



MONTHLY BULLETIN

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

President's Comments



**MIKE DRUHAN, PRESIDENT
MOBILE BAR ASSOCIATION**



Happy New Year! God Bless America!

As we begin this new year, I am reminded what a great Country we are so fortunate in which to live. I hear too often words like “this Country is going to hell” or “this Country is a mess.” Not so.

When my family was in New York City a few weeks ago, we visited the 9-11-11 Monument on our round of “must sees” for the grandchildren. As we were leaving we passed the “Survivor Tree”. It had survived the holocaust of 9-11 and been plucked from the rubble. Caring hands had replanted it, nurtured it, and returned it to the site as a visual reminder that America and Americans are an unusual collection of souls that can endure and weather harsh circumstances, then arise as a pheonix and move on.

The next time someone remarks to you about the gloom and doom facing our Country, don't commiserate with him or her; just say “Survivor Tree”. Maybe he or she will be curious enough to check it out online.

Thanks for giving me this opportunity to serve the Bar. It is a real honor.

Coach



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2014 OFFICERS

- President – J. Michael Druhan
- President Elect – Brian P. McCarthy
- Vice President – Peter S. Mackey
- Secretary – Ruthie F. Alexander
- Treasurer – Ginger P. Gaddy
- Assistant Treasurer – Bessie P. Creswell
- President Young Lawyers – Kaisee S. Heisterhagen
- Executive Director – Barbara C. Rhodes
- Editor – Ferrell S. Anders



PROGRAM

MBA JANUARY 2014 LUNCHEON

FRIDAY, JANUARY 17, 2014,

THE BATTLE HOUSE HOTEL MOONLIGHT BALLROOM, AT 11:45 AM

SPEAKERS WILL BE:

CHIEF JUDGE

U. S. FEDERAL COURT, SOUTHERN DISTRICT OF ALABAMA

CHIEF JUDGE

U. S. BANKRUPTCY COURT

PRESIDING JUDGE

CIRCUIT COURT, 13TH JUDICIAL CIRCUIT

PRESIDING JUDGE

DISTRICT COURT, 13TH JUDICIAL CIRCUIT

CHAIRMAN

MBA GRIEVANCE COMMITTEE



Browsing the Bar – With Barbara



A very Happy New Year to all of you – and my wish is that it be filled with good health, prosperity and peace of mind.

“The Way to a Happy New Year”

*To leave the old with a burst of song;
To recall the right and forgive the wrong;
To forget the things that bind you fast
To the vain regrets of the year that's past;
To have the strength to let go your hold
Of the not worthwhile of the days grown old;
To dare go forth with a purpose true,
To the unknown task of the year that's new;
To help your brother along the road,
To do his work and lift his load;
To add your gift to the world's good cheer,
Is to have and to give a Happy New Year.*

Author Unknown





ANNOUNCEMENTS

DOWNTOWN OFFICE SPACE AVAILABLE: 209 N. JOACHIM STREET IN HISTORIC DE TONTI 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

THANK YOU TO EVERYONE WHO PARTICIPATED IN THE FIRST ANNUAL MOBILE BAR ASSOCIATION PUBLIC SERVICE COMMITTEE FOOD DRIVE. **IT WAS A HUGE SUCCESS!** WE COLLECTED APPROXIMATELY 800 POUNDS OF FOOD, AS WELL AS MONETARY DONATIONS, WHICH WILL PROVIDE OVER 2,100 MEALS TO THOSE STRUGGLING WITH HUNGER IN OUR COMMUNITY..

