECT (PHC)** was a huge success! At this one day event, resources and volunteers united to connect community members experiencing homelessness with vital resources. Those attending PHC were able to access legal, medical, housing, veteran, employment, and identification services on the same day and under one roof. Housing First, Inc., and SAVLP would like to thank the legal community for its continued support of this great event. Because of your participation, clients had access to civil and criminal legal advice and to a “Homeless Court” for the third year in a row. Thanks to the following for their participation

in PHC and for contributing to its success: **DISTRICT COURT JUDGE JILL P. PHILLIPS, MUNICIPAL COURT JUDGE SHELBONNIE HALL, C. ZACHARY MOORE, ESQ. (ACTING MUNICIPAL COURT JUDGE), CHRIS McDONNOUGH (ADA), CHERLINA MONTEIRO (PROSECUTOR), NATHAN EMMOREY (MUNICIPAL COURT ADMINISTRATOR), BAILIFF ROBERT AGEE, OFFICER PATRICK KYNASTON (13TH JUDICIAL POLICE DEPARTMENT), OFFICER SHAWN LAFRENIER (13TH JUDICIAL POLICE DEPARTMENT), KIM EARL AND MICHELLE SCOTT.** Many thanks to the attorneys who volunteered their time to provide legal assistance to homeless and imminently homeless clients: **JOSH BRISKMAN, ANNETTE CARWIE, RUTHIE ALEXANDER CLUTE, LUKE COLEY, MARIE DAVIS, MATT GREEN, NATHAN GUIN, SCOTT HAWK, LAURA HOLLAND, BUZZ JORDAN, MELINDA MADDOX, FARAH MAJID, JESSICA MILLING, LINDSAY MIMS, ROBERT MUDD, MARK MURPHREE, WOODIE PERKINS, SPENCER PHILLIPS, GINGER POYNTER, RACHELE REIS, VANESSA SHOOTS, PENNY SLAWKOWSKI, SHERRI THOMAS, ZACH WEAVER, AND MICHAEL WING.**

Please join us on April 30th at the **BLUEGILL** for SAVLP’s family friendly fundraiser! We will have relay and individual races, great food, entertainment, and prizes. See the [BATTLE OF THE BAY CANOE AND KAYAK RACE FACEBOOK PAGE](#) for more details. Registration information is available at [www.savlp.org/fundraisers](http://www.savlp.org/fundraisers). Thanks for supporting your VLP. We appreciate all that you do and look forward to seeing you April 30th.

Thanks to the following attorneys who accepted and/or closed cases in January: **JOHN G BAYLOR JR., RUSSELL E BERGSTROM, KNOX BOTELER, DOUGLAS L BROWN, RUSSELL C BUFFKIN, M. WARREN BUTLER, HENRY H CADDELL, ANNETTE CARWIE, F. LUKE COLEY JR., MARIE DAVIS, BRENT T DAY, GEORGE C GASTON, THOMAS J GLIDEWELL, JAMES N GUIN, MATTHEW B HALL, CHRISTINE HARDING HART, LAURA HOLLAND, LINDSAY S HURT, JACK F JANECKY, ANDREW M JONES, KATHLEEN KAUFMAN, HAROLD A KOONS III, JOSEPH O KULAKOWSKI, S. GAILLARD LADD, R. EDWIN LAMBERTH, MELINDA LEE MADDOX, FARAH MAJID, AUGUSTINE MEAHER III, ROSE METZGER, S. C. MIDDLEBROOKS, EDWARD A MILLER, M. KATHLEEN MILLER, JESSICA A MILLING, L. DANIEL MIMS, MOSHAE E MOORE, ROBERT H MUDD JR., JAMES T PATTERSON, JAMES REBARCHAK, RACHELE REIS, THOMAS M ROCKWELL, KEVIN M RYAN, HARRY V SATTERWHITE, CLIFFORD C SHARPE, PENNELOPE A SLAWKOWSKI, LACEY SMITH, HENDRIK SNOW, T. JEFF STEIN, JOSEPH D THETFORD JR., AND SHERRI A THOMAS.**



