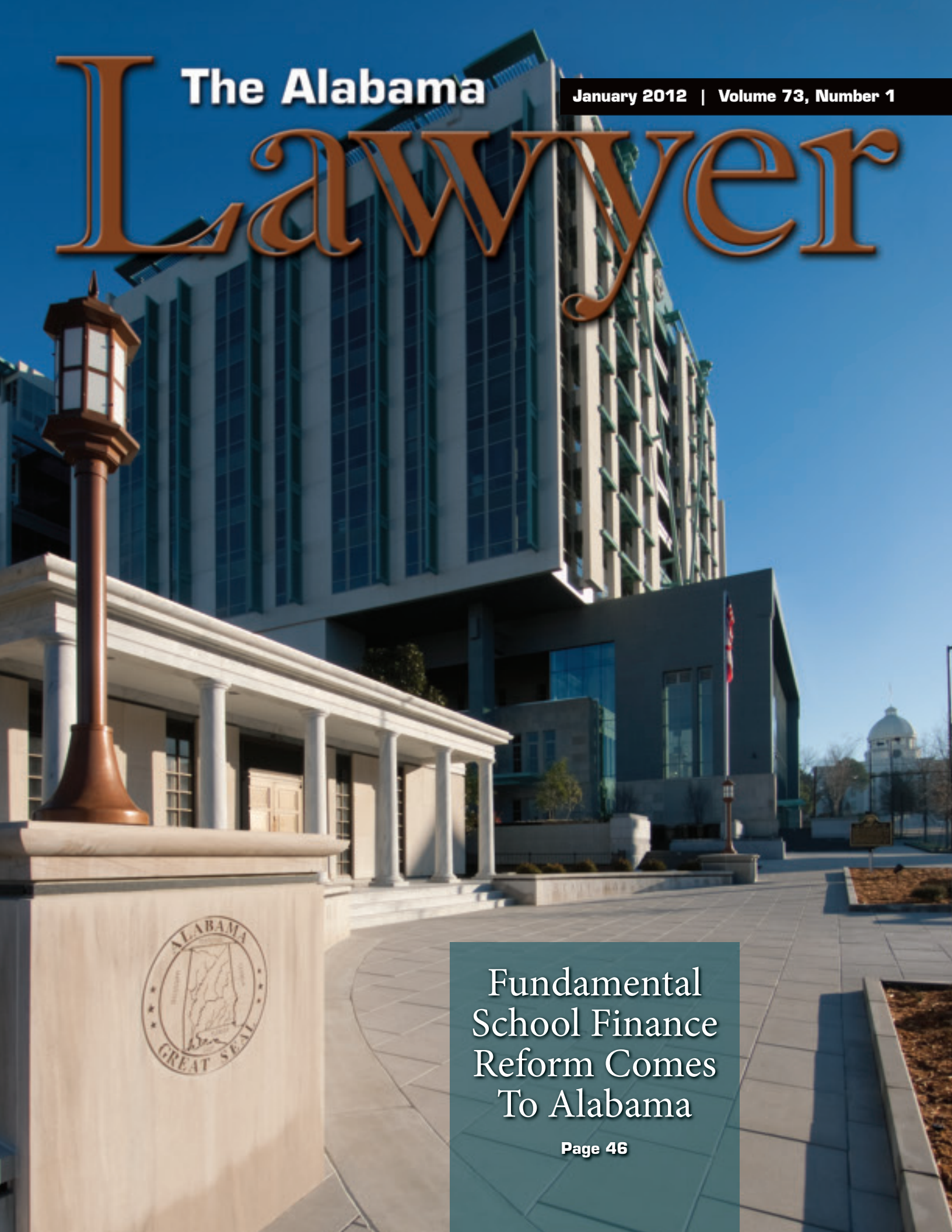
The Alabama Lawyer

January 2012 | Volume 73, Number 1



Fundamental School Finance Reform Comes To Alabama

Page 46

Having trouble communicating with your commercial malpractice insurer?

Call AIM: We're willing to talk!

Attorneys Insurance Mutual of The South®
200 Inverness Parkway
Birmingham, Alabama 35242-4813

Telephone (205) 980-0009
Toll Free (800) 526-1246
FAX (205) 980-9009

"A Risk Retention Group Organized by and for Attorneys"
www.AttysInsMut.com

JOIN US FOR OUR RETURN TO BAYTOWNE WHARF, JULY 18-21. THE 2012 ALABAMA STATE BAR ANNUAL MEETING

Will feature cutting edge programs with renowned speakers, luncheons, receptions, award ceremonies, exciting activities for children and teenagers, the Fun Run/Walk, silent auction, and more.

Once again, we'll offer focused educational tracks conducted by the Sections to help you get what you need from the meeting with ample time for networking, collegiality and fun!

ALABAMA STATE BAR
415 Dexter Avenue
Montgomery, Alabama 36104

Sandestin® Golf and Beach Resort
www.sandestin.com
Baytowne Wharf,
Sandestin Beach & Golf Resort,
Sandestin, FL

CLE ALABAMA
Advancing your practice

OUR MISSION is YOUR SUCCESS

2012 SPRING CALENDAR

JANUARY
20 Professionalism
The University of Alabama School of Law

FEBRUARY
10 Banking Law
Wynfrey Hotel, Birmingham

24 Elder Law
The University of Alabama School of Law

APRIL
13 Workers' Compensation Law
The University of Alabama School of Law

MAY
4-5 City & County Governments
Perdido Beach Resort, Orange Beach

18 Professionalism
Cahaba Grand Conference Center, Birmingham

LIVE SEMINARS

CAN'T MAKE IT TO A LIVE SEMINAR?

Visit CLEalabama.com for 24/7 access to over 200 online seminars and teleconferences.

THE UNIVERSITY OF ALABAMA SCHOOL OF LAW

Register now at CLEalabama.com

The Alabama Lawyer

January 2012 | Vol. 73, No. 1

ON THE COVER

Many areas of downtown Montgomery have undergone renovations in the past few years and now included among them are the former Scottish Rite Temple (once home to the Alabama Supreme Court) and the Alabama State Bar, both located on historic Dexter Avenue. The Alabama State Capitol can be seen in the background of this photo taken earlier this month.

–Photo by Robert Fouts, Fouts Commercial Photography, Montgomery, *www.photofouts.com*

FEATURES

ADVERTISERS

ALABAMA STATE BAR

415 Dexter Avenue
Montgomery, AL 36104
(334) 269-1515 • (800) 354-6154
FAX (334) 261-6310
www.alabar.org

ALABAMA STATE BAR STAFF

Executive Director....Keith B. Norman
Executive Assistant....Diane Locke
Information Systems Manager....O. Hunter Harris
Programmers....Dolan L. Trout, Larry Pratt
Scanning Operator....Kristi Neal
Web Administrator....Willie Murphy
Assistant Executive Director....Edward M. Patterson
Administrative Assistant....Christina Butler
Director of Regulatory Programs....Angela Parks
MCLE Administrative Assistant....Carol Thornton
Membership Administrative Assistant....Cathy Sue McCurry
Regulatory Programs Administrative Assistant....Rita Gray
Director of Communications....Brad Carr
Director of Publications....Margaret L. Murphy
Communications and Publications Assistant....Marcia N. Daniel
Director of Admissions....Dorothy D. Johnson
Admissions Administrative Assistants....Sonia Douglas, Crystal Jones
Bookkeeper....Gale Skinner
ASB Foundation Assistant....Ann Rittenour
Graphic Arts Director....Roderick Palmer
Receptionist....Stephanie Oglesby
Director of Service Programs....Laura A. Calloway
SP Administrative Assistant....Kristi Skipper
Lawyer Referral Service Secretary....Renee Avery
Volunteer Lawyers Program Director....Linda Lund
VLP Assistant....Katherine L. Church
Intake Specialists....Deborah Harper, Carrie Black-Phillips
Alabama Lawyer Assistance Program Director....Jeanne Marie Leslie (834-7576)
ALAP Administrative Assistant....Sandra Dossett
ALAP Case Manager....Shannon Knight
Alabama Law Foundation, Inc. Director....Tracy Daniel
ALF Administrative Assistants....Sharon McGuire, Sue Jones
Alabama Center for Dispute Resolution Director....Judith M. Keegan (269-0409)
ADR Assistant....Patsy Shropshire

ALABAMA STATE BAR CENTER FOR PROFESSIONAL RESPONSIBILITY STAFF

General Counsel....J. Anthony McLain
Secretary to General Counsel....Julie Lee
Assistant General Counsel....Robert E. Lusk, Jr.
Assistant General Counsel....Samuel S. Partridge
Assistant General Counsel....Jeremy W. McIntire
Complaints Intake Coordinator....Kim Ellis
Disciplinary Clerk....Bonnie Mainor
Client Security Fund Coordinator....Laurie Blazer
Paralegals/Investigators....Dianne T. Gray, Cheryl L. Rankin, Carol M. Wright
Receptionist....Sherry Langley