A SPECIAL THANK YOU TO THE LOCAL STATE AND FEDERAL COURTS, INCLUDING THE JUDGES, THEIR STAFFS, THE CLERK'S OFFICE EMPLOYEES, AND THE COURT REPORTERS, FOR THEIR SUPPORT AND PARTICIPATION. **JENNIFER S. MORGAN**

DEANN SERVOS, EXECUTIVE DIRECTOR OF THE PRODISEE PANTRY IN SPANISH FORT WROTE THE FOLLOWING, "THANK YOU SO MUCH FOR YOUR LARGE DONATION OF HUNDREDS OF CAN GOODS TO PRODISEE PANTRY TO HELP PROVIDE NUTRITIOUS FOODS TO BALDWIN COUNTY FAMILIES IN NEED. IT WAS RECEIVED AND WILL ALLOW OUR CARING VOLUNTEERS TO CONTINUE TO BRING HOPE BY FEEDING PHYSICAL, EMOTIONAL AND SPIRITUAL HUNGER.SO FAR THIS YEAR, OUR VOLUNTEERS HAVE GIVEN 9,500 FAMILIES FOOD AND WARM SMILES!"

TRAVIS GRANTHAM, DIRECTOR HOSPITAL DEVELOPMENT OF USA CHILDREN'S & WOMEN'S HOSPITAL WROTE TO THE YOUNG LAWYERS SECTION THE FOLLOWING, "ON BEHALF OF THE UNIVERSITY OF SOUTH ALABAMA CHILDREN'S & WOMEN'S HOSPITAL, PLEASE ACCEPT MY THANK YOU FOR YOUR GENEROUS DONATION OF \$10,000.00 FOR THE NEONATAL INTENSIVE CARE UNIT REDO THE NICU CAMPAIGN. YOUR GIFT IS TRULY MAKING A DIFFERENCE IN THE LIVES OF THE PATIENTS WE SERVE."





NEW MEMBERS

REILLY KATHERYNE WARD,
UNIVERSITY OF ALABAMA SCHOOL OF LAW 2013;
ALABAMA STATE BAR 2013; WITH MAYNARD COOPER & GALE, PC



CLEVELAND M. PATTERSON, III,
SOUTHERN UNIVERSITY LAW CENTER 2012;
ALABAMA STATE BAR 2013; WITH LAW OFFICE OF CLEVELAND M. PATTERSON, III



JESSICA ANNE HATCHER,
VANDERBILT UNIVERSITY LAW SCHOOL 2013;
ALABAMA STATE BAR 2013; WITH HAND ARENDALL

Happy
New Year!

2014

SAVLP

SOUTH ALABAMA VOLUNTEER LAWYERS



**THE SOUTH ALABAMA VOLUNTEER LAWYERS PROGRAM
BOARD OF DIRECTORS PROUDLY RECOGNIZES
2013 OUTSTANDING VOLUNTEER LAWYERS**



VOLUNTEER OF THE YEAR:
F. LUKE COLEY, ESQ.

EXCEPTIONAL LEGAL SERVICE AWARD:
P. BRADLEY MURRAY, ESQ.

BEN KILBORN MBA LAWYER OF THE YEAR:
T. JEFF STEIN, ESQ.

YOUNG LAWYER OF THE YEAR:
REBECCA DING, ESQ.

COMMUNITY PARTNER OF THE YEAR:
PRODISEE PANTRY

500 VOLUNTEER HOURS OF SERVICE:
HENRY A. CALLAWAY, III, ESQ. AND RICHARD R. WILLIAMS, ESQ.

250 VOLUNTEER HOURS OF SERVICE:
PAUL T. BECKMANN, ESQ., SIDNEY W. JACKSON, III, ESQ., MARY E. PILCHER, ESQ., JACK SMALLEY, III, ESQ., T. JEFF STEIN, ESQ., PATRICK J. WARD, ESQ., JARROD J. WHITE, ESQ.

100 VOLUNTEER HOURS OF SERVICE:
JOHN G. BAYLOR, JR., ESQ., LATISHA RHODES DAVIS, ESQ.,
KATHLEEN C. KAUFMAN, ESQ., J. RICHARD MOORE, ESQ., HENDRIK SNOW, ESQ.,
JAMES B. VOLLMER, ESQ., THOMAS T. ZIEMAN, ESQ.