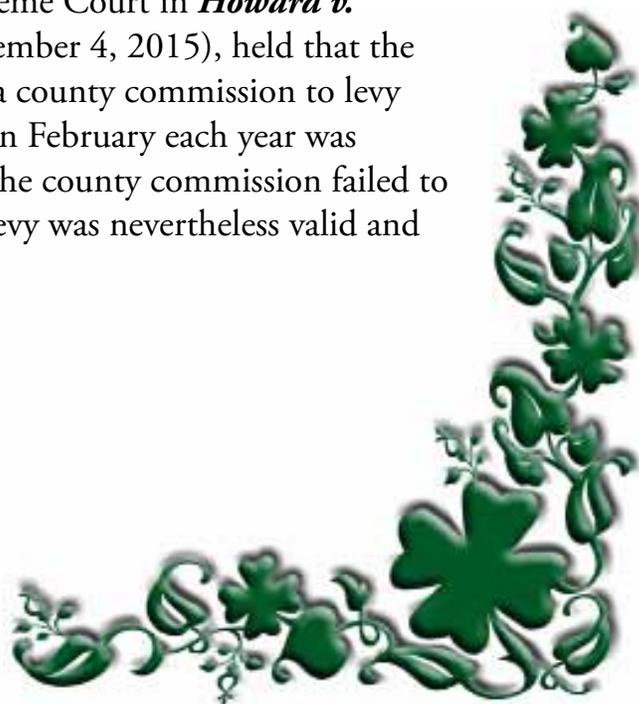
# BAR BULLETIN DECISIONS

BY DUANE GRAHAM

In a case dismissing an appeal, the Supreme Court in *Aliant Bank v. Carter, No. 1140023* (Ala., December 31, 2015), held that a junior lienholder's appeal from a trial court's order enjoining the lienholder from interfering with the landowners' contract to sell the property was moot because the first mortgage holder had foreclosed on the property and, rendered the owners' sales contract impossible of fulfillment so that the injunction against the junior lienholder had been moot.

In what appears to be a case of first impression, the Supreme Court in *Federal Insurance Co. v. Reedstrom, No. 1141153* (Ala., December 18, 2015), held that while issues concerning alleged waiver of an arbitration provision and concerning the enforceability of an arbitration provision against a non-signatory were generally issues to be decided by the trial court prior to compelling arbitration, these issue were nevertheless to be decided by the arbitrator when the arbitration provision incorporated the commercial arbitration rules of **AMERICAN ARBITRATION ASSOCIATION**, which authorize the arbitrator to decide all such issues.

In another case of first impression, the Supreme Court in *Howard v. Cullman County, No. 1140748* (Ala., December 4, 2015), held that the language of Ala. Code § 40-7-42 requiring a county commission to levy annual ad valorem taxes at its first meeting in February each year was directory and not mandatory. Thus, when the county commission failed to levy any tax until its May meeting, the tax levy was nevertheless valid and enforceable against property owners.





# ANNOUNCEMENTS

NEIL C. JOHNSTON, JR. has relocated his office: **LAW OFFICE OF NEIL C. JOHNSTON, JR., LLC**, 3800 Airport Boulevard, Suite 302, Mobile, AL 36608; telephone 251.709.8251; fax 251.725.9732; [neiljohnston@ncjlawoffice.com](mailto:neiljohnston@ncjlawoffice.com)

**STEVE and FRED MOORE** are pleased to announce the relocation of **MOORE LAW FIRM** to their newly renovated building located on 8 North Dearborn Street, Mobile, AL 36602. Telephone 251.445.4444/Fax 251.408.3778.

**ASSOCIATE ATTORNEY WANTED.** Medium-sized growing law firm needs litigation associate. Salary commensurate with experience. Contact firm administrator by emailing resume and contact information to: [mobilelawoffice@gmail.com](mailto:mobilelawoffice@gmail.com)

**WILLIAM M. CUNNINGHAM, JR.** has a client who heard there was a Mobile law firm looking for a retreat/getaway/hunting lodge in the blackbelt. This is a beautiful 3700 sq ft home located 20 miles south of Selma and 17 miles north of Camden CR 41. The home is on 3 acres and has 4 BR, 2 full baths and 2 half baths. If interested, please contact Billy Cunningham 251.432.0612

**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 Street with private parking 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](mailto:jim@jeffriesfamilylaw.com)

**MAYNARD COOPER & GALE** is pleased to announce **GREY REDDITT**, shareholder in the firm's Mobile office, was inducted as a Fellow into the Alabama Law Foundation. The Foundation's primary objective is to make access to justice in Alabama a reality for all Alabama citizens.

**CARR ALLISON** is pleased to announce that **HEATHER HOUSTON** is a new shareholder in the firm.

**NOTICE FROM JO SCHWARZAUER:** Effective February 1, 2016, **PAULA J. SMITH** has been appointed as the new Supervisor for District Criminal. Her email address is: [PJSmith@alacourt.gov](mailto:PJSmith@alacourt.gov) phone number: 574.5450

**NOTICE RE: NATURALIZATION CEREMONY: THE LAW DAY NATURALIZATION CEREMONY** will be Friday, April 29, 2016, 11:00 am on the Fantail of the **USS ALABAMA**. There will be a reception immediately following in the Award Room.



## LAWYERS IN THE NEWS

By SANDY G. ROBINSON

### LEGAL MILESTONES:

**BORN: EDWARD “TEDDY” MAHAN HEISTERHAGEN** WAS BORN TO MBA MEMBERS **KASEE HEISTERHAGEN AND TIM HEISTERHAGEN** ON JANUARY 19, 2016. THE PARENTS AND BIG BROTHER **“DUBBIES”** ARE VERY PROUD.

**BORN: MBA MEMBER JENNIFER “JENN” SUSMAN** WELCOMED SON **PETER FREDRICK SUSMAN, JR.**, ON FEBRUARY 4, 2015. CONGRATULATIONS!