The Alabama Lawyer GRAPHIC DESIGN

davis direct ready. print. go >> *The Alabama Lawyer* PRINTING

Gregory H. Hawley, Birmingham....Chair and Editor
ghawley@whitearnolddowd.com
Linda G. Flippo, Birmingham....Vice Chair and Associate Editor
lflippo@whitearnolddowd.com
Wilson F. Green, Tuscaloosa....Vice Chair and Associate Editor
wgreen@fleenorgreen.com
Margaret L. Murphy, Montgomery....Staff Liaison and Director of Publications
margaret.murphy@alabar.org
Marcia N. Daniel....Communications & Publications Assistant
marcia.daniel@alabar.org

Robert A. Huffaker, Montgomery...Chair and Editor, 1983-2010

BOARD OF EDITORS

Marc James Ayers, Birmingham • Laveeda M. Battle, Hoover • Jennifer M. Bedsole, Birmingham • Gregory C. Buffalow, Mobile • Henry L. (Max) Cassady, Jr., Fairhope • Rhonda P. Chambers, Birmingham • Lisa D. Cooper, Mobile • Katharine W. Coxwell, Monroeville • Patrick C. Finnegan, Mobile • T. Charles Fry, Jr., Birmingham • Amy M. Hampton, Alexander City • Walter E. McGowan, Tuskegee • Jeffrey R. McLaughlin, Guntersville • J. Bradley Medaris, Birmingham • Joi T. Montiel, Montgomery • Richard D. Morrison, Montgomery • Anil A. Mujumdar, Birmingham • Sherrie L. Phillips, Montgomery • Stephanie M. Pollard, Auburn • T. Dylan Reeves, Birmingham • Julia S. Roth, Decatur • Marc A. Starrett, Montgomery • John S. Steiner, Birmingham • Audrey O. Strawbridge, Vernon • Jason B. Tompkins, Birmingham • J. Robert Turnipseed, Mobile • Brian A. Wahl, Birmingham

OFFICERS

James R. Pratt, III, Birmingham....President
Phillip W. McCallum, Birmingham....President-elect
Alyce M. Spruell, Tuscaloosa....Immediate Past President
W. N. (Rocky) Watson, Fort Payne....Vice President
Keith B. Norman, Montgomery....Secretary
Navan Ward, Jr., Montgomery....Young Lawyers' Section President

BOARD OF BAR COMMISSIONERS

1st Circuit, Ronnie E. Keahey, Grove Hill• 2nd Circuit, Cleve Poole, Greenville • 3rd Circuit, Christina D. Crow, Union Springs • 4th Circuit, J. Garrison Thompson, Selma • 5th Circuit, Robert Simms Thompson, Tuskegee • 6th Circuit, Place No. 1, Terri Olive Tompkins, Tuscaloosa • Place No. 2, R. Hays Webb, Tuscaloosa • 7th Circuit, William H. Broome, Anniston • 8th Circuit, Phil D. Mitchell, Decatur • 9th Circuit, W. N. (Rocky) Watson, Fort Payne • 10th Circuit, Place No. 1, Leslie R. Barineau, Birmingham • Place No. 2, S. Greg Burge, Birmingham • Place No. 3, George M. (Jack) Neal, Jr., Birmingham • Place No. 4, Robert G. Methvin, Jr., Birmingham • Place No. 5, Augusta S. Dowd, Birmingham • Place No. 6, Teresa G. Minor, Birmingham • Place No. 7, Joseph A. Fawal, Birmingham • Place No. 8, Robert E. Moorer, Birmingham • Place No. 9, Derrick A. Mills, Birmingham • Bessemer Cutoff, William A. (Pete) Short, Jr., Bessemer • 11th Circuit, Albert J. Trousdale, II, Florence • 12th Circuit, Richard W. Whittaker, Enterprise • 13th Circuit, Place No. 1, Henry A. Callaway, III, Mobile • Place No. 2, Walter H. Honeycutt, Mobile • Place No. 3, Billy C. Bedsole, Mobile • Place No. 4, Juan C. Ortega, Mobile • Place No. 5, Harry V. Satterwhite, Mobile • 14th Circuit, James R. Beaird, Jasper • 15th Circuit, Place No. 1, Frank M. Wilson, Montgomery • Place No. 2, Les Pittman, Montgomery • Place No. 3, J. Flynn Mozingo, Montgomery • Place No. 4, J. Cole Portis, Montgomery • Place No. 5, Jeffery C. Duffey, Montgomery • Place No. 6, Lee H. Copeland, Montgomery • 16th Circuit, F. Michael Haney, Gadsden • 17th Circuit, K. Scott Stapp, Demopolis • 18th Circuit, Place No. 1, William R. May, Birmingham • Place No. 2, Julia C. Kimbrough, Birmingham • 19th Circuit, David A. McDowell, Prattville • 20th Circuit, M. Hamp Baxley, Dothan • 21st Circuit, John L. Jernigan, III, Brewton • 22nd Circuit, John M. Peek, Andalusia • 23rd Circuit, Place No. 1, Harold Stephens, Huntsville • Place No. 2, L. Thomas Ryan, Jr., Huntsville • Place No. 3, Richard J. R. Raleigh, Jr., Huntsville • 24th Circuit, J. Dale Lawrence, Jr., Fayette • 25th Circuit, R. Wyatt Howell, Hamilton • 26th Circuit, Kenneth E. White, III, Phenix City • 27th Circuit, Jerry Wayne Baker, Jr., Albertville • 28th Circuit, Place No. 1, Allan R. Chason, Bay Minette • Place No. 2, Sam W. Irby, Fairhope • 29th Circuit, Robert L. Rumsey, III, Sylacauga • 30th Circuit, Elizabeth S. Parsons, Pell City • 31st Circuit, Braxton W. Ashe, Tuscumbia • 32nd Circuit, Jason P. Knight, Cullman • 33rd Circuit, Robert H. Brogden, Ozark • 34th Circuit, Rebecca Green Thomason, Russellville • 35th Circuit, J. Milton Coxwell, Jr., Monroeville • 36th Circuit, H. Jerome Thompson, Moulton • 37th Circuit, Roger W. Pierce, Auburn • 38th Circuit, Don Word, Scottsboro • 39th Circuit, John M. Plunk, Athens • 40th Circuit, Gregory M. Varner, Ashland • 41st Circuit, Alexander M. Smith, Oneonta

AT-LARGE BOARD MEMBERS

Walter E. McGowan, Tuskegee • Claude E. Hundley, III, Huntsville • Meredith Shay Peters, Andalusia • Merceria Ludgood, Mobile • Alicia F. Bennett, Chelsea • LaBarron N. Boone, Montgomery • David K. Howard, Florence • Monet McCorvey Gaines, Montgomery • Ashley Elizabeth Swink, Gulf Shores

The Alabama Lawyer (USPS 743-090) is published six times a year by the Alabama State Bar, 415 Dexter Avenue, Montgomery, Alabama 36104. Periodicals postage paid at Montgomery, Alabama, and additional mailing offices. POSTMASTER: Send address changes to *The Alabama Lawyer*, P.O.Box 4156, Montgomery, AL 36103-4156.

COLUMNS

CONTRIBUTORS

Steven F. Casey *is a partner in the Birmingham office of Jones, Walker, Waechter, Poitevent, Carrère & Denègre LLP. Casey is a litigator with a diverse practice involving the defense of claims arising from business disputes, aviation accidents, products liability and mass torts. Casey serves as national counsel for a major pharmaceutical manufacturer and as regional counsel for others. He successfully defended the first failure-to-warn metoclopramide case to go to a jury in the country.*

Max Cassady *graduated from the University of Alabama School of Law in 1990. He served as law clerk to the Honorable Alex T. Howard, Jr. of the United States District Court, Southern District of Alabama (1990-1992). Cassady is a board-certified civil trial advocate by the National Board of Trial Advocacy. He practices with his wife, Utopia Cassady, at Cassady & Cassady PC in Fairhope and Evergreen.*

Heyward C. Hosch, III *is a shareholder at Maynard, Cooper & Gale PC. He practices in the area of municipal, public and commercial finance.*

David A. Lester *is an associate in the Birmingham office of Jones, Walker, Waechter, Poitevent, Carrère & Denègre LLP. Lester is a litigator and regularly represents clients in aviation cases, business litigation, class actions, product liability cases, and mass torts. He is also the web editor for the American Bar Association Mass Tort Committee and vice chair of the Tort Trial and Insurance Practice Committee of the ABA's Young Lawyer Division.*

Robert P. MacKenzie, III *received his undergraduate degree from the University of North Carolina and his Juris Doctorate in 1984 from Cumberland School of Law. He is a partner at Starnes & Atchison LLP in Birmingham.*

Frank D. McPhillips *is a shareholder at Maynard, Cooper & Gale PC. He is a member of the firm's public finance and economic development and incentives practice groups.*

James R. Pratt, III
jim@hwnn.com

"I don't know what your destiny will be, but one thing I know: the only ones among you who will be really happy are those who will have sought and found how to serve."