Please volunteer to assist at PROJECT HOMELESS CONNECT's
legal clinic and Homeless Court on January 31, 2014.
Shifts available from 8:00am-11:00am or 11:00am-2:00pm.
Call SAVLP at 433-6693 or e-mail Ariana@savlp.org to volunteer.

SPECIAL THANKS TO THE PANEL ATTORNEYS WHO OPENED AND CLOSED CASES IN NOVEMBER: JOSEPH P. H. BABINGTON, EATON G. BARNARD, BRINA I. BOLDEN, PAUL D. BROWN, DANIEL L. BURKARD, PETER F. BURNS, HENRY A. CALLAWAY III, HENRY M. CASSADY JR., L. BRIAN CHUNN, JAMES PAUL CLINTON, BRYAN COMER, JUDSON E. CRUMP, MARGARET F. DEMERANVILLE, SCOTT E. DENSON, BRYAN G. DUHE', JOSH D. FRIEDMAN, THOMAS O. GAILLARD III, MICHAEL GILLION, FRED K. GRANADE, W. CRAIG HAMILTON, WARREN T. HARBISON, SIDNEY M. HARRELL JR., CHRISTINE C. HERNANDEZ, R. SCOTT HETRICK, SCOTT W. HUNTER, JACK F. JANECKY, NEIL C. JOHNSTON, ANDREW M. JONES, ROBERT D. KEAHEY JR., KYLA G. KELIM, GILBERT B. LADEN, JAMES H. McDONALD JR., MATTHEW C. McDONALD, AUGUSTINE MEAHER III, ROSE METZGER, S. C. MIDDLEBROOKS, NICHOLAS F. MORISANI, A. MICHAEL ONDERDONK, CLEVELAND M. PATTERSON, STEVEN C. PEARSON, BRENDA J. PIERCE, CHARLES J. POTTS, THOMAS M. ROCKWELL, IAN D. ROSENTHAL, WILLIAM H. SALIBA, SHEILA V. SCHOEN, STEVEN SCIPLE, CLIFFORD C. SHARPE, JACK SMALLEY III, HENDRIK SNOW, SCOTT D. STEVENS, JOHN M. TEAGUE, JOSEPH D. THETFORD JR., E. TATUM TURNER, GREGORY VAUGHAN, WILLIAM W. WATTS III, JARROD J. WHITE, CHRISTOPHER S. WILLIAMS, MICHAEL A. WING, AND THOMAS T. ZIEMAN JR.



SIGNIFICANT DECISIONS

BY DUANE GRAHAM

In a case of first impression, the Supreme Court in *Ex parte Valloze, No. 1111335* (Ala., September 27, 2013), held that declaratory judgment actions could not be used by a potential tort defendant to obtain a declaration of non-liability, even where the insurance company under its subrogation rights had sent a demand letter, on the ground that no “judicial controversy” existed within the meaning of the declaratory judgment statute until a tort lawsuit had actually been filed.

In *State Farm Fire & Casualty Co. v. Brechbill, No. 1111117* (Ala., September 27, 2013), the Supreme Court held that there was only one cause of action in Alabama for bad faith failure to pay an insurance claim, not two separate actions with one based on failure to pay and another based on failure to investigate. Prior cases that seemed to suggest two different bases for claims were described as merely holding that there were two different methods of proving a single claim. Accordingly, after concluding on summary judgment that the defendant an arguably good faith reason for denying the claim, the trial court could not at the same time conclude that the defendant was subject to a claim for failure to investigate.

In a case of first impression, the *Supreme Court in Baker v. State, No. 1120385* (Ala., September 27, 2013), held that after a defendant in a criminal case involving marijuana pled not guilty and thus placed the truth of the allegation at issue, the defendant was entitled, upon request, to have the marijuana produced for independent testing, and the trial court denial of the request for production was erroneous and constituted a violation of the defendant’s right to due process.