**DIED: KATHLEEN PADGETT**, WIFE OF MBA MEMBER **HERMAN PADGETT**, DIED ON JANUARY 23, 2016 AT THE AGE OF 62 AFTER A TWO YEAR BATTLE WITH CANCER. SHE WAS INVOLVED WITH NUMEROUS ART PROJECTS, AND HELPED RESTORE SEVERAL HISTORIC MARKERS AND SIGNS IN THE CITY OF MOBILE. SHE ALSO ENJOYED TRAVELING WITH HER HUSBAND. IN ADDITION TO HER HUSBAND, SHE IS SURVIVED BY HER MOTHER, TWO SONS, A GRANDSON AND MANY OTHER RELATIVES AND FRIENDS.

## Public Service Committee

By DOTTIE BARKER, CHAIR

I am the 2016 chairperson for the **PUBLIC SERVICE COMMITTEE**. Our focus this year is publicizing the good works of MBA members. We would like the world to know about the many, varied contributions our membership makes to our community, both legal and otherwise. If you would like help getting the word out about your accomplishments, or those of your colleagues or friends who are members of the bar, send the details to [MBAPublicRelations@gmail.com](mailto:MBAPublicRelations@gmail.com) and we will prepare a Press Release to distribute to local media outlets. You can send us information on legal or non-legal accomplishments of our members - appointments to boards, involvement in projects beneficial to the community, and the like. Please send me an email at the address above or call me at 431-6020 about any questions.



## MOBILE CHAPTER OF THE ASSOCIATION OF LEGAL ADMINISTRATORS

The **MOBILE CHAPTER OF THE ASSOCIATION OF LEGAL ADMINISTRATORS MANAGING PARTNERS BREAKFAST** will be held on March 23, 2016 at the Battle House Hotel from 8 am – 9:15 am. **SHERMAN WILLIAMS**, a star running back in the SEC and NFL, now an author, will be the key note speaker. Mr. Williams will host a book signing for his book **“CRIMSON COWBOY: THE RISE AND FALL OF A THREE-TIME CHAMPION”** immediately following breakfast. The event is sponsored by **BERNEY OFFICE SOLUTIONS**. For additional information, email [ccumbie@gardberglaw.com](mailto:ccumbie@gardberglaw.com)

President	Carolyn Brown, Phelps Dunbar, LLP
President Elect	Geoffrey M. Williams, CLM, Cunningham Bounds, LLC
Vice President	James T. Allen, CLM, Hand Arendall LLC
Treasurer	William H. Kiszla, Armbrecht Jackson LLP
Secretary	Terri F. Cain, Hand Arendall LLC
Past-President	Donna Garlotte, Spear, Spear & Hamby, P.C.

## MBA WOMEN LAWYERS 2016 OFFICERS

President	Suntrease Williams-Maynard
1st VP	Kristy Dugan <i>(with the understanding she will rotate into the presidency the following year)</i>
2nd VP	Mandy Barton
Secretary	Alex Garrett
Treasurer	Krissy McCulloch
Historian	Tiffany Smith
Immediate Past President:	Abby Richardson



**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

MEMORIAL GIFTS WERE GIVEN TO THE MOBILE BAR FOUNDATION  
IN MEMORY OF  
**W. BOYD REEVES**

By

DEN OF THE INFANT MYSTICS  
ALABAMA DEFENSE LAWYERS ASSOCIATION  
JOHN AND SUSAN LEACH  
LYONS LAW FIRM  
WILLIAM D. MELTON, ESQUIRE  
MR. AND MRS. SAMUEL N. CROSBY  
MR. AND MRS. C. G. HUME, III  
KIRK C. SHAW, ESQUIRE

SCOTT AND JANET BROWN  
CUNNINGHAM BOUNDS LLC  
SAM STOCKMAN, ESQUIRE  
SATTEWHITE, DRUHAN, GAILLARD & TYLER  
FRAZER, GREENE, UPCHURCH & BAKER, LLC  
MRS. SYLVIA HARVEY AND MR. WILLIAM  
HARVEY II  
JUDGE EDWARD B. McDERMOTT

# MARCH 2016



MARCH 10 - THURSDAY  
**MBA EXECUTIVE COMMITTEE  
MEETING,**  
12 O'CLOCK NOON,  
THE ATHELSTAN CLUB

MARCH 11 - FRIDAY  
**U. S. COURTHOUSE GROUND  
BREAKING CEREMONY**

MARCH 18 - FRIDAY  
**MARCH MONTHLY LUNCHEON,**  
11:45 AM,  
THE ADMIRAL HOTEL

MARCH 18 - FRIDAY  
**CRIMINAL LAW UPDATE  
SEMINAR,**  
1:30 – 4:45 PM,  
THE ADMIRAL HOTEL

MARCH 22 - TUESDAY  
**MBA MENTORING COMMITTEE  
MEETING,**  
12 O'CLOCK NOON,  
THE ATHELSTAN CLUB

MARCH 24 - THURSDAY  
**MBA GRIEVANCE COMMITTEE  
MEETING,**  
12 O'CLOCK NOON,  
THE ATHELSTAN CLUB

MARCH 25  
**“GOOD FRIDAY”**



## CONTINUING LEGAL EDUCATION

**FRIDAY - MARCH 18  
CRIMINAL LAW UPDATE  
3.0 HRS.**