–Dr. Albert Schweitzer

The 2012 Legislative Session

The Alabama State Bar plays a very important role in supporting state government, and I anticipate we will continue our efforts to be of assistance when the regular legislative session begins early this year. A great deal of work has already been done to prepare for that session.

Preparation for the Regular Session

Not only has the bar's role changed in recent years in our interaction with state government, but the role of legislative counsel has also evolved considerably. There is no "off season" for the leadership of the bar or our legislative counsel. Shortly after the 2011 session ended, we started working on projects requested by various legislators. [Past President] **Alyce** and I jointly appointed the **Alabama Custodial Law Revision Task Force** to look at a custody bill introduced in the last session and evaluate and study potential constructive changes in the custody law of Alabama. The task force, chaired by **Christy Crow**, has worked hard and been very productive. The bar will not take a formal position on the issue, but, rather, will provide the senator who requested the study with information which should be of assistance if the senate considers the issue.

A request was also made by a number of senators and **Representative Paul DeMarco** for the bar to collect data to help the legislature understand court costs. There have been many bills over the years addressing various aspects of court costs, including a number of local bills. This is a huge project given the complexity of the issue and the number of bills. Therefore, I requested that our Leadership Forum alumni provide assistance. **Rebecca DePalma**, chair of the newly-approved **Leadership Forum Section**, and Ed Patterson put together a working group that includes **Jim Hughey**, **Chris Deering**, **Champ Lyons** and **Brannon Buck**. The group collected all of the information that was available, and combined it with that from the AOC. With the assistance of Past President Spruell, **President-Elect Phillip McCallum**, Rebecca DePalma and legislative counsel **Suzi Edwards**, the information is being put into a workable format so it can be analyzed and studied.

Suzi and I met with the legislative leadership several times to discuss the legislative agenda for the upcoming session and to determine areas in which we can be of assistance.

There also have been numerous meetings with the new chief justice and his representatives at the AOC, particularly Alyce, who is now the legal director for the Administrative Office of Courts.

Probable Issues

We anticipate the following issues will be brought up during the 2012 regular session that would be of interest to members of the bar.

Court Funding

The most significant and challenging problem facing the bar and the judiciary is obtaining adequate court funding. Chief Justice Malone has been working around the clock to come up with innovative business solutions to the court funding problem. He is to be commended for involving the leadership of the state circuit judges, district judges, circuit clerks and state bar in the planning and decision-making process concerning the proposed budget for the court system and other proposals to address a shortfall in funding. The chief justice's approach is to have representatives of the legal community participate as a full partner in studying the issues so we can speak with one voice. Ongoing efforts have been and will be made to work with appropriate leaders in the legislature and the executive branch in an effort to obtain as much funding as possible.

Child Custody Laws

A great deal of work has been done to allow us to be in a position to share the results of our study with the legislature and have an informed answer to any questions regarding proposed legislation. The bar does not take a formal position on these issues, but rather seeks to provide the legislature with the requested information for them to make an informed decision.

Taxpayers' Bill of Rights

One of the top priorities for the business community in the last session was to obtain a taxpayers' bill of rights. We were able to build a consensus in support of the bill, but ran out of time in the session before a vote could be taken. I anticipate the legislature will address this issue early in this year's session and it is hoped the consensus built last session will continue. If this is the case, progress should be made toward passing a bill that makes progressive constructive changes in the system. The bar's **Taxation Section** has been very active, working hard for a number of years to pass this important legislation, and **Bruce Ely**, **Will Sellers** and **Hank Hutchison** are to be commended for the time and effort they have spent trying to pass this. I worked with these three last session, learning more tax law than I care to know, so at a recent BBC meeting, they had fun presenting me with an honorary LLM in taxation from NYU. I know it is legitimate because it is signed by John Marshall, Al Capone and former President Bush.

Judicial Selection

Given that we are in the midst of a judicial political election cycle, it is unlikely that the legislature will address any change to our method of selecting judges at this time. However, the discussion about judicial selection for the future needs to be started now so that the legislature will be in a position to prospectively address this issue.

Miscellaneous Matters

There likely will be numerous issues of interest to the judiciary and the state bar. **The Elections, Ethics and Governmental Relations Section** is in place to address each issue, both in terms of providing research and a response, if appropriate, or placing us in a position to facilitate the conversation about these issues.

Conclusion

Albert Schweitzer once said, "I don't know what your destiny will be, but one thing I know: the only ones among you who will be really happy are those who will have sought and found how to serve." The Alabama State Bar sought and found a way to be of great service to all facets of government in our great state. Our influence is not based upon political contributions or party affiliation, but solely on our willingness to be neutral, objective and of assistance to all who serve in state government. I am very proud of our efforts and those who have given of their time and talents to support this. They represent you well and you should be proud of these lawyers and our bar's noble cause to support the rule of law and those who pass and administer our laws. | AL

Keith B. Norman
keith.norman@alabar.org

Bob McCurley, when he joined the ALI (left) and when he retired this month (right)– how "a year or two" became 37!

ROBERT L. MCCURLEY: A Career of Service

This past December brought to a close a long career of service to the state of Alabama. Bob McCurley retired as director of the Alabama Law Institute ("ALI"), Alabama's chief law reform agency. In January 1975, when Bob left a successful law practice in his hometown of Gadsden to become ALI's fourth director, he did so with the plan of working there for a year or two and then returning to the Gadsden practice. Thirty-seven years later, he is just concluding his work at the ALI.

A small staff but big results

With a small but dedicated staff assisting Bob, the ALI has had nearly 100 pieces of major legislation make it successfully through the legislative process,[1] starting with its first major law revisions, which were the *Banking Code* in 1979 and the *Criminal Code* in 1980. The Alabama Uniform Durable Power of Attorney Act and the Alabama Uniform Rule against Perpetuities were two of four ALI bills to make it through the legislature in 2011. Over the years, Bob has enlisted the expertise of more than 1,000 Alabama lawyers (over 250 are working on the ALI projects at any one time) to serve on committees that have been responsible for drafting reforms of practically every major body of law in our state. By leveraging the service of these willing lawyers over

Beginning with the January 1983 *Alabama Lawyer,* Bob McCurley provided regular updates in each issue of the magazine through his column, "Legislative Wrap-Up." His last column, on page 76 of this issue, is number **175**. Thank you, Bob!

the last 37 years, millions of dollars in legal time have been gifted to the state under the auspices of the ALI.[2]

Drafting legislation, however, is only the first part of the equation for a bill to become an act. The second and most difficult part is securing passage by the legislature. This was where Bob truly excelled, working closely with legislators to help guide ALI-drafted bills through both chambers of the Alabama Legislature. During Bob's nearly four decades at its helm, the ALI has developed a well-deserved reputation for its excellent work product which has undoubtedly been a significant reason why the legislature has been favorably disposed toward ALI-drafted bills.

Although revision of Alabama's substantive laws is its primary focus, the ALI does much more. Under Bob's leadership,

Continued from page 11

the ALI has become a major publisher of handbooks for government officials including probate judges, election officers, county commissioners and sheriffs. Similarly, the ALI regularly conducts training conferences for legislators, probate judges, sheriffs and license commissioners, among others. Thanks to Bob's foresight, the ALI has become a vital resource for many of Alabama's government officials.

Volunteering always a part of the picture

Bob has also been very involved with the National Conference of State Legislatures ("NCSL"), which is a bipartisan organization that serves state legislatures and their staffs with research, technical assistance and an opportunity for policymakers to exchange ideas on the most pressing state issues. He has served on NCSL committees, as a lecturer, panelist and program presenter. In addition, he has held leadership positions in the NCSL on its Executive Committee, Legislative Staff Coordinating Committee and Legal Staff Committee. Bob's active participation with the NCSL has enhanced the ALI's reputation among other jurisdictions for its revision and modernization of Alabama's substantive laws. This recognition is a compliment to our state, the ALI and, especially, to Bob.

This photo accompanied McCurley's first "Legislative Wrap-Up" in the January 1983 Alabama Lawyer.