In another case of first impression, the Supreme Court in *Hughes v. Branton, No. 1101051* (Ala., September 20, 2013), held that a probate court without statutory equity jurisdiction lacked authority to transfer a claim challenging the validity of a deed executed by the decedent, and, thus, the circuit court to which the claim was transferred likewise lacked subject matter jurisdiction over that claim, even though the circuit court would have had jurisdiction had the claim been filed originally in the circuit court. The Supreme Court held that it did not make a difference in the analysis that the probate court had jurisdiction over a will contest filed simultaneously with the deed claim and that the probate court had authority to transfer the will contest to circuit court.

In a somewhat academic decision that nevertheless brings clarity to an often misunderstood point, the Supreme Court in *Ex parte BAC Home Loans Services, LP, No. 11103734* (Ala., September 13, 2013), overruled its prior decision in *Cadle Co. v. Shabani, 950 So.2d 277* (Ala.2006), and held essentially that the concept of “standing” had no place in the context of private claims and that a plaintiff’s inability to prove the elements of his cause of action did not present a “standing” problem but rather a “cause of action” problem. Accordingly the Court remanded two separate cases involving ejectment claims for a foreclosure sale purchaser against the original owner that had been decided based on an alleged lack of standing.

Abrogating the holding in *Sturdivant v. BAC Home Loans Servicing, LP*, [Ms. 2100245, Dec. 16, 2011], the Supreme Court in *Ex parte GMAC Mortgage, LLC, No. 1110547* (Ala., September 13, 2013), held that whether a party had the power to conduct a mortgage foreclosure was determined at the time of the foreclosure sale and execution of the foreclosure deed and not at the time of the initiation of the foreclosure notice.



Cocktail Party and Performance: Thurs., Jan. 16 at 7:00 pm

Benefitting the

SOUTH ALABAMA VOLUNTEER LAWYERS PROGRAM

Sponsored by Boteler, Finley and Wolfe

MOBILE THEATRE GUILD

14 N. Lafayette Street

Another outrageous play by Tom Perez, this time satirizing Mobile's Mardi Gras madness.

An Eastern Shore socialite "absolutely mortified" that her debutante daughter is dating a carwash magnate from Elba in the Wiregrass Country.

Her attorney-husband who stands her up at the I.M. ball because "No one saw him get off the float after the parade!" (Check the float-barn, Buzzy!)

A federal bureaucrat, out to turn their antebellum home into a National Historic Site, who falls for the Queen of the Comic Cowboys . . . Mobile fun!

Call SAVLP at 433-6693 to reserve your \$35 tickets.

LAWYERS IN THE NEWS

BY SANDY G. ROBINSON



CONGRATULATIONS: MBA MEMBERS **TIM HEISTERHAGEN** AND **KASEE HEISTERHAGEN** WELCOMED THEIR FIRST CHILD ON DECEMBER 3, 2013. **WILLIAM CREWS "W.C." HEISTERHAGEN** WAS BORN WEIGHING 9 POUNDS, 0 OUNCES AND MEASURING 22 INCHES LONG. BOTH PARENTS ARE ELATED WITH THEIR NEW ADDITION.

CONGRATULATIONS: MBA MEMBER **BRANDY HAMBRIGHT** AND HUSBAND **BRANDON** WELCOME A SON, **JOHN HENRY**, BORN ON DECEMBER 5, 2013. **JOHN HENRY** IS WELCOMED HOME BY **AVA** AND **KENNEDY**, AND ALL ARE DOING WELL.

CONGRATULATIONS: MBA MEMBER **TRACIE ROBERSON** HAS BEEN SWORN IN AS A NEW MEMBER OF THE **MOBILE COUNTY SCHOOL BOARD**. SHE IS A 1991 GRADUATE OF MURPHY HIGH, A GRADUATE OF THE CUMBERLAND SCHOOL OF LAW, AND ALSO HOLDS A MASTERS IN PUBLIC ADMINISTRATION FROM TROY UNIVERSITY. IN A PUBLISHED INTERVIEW, SHE SAYS THAT EDUCATION RUNS IN HER FAMILY AND HER PRIORITY WILL BE TO MAKE SURE SCHOOLS GET THE FUNDING THEY NEED TO MAKE SURE THE TEACHERS, SUPPORT STAFF AND, MOST IMPORTANTLY, THE CHILDREN ARE BEING SERVED. CONGRATULATIONS AND GOOD LUCK IN THIS NEW ENDEAVOR!