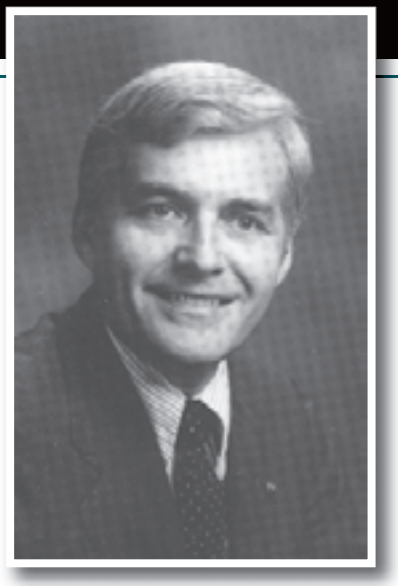
Outside his work with the ALI, Bob's life is also service-focused. Whether as an

adjunct law professor at Alabama and Cumberland or an invited lecturer for White House conferences, Bob had readily given his time to far-ranging endeavors and many organizations.

"Mr. Kiwanis"

There is no better example of Bob's community involvement, though, than his long and storied career as a Kiwanian. Without question, Robert L. McCurley is "Mr. Kiwanis" in Alabama. He has served as local club president, lieutenant governor and governor of the Alabama district and trustee and vice president of Kiwanis International. Because of his respect and leadership, Bob was persuaded to serve two consecutive terms as president of the Kiwanis International Foundation. For his service to Kiwanis, he has been named a Barnett Fellow of the Alabama district and recognized by Kiwanis International as a Hixson Fellow. He has also had his name inscribed on the international organization's Tablet of Honor.

Bob's professional awards and honors are too numerous to list them all, but they are further indication of his remarkable career of service. He has been named a Fellow of the Alabama State Bar Foundation and the American Bar Foundation, as well as a "Henry Toll Fellow" by the Council of State Governments. He is the recipient of the "Walter P. Gewin Award" from Alabama CLE, the Alabama State Bar Commissioner's Award and the "E. Roger Sayers Service Award" by the University of Alabama.



c. March 1987

c. November 1996

In good hands

I have had the privilege of knowing Bob since law school. I worked two years as a research assistant for the ALI during law school and a year there following my graduation. Not only do I consider him a friend, but he is a mentor who helped reinforce the notion that community and professional service is an important aspect of being a lawyer. I feel sure that the hundreds of lawyers who served as ALI research assistants as I did during law school would concur that Bob was a very positive influence during the early stages of their introduction to the legal profession. In this regard, I am delighted that **Othni Lathram**, who was an ALI research assistant during law school and has served as the ALI's assistant director the last several years, has been appointed to follow Bob as director. I know that Othni will do an excellent job.

Bob had a passion for the work of the ALI. I recall his saying on many occasions, "Heck, I enjoy this job so much that getting paid is a bonus!" This says a lot about him and helps explain the ALI's success under his leadership. The ALI's law reform work over the last 37 years is nothing short of remarkable. Our profession and the state are indebted to Bob McCurley for this enduring legacy. | AL

Endnotes

1. For a complete listing of all ALI-sponsored legislation and other projects, go to *www.ali.state.al.us* to view the 2010-2011 annual report to the legislature.
2. See the article by Dave Boyd celebrating the 40th anniversary of the creation of ALI in the May 2009 issue of *The Alabama Lawyer* for details of its operations and history.

Bob and Babs McCurley enjoy yet another annual meeting!

Notice of Election and Electronic Balloting

Notice is given here pursuant to the *Alabama State Bar Rules Governing Election and Selection of President-elect and Board of Bar Commissioners*.

Bar commissioners will be elected by those lawyers with their principal offices in the following circuits:

2nd Judicial Circuit
4th Judicial Circuit
6th Judicial Circuit, Place 2
9th Judicial Circuit
10th Judicial Circuit, Place 1
10th Judicial Circuit, Place 2
10th Judicial Circuit, Place 5
10th Judicial Circuit, Place 8
10th Judicial Circuit, Place 9
12th Judicial Circuit
13th Judicial Circuit, Place 2
15th Judicial Circuit, Place 2
15th Judicial Circuit, Place 6
16th Judicial Circuit
18th Judicial Circuit, Place 2
20th Judicial Circuit
23rd Judicial Circuit, Place 2
24th Judicial Circuit
27th Judicial Circuit
29th Judicial Circuit
38th Judicial Circuit
39th Judicial Circuit

Additional commissioners will be elected in circuits for each 300 members of the state bar with principal offices therein as determined by a census on March 1, 2012 and vacancies certified by the secretary no later than March 15, 2012. All terms will be for three years.

Nominations may be made by petition bearing the signatures of five members in good standing with principal offices in the circuit in which the election will be held or by the candidate's written declaration of candidacy. PDF or fax versions may be sent electronically to the secretary as follows:

Keith B. Norman
Secretary, Alabama State Bar
P. O. Box 671
Montgomery, AL 36101
keith.norman@alabar.org
Fax: (334) 517-2171

Either paper or electronic nomination forms must be received by the secretary no later than 5:00 p.m. on the last Friday in April (April 27, 2012).

As soon as practical after May 1, 2012, members will be notified by e-mail with a link to the Alabama State Bar website that includes an electronic ballot. ***Members who do not have Internet access should notify the secretary in writing on or before May 1 requesting a paper ballot.*** A single written request will be sufficient for all elections, including run-offs and contested president-elect races during this election cycle. Ballots must be voted and received by the Alabama State Bar by 5:00 p.m. on the third Friday in May (May 18, 2012). Election rules and petitions are available at *www.alabar.org*.

At-Large Commissioners

At-large commissioners will be elected for the following place numbers: 1, 4 and 7. Petitions for these positions which are elected by the Board of Bar Commissioners are due by April 1, 2012. A petition form to quality for these positions is available at *www.alabar.org*.

Judicial Award of Merit

The Board of Bar Commissioners of the Alabama State Bar will receive nominations for the state bar's Judicial Award of Merit through March 15, 2012. Nominations should be mailed to:

Keith B. Norman, secretary
Board of Bar Commissioners
P.O. Box 671
Montgomery, AL 36101-0671

The Judicial Award of Merit was established in 1987. The award is not necessarily an annual award. It must be presented to a judge who is not retired, whether state or federal court, trial or appellate, who is determined to have contributed significantly to the administration of justice in Alabama. The recipient is presented with a crystal gavel bearing the state bar seal and the year of presentation.

Nominations are considered by a three-member committee appointed by the president of the state bar, which then makes a recommendation to the board of bar commissioners with respect to a nominee or whether the award should be presented in any given year.

Nominations should include a detailed biographical profile of the nominee and a narrative outlining the significant contribution(s) the nominee has made to the administration of justice. Nominations may be supported with letters of endorsement.

Changes to Client Security Fund Annual Assessment

The Client Security Fund was established by the Alabama Supreme Court to provide a remedy for clients who have lost money or other property as a result of the dishonest conduct of Alabama lawyers. The Alabama State Bar recognizes that the legal profession depends on the trust of clients and although few attorneys breach that trust, it is important that the profession's reputation for honesty and integrity be maintained and protected. The Client Security Fund serves this function by providing grants to clients whose money or property was wrongfully taken by an Alabama lawyer. On January 14, 2011, the Supreme Court of Alabama adopted the following rule changes:

- The Alabama State Bar is authorized to **assess each lawyer who on January 1 of each year holds a current business license to practice law**, as required by *Ala. Code* 1975, §40-12-49, an annual fee of **$25**.
- Any person admitted to practice in the State of Alabama who upon attaining the **age of 65 years, has elected to retire from the practice of law, shall be exempt from any assessment** under these rules.
- The Alabama State Bar is authorized to **assess each lawyer who on January 1 of each year holds a special membership to the Alabama State Bar**, as provided by *Ala. Code* 1975, § 34-3-17, an annual fee of **$25**.

Continued from page 13

- The Alabama State Bar is authorized to **assess each lawyer who on January 1 of each year is registered as authorized house counsel**, pursuant to Rule IX of the Rules Governing Admission to the Alabama State Bar, an annual fee of **$25**.
- The Alabama State Bar is authorized to **assess each lawyer admitted pro hac vice** pursuant to Rule VII of the Rules Governing Admission to the Alabama State Bar, a fee of **$25 per application**.
- The Alabama State Bar is authorized to **assess each lawyer who on January 1 of each year is disbarred, suspended, placed on disability inactive status or otherwise inactive, an annual fee of $25, which shall be paid as a condition of reinstatement of the lawyer's license to practice law.**
- A lawyer who **fails to pay by March 31** of a particular year the assessed annual fee pursuant to Rule VIII shall be deemed to be not in compliance with these rules. Such a lawyer **is subject to suspension** pursuant to Rule 9 of the *Alabama Rules of Disciplinary Procedure*.
- **Applications for pro hac vice admission pursuant to Rule VII of the Rules Governing Admission to the Alabama State Bar shall not be approved unless accompanied by the assessed fee as provided in Rule VIII of these rules.**

In December 2011, a notice was sent to all bar members advising of the rule changes. This month, members will receive an invoice notice by e-mail with payment instructions. Members who do not have an e-mail address will receive an invoice by regular mail. The full text of the Alabama State Bar Client Security Fund Rules is available at *www.alabar.org*.

Alabama Lawyers' Hall of Fame

The idea for an Alabama Lawyers' Hall of Fame in various forms had been explored for several years. In 2000, Terry Brown of Montgomery wrote Sam Rumore, then Alabama State Bar president, with a suggestion to convert the old supreme court building into a museum honoring the great lawyers of Alabama. Although the concept of a lawyers' hall of fame was studied, the next bar president, Fred Gray, appointed a task force to implement a hall of fame. The Alabama Lawyers' Hall of Fame is the culmination of that idea and many meetings.

The Alabama State Bar will receive nominations for the 2011 honorees of the Alabama Lawyers' Hall of Fame through March 1, 2012. The two-page form (found at *http://www.alabar.org/members/hallfame/halloffame_ALH_2011.pdf*) should be completed and mailed to:

Samuel A. Rumore
Alabama Lawyers' Hall of Fame
P.O. Box 671
Montgomery, AL 36101

2010
Edgar Thomas Albritton (1857–1925)
Henry Hitchcock (1792–1839)
James E. Horton (1878–1973)
Lawrence Drew Redden (1922–2007)
Harry Seale (1895–1989)

2009
Francis Hutcheson Hare Sr. (1904–1983)
James G. Birney (1792–1857)
Michael A. Figures (1947–1996)
Clement C. Clay (1789–1866)
Samuel W. Pipes, III (1916–1982)

2008
John B. Scott (1906–1978)
Vernon Z. Crawford (1919–1985)
Edward M. Friend, Jr. (1912–1995)
Elisha Wolsey Peck (1799–1888)

2007
John Archibald Campbell (1811–1889)
Howell T. Heflin (1921–2005)
Thomas Goode Jones (1844–1914)
Patrick W. Richardson (1925–2004)

2006
William Rufus King (1776–1853)
Thomas Minott Peters (1810–1888)
John J. Sparkman (1899–1985)
Honorable Robert S. Vance (1931–1989)

2005
Oscar W. Adams (1925–1997)
William Douglas Arant (1897–1987)
Hugo L. Black (1886–1971)
Harry Toulmin (1766–1823)

2004
Dean Albert John Farrah (1863–1944)
Frank M. Johnson, Jr. (1918–1999)
Annie Lola Price (1903–1972)
Arthur Davis Shores (1904–1996) | AL

Christine McKoy Drake

Judge Ferrill David McRae

Jill Olivia Radwin

Thomas R. Head, III

Christine McKoy Drake

Christine McKoy Drake, a member of the Cullman County Bar Association, passed away September 26, 2011. A resident of Vinemont, Alabama, Chris graduated from the Birmingham School of Law in 1985. Before attending law school, Chris worked as legal secretary and administrative assistant to her husband, Cullman attorney and former Speaker of the House of Representatives Tom Drake. She attended law school, raised four children and worked as a full-time legal assistant, all at the same time.

Highly political, Chris was a tireless campaigner for her husband's storied political career, as well as being actively involved in the presidential campaigns of George Wallace and Walter Mondale. Her own opportunity for holding public office came in 1982 when she was appointed a member of the Alabama State Board of Education.

Chris passed the bar exam in 1985 and practiced law as a partner with Drake & Drake in Cullman for 26 years. Two of her children would later become attorneys and both would marry spouses who became attorneys.

Her law practice included general civil work, personal injury and real estate transactions. She was also attorney for the Cauliflower Alley Club, a professional organization for wrestlers and boxers.

Known for having a keen legal mind and a razor-sharp memory, Chris was a law firm administrator, partner and legal assistant, all in one.

She is survived by her husband of 56 years, Thomas E. Drake; her four children, Mary Drake Pate of Birmingham, Tommy Drake II of Vinemont, Whit Drake of Birmingham and Christy Drake Lowe of Denmark; her six grandchildren, Sara Beth, Teddy, Herrin, Kaylee, Rafe, and Tiberius; and numerous cousins, nephews and nieces.

Judge Ferrill David McRae

(This memorial originally appeared in the Mobile Press-Register *October 24 as a letter to the editor.)*

On October 20, 2011, a truly remarkable, one-of-a-kind lawyer, judge, sports enthusiast and politician, Judge Ferrill D. McRae, died.

Having served almost 42 years, Judge McRae was the longest serving circuit court judge in Alabama. He was appointed to the Mobile Circuit Court bench by Governor George Wallace in 1965. At that time, he was the youngest jurist to be appointed. He had a long distinguished career on the circuit court bench, but, first and foremost, he was a lawyer. Often referred to as "a lawyer's judge," he was the

first one to give advice and find a solution when a lawyer or his or her family had a personal problem. He admonished lawyers to follow the maxim: "The sole purpose of a lawyer is to help people."

Judge McRae regarded advertising by the law profession with disdain. Extremely intelligent, he believed, and vocalized, that if attorneys treat their clients fairly and represent them admirably, they will spread the word. He believed that if a lawyer followed that principle, everything else, including the business side of his or her practice, would take care of itself.

Judge McRae loved all spectator sports, but his true love was Alabama football. The late Coach Paul "Bear" Bryant sought the advice of Judge McRae, who was the unnamed Alabama recruiter in South Alabama for Alabama football. Many great Alabama football players were introduced to Alabama football by the judge. Additionally, Judge McRae was a charter member of the Red Elephant Club in Mobile. (He was asked by Coach Bryant to help with the initiation of this club.) Some of the club's first meetings were held in the judge's tiny office in the old county courthouse.

Many politicians, including Governor Wallace, sought the advice of Judge McRae, who had an uncanny ability to understand the pulse of the lower Alabama voters. Numerous "would-be" politicians sought his advice before announcing their candidacy for a political position. Oftentimes, the judge would tell a possible candidate that, unfortunately, he or she had no chance of winning. He would say, "Save your money and your reputation and don't run." Those who did not heed his advice were later sorry that they did not listen.

Judge McRae, a loyal friend, will be sorely missed by lawyers, judges, jurors, businessmen, and acquaintances. He always had an opinion, and if you asked him a question, his response was never sugar-coated.

—John C. Brutkiewicz

Jill Olivia Radwin

Jill Radwin (August 16, 1959–September 30, 2011) may never have a bronze plaque made in her image, but she was one of the finest individuals to have ever graduated from the University of Alabama School of Law, as well as being one of its best lawyers. Jill was small in stature, but she more than made up for her size in her beliefs, zeal and dedication to her clients, the majority of whom were those who could not have otherwise afforded representation. After graduating from college, Jill worked for 10 years in advertising and writing, but felt the tug of law school throughout this time. Even though she would have 10 years on her fellow students, Jill enrolled at the law school, and was involved in public interest projects throughout her tenure. She loved the law and the knowledge she gained in law school.

After graduating, she interned for Alabama senators Richard Shelby and Howard Heflin. Soon after, Jill began to work for the Legal Aid Society of Birmingham, and was the only lawyer assigned to the Bessemer Division of the Family Court. Jill worked with Legal Aid from November 1993 until January 1998. During this time, she represented many children as their attorney in delinquency cases and as guardian ad litem in dependency cases.

As usual, Jill went the extra mile in her representation, and tried to mentor "her kids." One year, on her own time, she arranged a fall carnival for children in foster care in Jefferson County and some of the families who had open cases in the Bessemer family court. Jill recruited many of her friends and colleagues to help in this endeavor. Hundreds of children enjoyed a day filled with the usual activities, such as face-painting, climbing on fire trucks and the playing carnival games but there was the additional touch provided by the Alabama Literacy Council. A tent was set up with pillows, chairs and books, with places for children to quietly sit and read their own book. Each child left the carnival with a book, and children and parents with reading problems were provided with referrals for tutoring. Inviting the Literacy Council to partner in the carnival was Jill's idea, because she recognized how many social and educational problems her children and their families faced because of their inability to read. Jill created an atmosphere at the carnival to make reading fun and inviting for "her kids."