DIED: LONGTIME MBA MEMBER **HAMP UZZELLE** DIED PEACEFULLY ON DECEMBER 9, 2013. HE WAS VALEDICTORIAN OF THIS CLASS AT THE BAYLOR SCHOOL IN CHATTANOOGA, AND GRADUATED FROM THE UNIVERSITY OF VIRGINIA AND TULANE UNIVERSITY LAW SCHOOL. AFTER SIX YEARS AS A NAVAL AVIATOR IN THE U.S. MARINE CORPS, HE PRACTICED MARITIME LAW IN MOBILE FOR 44 YEARS. HE WAS ACTIVE IN NUMEROUS PROFESSIONAL, CIVIC AND CHARITABLE ORGANIZATIONS AND WAS AN ACTIVE MEMBER OF THE EPISCOPAL CHURCH. HE WAS ALSO AN AVID SAILOR, WORLD TRAVELER, AND FAN OF ALL MUSIC GENRES. HE IS SURVIVED BY HIS WIFE OF 50 YEARS, THREE CHILDREN, FIVE GRANDCHILDREN, AND OTHER CLOSE RELATIVES AND FRIENDS.

DIED: DONALD HARRIS ROCKWELL, M.D., FATHER OF MBA MEMBER **THOMAS M. ROCKWELL**, DIED ON NOVEMBER 25, 2013. HE IS SURVIVED BY HIS WIFE OF 59 YEARS, FOUR CHILDREN AND EIGHT GRANDCHILDREN. DR. ROCKWELL GREW UP IN FAIRHOPE, ALABAMA AND PRACTICED MEDICINE IN MOBILE FOR 49 YEARS.



MOBILE BAR FOUNDATION

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

**IN MEMORY OF
MONICA ALEXIS KNIGHT, CHRIS KNIGHT'S DAUGHTER
BY
CAINE O'REAR, III**



JANUARY 2014



**JANUARY 1 - WEDNESDAY
HOLIDAY,
NEW YEAR'S DAY**

**JANUARY 6 - MONDAY
MBA BUDGET COMMITTEE MEETING,
3:30 PM, MBA HEADQUARTERS**

**JANUARY 9 - THURSDAY
MBA EXECUTIVE COMMITTEE MEETING,
12 O'CLOCK NOON, ADMIRAL SEMMES**

**JANUARY 10 - FRIDAY
PROBATE SEMINAR, 1:30 – 4:45,
3.0 HRS. MCLE CREDITS, ADMIRAL SEMMES HOTEL**

**JANUARY 17 - FRIDAY
MBA MONTHLY LUNCHEON,
11:45 AM, BATTLE HOUSE HOTEL**

**JANUARY 17 - FRIDAY
BANKRUPTCY LAW SEMINAR,
1:30 – 4:45 PM, BATTLE HOUSE HOTEL**

**JANUARY 23 - THURSDAY
MBA GRIEVANCE COMMITTEE MEETING,
12 O'CLOCK NOON, MBA HEADQUARTERS**

CONTINUING EDUCATION 2014

**Jan 10 – Friday
PROBATE UPDATE,
1:30 – 4:45 pm, 3.0 hrs. MCLE Credits**

**Jan 17 – Friday
BANKRUPTCY LAW,
1:30 – 4:45 pm, 3.0 hrs. MCLE Credits**

**Mar 21 – Friday
E DISCOVERY CHANGES,
1:30 -4:45 pm, 3.0 hrs. MCLE Credits**

**Apr 18 – Friday
ANNUAL DO's & DON'ts,
1:30 – 4:45 pm, 3.0 hrs. MCLE Credits**