I worked with Jill when she came to Gordon, Silberman, Wiggins & Childs and became an associate working the area of special education law. While Jill had worked with juveniles, she had little experience in this area of law. There is no client more anxious than a parent whose child is not receiving fair treatment or an equal education. Jill and I shared a wall between our offices, and I would hear Jill literally spend

Continued from page 19

hours on the phone with her parent clients, listening to their concerns, fears and, sometimes, tears, regarding the treatment of their special needs children in the school systems. She would never recoup all that time in payment, but she did not care. She always wanted to be there for her clients. She became a specialist in working with children with autism and was the "go-to" lawyer in the state for children with autism who were not receiving proper services in school.

Jill was a smart, conscientious and caring lawyer and the best friend you could have. If she knew you were interested in something, she would cut out articles or organize a trip to hear a speaker or attend a book-signing on the topic. I must have 10 books Jill got for me at different book-signings she attended. She always remembered your birthday and made you feel special.

When Jill left Gordon, Silberman to move to Atlanta, she continued to work in the area of special education law, first with a firm and later on her own. Many times Jill would not be paid, as the parents could not afford the legal bills, but she would continue to zealously represent these clients. She later went to work for Legal Aid of Atlanta, in Cobb County. I do not think it ever occurred to her to practice law to get rich, as she only represented those who could not afford private representation.

She was loved by her co-workers and supervisors at Legal Aid and later by those employed by the State of Georgia, where she became the liaison between attorneys, judges and the state legislature for child support laws. Jill helped write the new child support laws in Georgia and spent years traveling around the state giving seminars about them to fellow lawyers and the judiciary. Some were in favor of the new legislature and some were not, and Jill responded to everyone with same alacrity, respect and knowledge. The respect and friendships she garnered are reflected by the fact that three Georgia judges, from as far as Savannah, attended her funeral in Birmingham.

Jill is survived by her parents, Myron and Miriam Radwin, her brother, Rusty, and her sister, Holly, and her husband, Gary White.

"Humility is strong–not bold; quiet–not speechless; sure–not arrogant."

–Julie Marks and Sandra Reiss

Bonner, Phillip Milton
Huntsville
Admitted: 1979
Died: May 22, 2011

Hardy, William Edgar, Jr.
Auburn
Admitted: 1998
Died: October 14, 2011

Howton, William C., Jr.
Mountain Brook
Admitted: 1950
Died: October 15, 2011

Murray, John Reese, Jr.
Birmingham
Admitted: 1948
Died: September 29, 2011

Parker, Robert Manley
Anniston
Admitted: 1955
Died: October 23, 2011

Pickron, Mary Celeste
Atlanta
Admitted: 1974
Died: July 22, 2011

Semon, Marsha Lynn Jones
Birmingham
Admitted: 1991
Died: September 8, 2011

Smith, Andrew Mahlon
Birmingham
Admitted: 1939
Died: January 30, 2011

Stamps, Robert Boxley
Birmingham
Admitted: 1970
Died: October 7, 2011

Tomlin, Ginger Leona
Birmingham
Admitted: 1991
Died: October 9, 2011

Watson, L. Chandler, Jr.
Anniston
Admitted: 1947
Died: October 5, 2011

White, Jere Field, Jr.
Birmingham
Admitted: 1980
Died: October 3, 2011

Wilters, Harry John, Jr.
Robertsdale
Admitted: 1952
Died: September 15, 2011

Thomas R. Head, III

A native of Wetumpka, Alabama, Thomas R. "Tripp" Head, III was born in 1970 and died November 17, 2011. He joined Balch & Bingham in 2000 and became a partner in 2006, respected and relied upon both inside and outside the firm for his professional expertise, even temperament and sound counsel. Indeed, it was no accident that Tripp was not only the past chair of the Alabama State Bar's Environmental Law Section but also served on the editorial board of *The Alabama Enlaw*.

Tripp held numerous academic degrees–a pedigree that subjected him to much good-natured ribbing (tinged with no small amount of envy) from his friends and colleagues in the firm's environmental and natural resources section. After attending the University of the South at Sewanee for his freshman year, he transferred to Birmingham-Southern College, from which he graduated in 1992. Tripp later earned a master's degree (in biology) from the University of South Alabama in 1995 before attending the Cumberland School of Law. In 1998, Tripp graduated *cum laude* from Cumberland and also earned a master's in environmental management from Samford University that same year. He then earned an LL.M from George Washington University in 1999.

Befitting a man of such education and learning, Tripp's interests were wide-ranging. An Auburn football fan, he also enjoyed fly-fishing, bird-hunting, vacations to Roatan, Honduras, and weekends at his parent's lake home, even while finding time to serve on the board of the YMCA's Camp Cosby. A steady, stalwart Episcopalian, he was a member of the Cathedral Church of the Advent, a staunch member of the Church's Cursillo community and a regular attendee at the Advent's annual Lenten Lunches series.

Tripp listed C.S. Lewis and John Irving as among his favorite authors, although, lest he be accused of being too cerebral, was also known to frequently visit *The Onion*'s website as well and declared *Nacho Libre* to be among his favorite movies. The same could be said for his musical tastes. They ranged from Kinky Friedman and Parliament-Funkadelic to John Prine and the Grateful Dead.

Tripp, however, was far more than simply an attorney, a BSC graduate, an outdoorsman, an Episcopalian, or even a Kinky Friedman fan. In fact, the most common accolade bestowed upon Tripp was that "he is the nicest guy that I know"–and few would disagree. Even in his last days, his most common sentiment expressed to visitors was "please let everyone know that I am thinking of them . . . ."

And although his circle of friends was amazingly widespread, he was first and foremost a family man. Already blessed with devoted parents and a loving sister, he married the great love of his life, Julie Austin Dorrough, on May 13, 2000, in a marriage that produced two lovely daughters. Tripp and Julie adopted their eldest, Mary Austin, from China and, afterwards, were blessed with the birth of their second daughter, Jane.

Tripp battled cancer for a year and a half before moving on to the next stage of his life's journey on the morning of Thursday, November 17. Earlier, Tripp had posted on his Facebook page that "[t]he light shines in the darkness, but the darkness has not overcome it." Even today, even in the wake of Tripp's passing, that same light shines–thanks to the faithful example that Tripp shared with us while he was with us. | AL

–Balch & Bingham LLP

Wilson F. Green
wgreen@fleenorgreen.com

Recent Decisions of Significance
(September 23–October 31, 2011)

Decisions of the Alabama Supreme Court

Amendments; Fictitious Party Practice; Wantonness Statute of Limitations

Ex parte Tate & Lyle Sucralose, Inc., No. 1100404 (Ala. Sept. 30, 2011)

Failure to conduct discovery on the question of ownership of a premises in the face of a motion raising the issue and pending for many months demonstrated a lack of "reasonable diligence" required for an amendment substituting a party defendant for a fictitious party to relate back for negligence claims. However, claims of wantonness were not barred because under *Ex parte Capstone Bldg. Corp.* (decided June 3, 2011), "litigants whose causes of action have accrued on or before the date of this decision [i.e., June 3, 2011] shall have two years from today's date to bring their action unless and to the extent that the time for filing their action under the six-year limitations period announced in *McKenzie* would expire sooner."

Animals in Roadway; Tort Liability

Hayes v. Henley, No. 1100636 (Ala. Sept. 23, 2011)

In an animal fence-break case, the circuit court dismissed claims against the Henleys based on an affidavit from Mrs. Henley that she never owned the horse in question, and that under *Ala. Code* § 3-5-3, even if she did own it, willfulness would be required to be shown, for which there was no evidence. The supreme court reversed as to Mr. Henley, because there was no evidence regarding Mr. Henley's potential ownership of the horse.

Arbitration; Waiver

Aurora Healthcare, Inc. v. Ramsey, No. 1091561 (Ala. Oct. 21, 2011)

The defendant has the right to have an arbitration motion heard by a court with proper venue, and, thus, litigation activity directed to the venue question could not be used to prove "substantial invocation of litigation process" or "prejudice to the opponent" in attempting to establish waiver.

Arbitration; Modification of Award

Turquoise Properties Gulf, Inc. v. Overmyer, No. 1100160 (Ala. Sept. 30, 2011)

Under 9 U.S.C. § 11(a), the court can modify an arbitral award where there is an "evident material miscalculation of figures." The court held that, despite the fact that the arbitrator had noted in his award the return of the five percent, the methodology of the arbitrator's damage award clearly suggested a miscalculation, and, thus, modification under section 11(a) was to be granted.

Contracts; Injunctions

Capmark Bank v. RGR, LLC, No. 1100318 (Ala. Sept. 30, 2011)

The court vacated a preliminary injunction because the plaintiff failed to prove a likelihood of success on the merits, based on an alleged promise outside of the loan documents, where contracts contained integration and merger clauses, and where such a promise was not "collateral" so as to be allowable under the parol evidence rule (the case contains a good discussion of this line of law concerning "collateral agreements"), especially since the alleged promise was also subject to the statute of frauds.

Double Jeopardy

In both *Ex parte T.D.M.*, No. 1091645 (Ala. Oct. 28, 2011), and *Ex parte Lamb*, No. 1091668 (Ala. Oct. 28, 2011), the court reversed on double jeopardy grounds two adjudications of guilt based on verdicts, where the verdict forms were changed after the juries were discharged. The court held that "the problematic recalling of a discharged jury can be avoided in all cases if, before the jury is discharged, the court polls the jury and the court and all counsel review the written verdict form or forms."

Injunctions; Damages against Security Bonds

Sycamore Mgmt. Gp. LLC v. Coosa Cable Co., Inc., No. 1091505 (Ala. Sept. 30, 2011)

When a party provides the security bond required by Rule 65(c) upon the entry of a preliminary injunction and that injunction is determined to be wrongful, the party wrongfully enjoined is entitled to seek an award of damages caused by the wrongful injunction up to the amount of the bond for the period the bond was in force. Further, such a damages award is not barred by the failure of the party enjoined to specifically appeal the discharge of the security bond.

Insurance; Intervention of Carrier

Employers Mut. Ins. Co. v. Holman Bldg. Co. LLC, No. 1100106 (Ala. Oct. 28, 2011)

Under *Universal Underwriters Insurance Co. v. East Central Alabama Ford-Mercury, Inc.*, 574 So. 2d 716 (Ala. 1990) ("*Universal I*"), a carrier may seek intervention to obtain a bifurcated trial in which insurance matters would be tried after a tort claim. Under *Universal Underwriters Ins. Co. v. Anglen*, 630 So. 2d 441, 442 (Ala. 1993) ("*Universal II*"), the carrier may be allowed to intervene to submit a special verdict form or to append special interrogatories to a general verdict form in the tort case. The carrier in this case argued that, when an insurer requests intervention under both *Universal I* and *Universal II*, the trial court loses its discretion to deny intervention and must choose one or the

Continued from page 23

other method. The supreme court disagreed and held that the trial court has the discretion to deny both methods of intervention. Justice Murdock dissented.

Insurance; "Your Work" Exclusion

Town & Country Property LLC v. Amerisure Ins. Co., No. 1100009 (Ala. Oct. 21, 2011)

Under a CGL policy containing an exclusion for the insured's own work (called a "your work" exclusion), coverage for faulty workmanship depends on the nature of the damage in issue. There is no coverage if the faulty workmanship causes damage to the workmanship itself, and is not attributable to the work of subcontractors.

Juries; Voir Dire

Hood v. McElroy, No. 1091075 (Ala. Sept. 30, 2011)

A plurality of the court held that a juror's failure to answer a question accurately in voir dire did not warrant granting a new trial, because the failure did not give rise to "probable prejudice." The question's context suggested more a miscommunication rather than a deliberately untrue answer, and the true answer to the question was not sufficiently material to the lawsuit to suggest prejudice to the plaintiff. As to this latter point of materiality, the plurality reasoned that materiality is not a subjective determination based on the sentiment of the questioning attorney in voir dire as to whether a strike would be used. Bolin, Wise, Stuart and Murdock concurred. Shaw concurred in the result, reasoning that the ambiguity of the question, combined with the fact that the party challenging the juror won the case, negated a showing of probable prejudice without reaching materiality. Malone, Main, Parker and Woodall dissented.

Negligence and Wantonness (Contributory Negligence)

Lafarge North America, Inc. v. Nord, No. 1090620 (Ala. Sept. 23, 2011)

The court unanimously held that the evidence of wantonness was insufficient to establish a "conscious disregard" of safety by the forklift operator, particularly by clear and convincing evidence, where the operator ran over the foot of the plaintiff while the plaintiff was walking through a marked loading zone. The court held six to three (with Woodall, Malone and Main dissenting) that the plaintiff was contributorily negligent as a matter of law because he had placed himself consciously in harm's way, having appreciated the danger associated with walking through the loading zone with moving equipment in use.

Parental Immunity

Ex parte Spurgeon, No. 1101198 (Ala. Oct. 14, 2011)

Parental immunity bars simple negligence claims against foster parents (but not wantonness or other intent-based torts).

Personal Jurisdiction

Ex parte McNeese Title LLC, No. 1100764 (Ala. Oct. 14, 2011)

Although personal jurisdiction may sometimes be obtained by imputing conduct to an alleged co-conspirator who has personally performed no overt act in Alabama, a plaintiff cannot establish personal jurisdiction under a conspiracy theory unless the plaintiff pleads with particularity the conspiracy as well as the overt acts within the forum taken in furtherance of the conspiracy.

Personal Jurisdiction

Ex parte American Timber & Steel Co., Inc., No. 1100884 (Ala. Sept. 23, 2011)

The seller of goods which were being shipped from Texas to Florida should have reasonably foreseen that the goods would have to move through Alabama, thus supporting personal jurisdiction over the seller. However, the same could not be said for the seller's transport vendor, which operated a commercial website and did nothing to purposefully avail itself of Alabama.

Motor Vehicle Franchise Termination

Smith's Sport Cycles, Inc. v. American Suzuki Motor Corp., No. 1100400 (Ala. Oct. 14, 2011)

The 180-day statutory notice period under *Ala. Code* § 8-20-5 of the Motor Vehicle Franchise Act is not a limitations period, so that a period in the statute allows for termination based on a "continuous and evolving" breach about which notice was provided over a year before termination and which was not cured.

Service of Process on Individuals; "Usual Place of Abode"

Allsopp v. Bolding, No. 1100432 (Ala. Sept. 30, 2011)

Under Rule 4, service on an individual can be affected at a resident's dwelling place or "usual place of abode," and that under the extant case law, one can have more than one "usual place of abode." Thus, the defendant could properly be served at the address of his on-again, off-again, but then-former live-in girlfriend.

State Immunity; State Action Immunity

Vandenburg v. Aramark Educ. Servs., Inc., No. 1100557 (Ala. Sept. 30, 2011)

Multiple class actions were dismissed against state universities and outside contract vendors of universities for maintenance of "dining dollars" programs at Auburn, Alabama and UAB. The bulk of the claims were barred by Section 14 immunity or state agent immunity, and the student plaintiffs lacked standing to pursue claims under *Ala. Code* § 16-1-32(d).

Continued from page 25

Warranty

American Suzuki Motor Corp. v. Burns, No. 1081605 (Ala. Sept. 23, 2011)

Treating a mandamus petition as a Rule 5 petition, the court held that a putative class-action complaint in warranty should be dismissed on a Rule 12(b)(6) motion, reasoning that Alabama does not recognize a cause of action for a "constructive" breach of warranty.

Decisions of the Alabama Court of Civil Appeals

"Common Fund" Doctrine

Mitchell v. State Farm Mut. Auto. Ins. Co., No. 2100184 (Ala. Civ. App. Oct. 7, 2011)

The court held that the insured plaintiff was entitled to a "common fund" attorneys' fee for recovering funds which were reimbursable to her insurer as subrogation for "medical payments" coverage benefits which the insurer had paid to its insured. Although Alabama law allows an insurer to contract around the common fund doctrine, the insurer's policy did not abrogate the common fund doctrine by merely referencing the right to be subrogated. The insurer did not "actively participate" in the insured's recovery so as to except the case from the common fund doctrine through the insurer's sending letters claiming to protect its own interest.

"Special Employer" Doctrine

Lewis v. Alabama Power Co., No. 2100815 (Ala. Civ. App. Oct. 14, 2011)

In order to apply the "special employer" doctrine in workers' compensation, the defendant must establish that the plaintiff gave deliberate and informed consent to the employer's involvement.

Decisions of the Eleventh Circuit Court of Appeals

All Writs Act

Faught v. American Home Shield Corp., No. 11-10459 (11th Cir. Oct. 21, 2011)

The proper method for enforcing an injunction is an order to show cause and a contempt proceeding, not a second injunction under the All Writs Act.

Appellate Procedure

Douglas Asphalt Co. v. Qore, Inc., No. 10-12695 (11th Cir. Sept. 20, 2011)

When there is a relevant change in the law before an entry of final judgment, a party generally must notify the district court; if the party fails to do so, it waives arguments on appeal that are based on that change in the law.

Arbitration; Post-Arbitral Review

White Springs Agricultural Chemicals, Inc. v. Glawson Investments Corp., No. 10-14532 (11th Cir. Oct. 17, 2011)

The arbitrators had specific power to enter attorneys' fees awards, and the issue was properly submitted to the arbitrators in the record by motion allowable under AAA rules (which governed).

Arbitration; Scope

Doe v. Princess Cruise Lines, No. 10-10809 (11th Cir. Sept. 23, 2011)

An employee of a cruise line filed an action under the Jones Act, general maritime law and common law, seeking damages for a repeated rape committed by co-employees. The Eleventh Circuit held that Jones and maritime claims were "related to" the employee's status as employee, and, as such, fell within the scope of the "related to" arbitration agreement governing the employment relationship with the cruise line. However, common law claims were non-arbitrable because they had no relationship to the plaintiff's employment, even though the plaintiff would not have been on the cruise ship but for the employment.

Bankruptcy; Ponzi Schemes

Perkins v. Haines, No. 10-10683 (11th Cir. Oct. 27, 2011)

Transfers to upstream investors in a Ponzi scheme were "fraudulent transfers" under 11 U.S.C. § 548(a)(1)(A), but the transfers were not avoidable because they were "for value" under 11 U.S.C. § 548(c).

Class Actions; Attorneys' Fees

Faught v. American Home Shield, Inc., No. 10-12496 (11th Cir. Oct. 31, 2011)

When a fee award is at or below the 25 percent "benchmark" for common-fund fees in class actions, analysis under the 12 *Johnson* factors may not necessarily be required.

Qui Tam; Taxability

Campbell v. IRS, No. 10-13677 (11th Cir. Sept. 28, 2011)

A False Claims Act plaintiff's "relator" award is entirely includable, for tax purposes, in the plaintiff's gross income as the equivalent of a reward, under 26 U.S.C. § 61(a). The Court further held that the plaintiff was subject to an accuracy-related penalty for omitting the award from his reported taxable income.

Removal and Remand

Bender v. Mazda Motor Corp., No. 10-14699 (11th Cir. Sept. 23, 2011)

After removal and remand, Mazda filed a Rule 60(b)(6) motion asking for reconsideration of the remand order. The district court denied the motion, holding that once the case was remanded, the district court lost jurisdiction under *Harris v. Blue Cross/Blue Shield of Alabama, Inc.*, 951 F.2d 325 (11th Cir. 1992). The Eleventh Circuit affirmed, reasoning that 28 U.S.C. §1447(d) not only forecloses appellate review, but also bars reconsideration by the district court of its own remand order.

Securities; Materiality

Findwhat Investor Group v. Findwhat, Inc., No. 10-10107 (11th Cir. Sept. 30, 2011)

A 10b-5 case can be premised on statements buttressing the veracity of misinformation already in the marketplace through other sources. | AL

Protect Yourself, Your Family and Your Business

Through its administrator,

ISI Alabama, *a division of Insurance Specialists, Inc.* (ISI), the Alabama State Bar endorses a variety of insurance programs including:

- Major Medical
- Term Life
- Association Group Long-Term Disability
- Association Individual Disability Income
- Business Overhead Expense
- Accidental Death and Dismemberment
- Comprehensive Accident
- Personal Group Umbrella
- Property and Casualty

These plans offer association-based products through which applicants receive discounted rates as a benefit of membership in the Alabama State Bar. Underwriting and coverage issue is typically simplified, with programs of the highest quality backed by the leading carriers writing in the nation. These endorsed plans are all available to ASB members, and most are also offered to member spouses, employees and eligible family members. ISI Alabama may be accessed toll-free for sales at 888-ISI-1959 and for service at 800-241-7753, or you may access this member benefit online at *www.ISI1959.com/ASB/*.

New Personal Group Umbrella Insurance

A personal umbrella policy is among the best values in insurance today. For as little as $290 a year, you can purchase $1 million of additional coverage from us that provides protection for you, personally, in excess of the limits provided in the required underlying auto and home policies. Some highlights of this plan include:

- Defense costs are in addition to the limit of liability;
- A broader definition of who is an insured under the policy;
- Only a short, summary application to apply;
- Domestic partner coverage included;
- Automatic coverage for 30 days on a drop-down basis for non-owned autos, watercraft and recreational vehicles (subject to a $10K self-insured retention);
- Higher cut-off for automatic coverage for home-based businesses—up to $25K in gross annual receipts versus $10K for our competitors;
- $1M of Uninsured/Underinsured Motorists Coverage standard in every policy;
- Youthful drivers and secondary residences are covered;
- Coverage included for serving as a director or officer of any not-for-profit organization, including condominium, cooperative or homeowners' associations;
- Unlike the competition, we offer coverage limits of $1M through $5M;
- We include up to $25K of excess identity theft coverage as well; and
- Our pricing is among the most competitive in the market given the extensive level of coverage we provide.

Contact us today to get started! | AL

This article has been updated from the version that originally appeared in the September 2011 issue of the Lawyer *as part of "Best Resources for Starting a New Practice from the PMAP."*

Alabama State Bar

FALL 2011 Admittees

STATISTICS OF INTEREST

Number sitting for exam	509
Number certified to Supreme Court of Alabama	353
Certification rate*	69.4 percent

CERTIFICATION PERCENTAGES

University of Alabama School of Law	89.9 percent
Birmingham School of Law	26.9 percent
Cumberland School of Law	91.9 percent
Jones School of Law	86.2 percent
Miles College of Law	0 percent

**Includes only those successfully passing bar exam and MPRE*

For full exam statistics for the July 2011 exam, go to *www.alabar.org/admissions/files/stats0711detailed.pdf*

Alabama State Bar

FALL 2011 Admittees

Abrams, Joseph Ross
Adams, Ashley Toccara
Alexander, Rosemary Nations
Amey, Grant David
Anderson, Jesse Kirk
Anderson, Kristopher Omar
Anderton, Judd Jordan
Andres, Patrick David
Arnold, Jared Barton
Arnold, Jonathan Michael
Ashcraft, Aaron Jacob
Atkins, Erin Sabina
Averitt, Austin Allbrook
Bair, Callen Jordan
Baker, Ashley Nicole
Barclay, Elizabeth Collins Linton
Baschab, Mary Martha
Baswell, Laury Jan
Bates, Joshua John
Baxley, Charlie Glenn
Baylet, Christine Rebecca
Beard, Jordan Tyler
Becker, Ryan Christopher
Beckman, Kyle Adam
Bedwell, Jonathan Scott
Bennett, Allen Brantley
Berry, William Grigsby
Black, George Brett
Blake, Robert Brian
Blumentritt, Charlotte Nicole
Bouldin, Caitlin Elizabeth
Brown, Carin Anne
Brown, Dana Jeanette
Brown, Terrence Antonio
Bryant, Natalie Patterson
Buntain, Carrie Jacqueline
Burge, Jr., Frank Tucker
Burney, Lauren Elaine
Butler, Matthew Cooper
Byun, Hyunchul
Cain, Sr., William Milam
Calhoun, Courtney Lewis
Callaghan, Christopher Adam
Cannon, Robyn Rena
Carden, Joshua Carey
Carpenter, Daniel Burl
Cater, Christopher Franklin
Champion, Jessica Lee
Cheong, Yoo Jin
Cheriogotis, Spiro Nicholas
Childers, Andrew Reed
Choi, Boim
Choi, Yun Jung
Chung, Dajung
Chung, Shin Young
Ciofalo, Jason Marc
Clarke, Michael Thomas
ClickJr, Bobby Neil
Clinton, Matthew Blair
Coats, Mattie Mae
Cohn, Benjamin David
Coleman, Kevin Michael
Connally, Ryan Patrick
Connally, Savannah Hughes
Couch, Matthew McDonnell
Cowell, James Daniel
Cox, Kay Lanier
Cox, III, Joseph Thomas
Craft, Anna Leigh
Craig, Lauren Ashley
Crain, Brynn Tatum
Crawford, Emily Frances
Crist, Caitlin Marie
Cross, Amanda Joy
Crosson, Katelyn Elizabeth
Crowe, Catherine Phillips
Crowell, III, Jerry Trapp
Curtis, Lauren Faye
Daniel, Christopher Hugh
Darley, III, Frederick Bryan
Darmer, Angel Alece
Davis, Shenika
Dean, Colin Thomas
Dill, John Elton
Ding, Rebecca Zi Wei
Dobbins, Senna Cody
Dolbare, Jefferson Blane
Donahue, Jr., Timothy Patrick
Donald, Thomas Christopher
Donaldson, Ann Michelle
Doten, Clay Maxwell
Duffy, Sara Lynn
Dungan, Aubrey Patrick
Eager, Alexandra Mogel
Edwards, Treza Latrail
Eldridge, Gregory Allan
Elliott, Charles Bennett
Ely, Taryn Alexandra
Evans, Kelly Guy
Fantroy, Jr., Ronald Larry
Fawal, Christopher Joseph
Fleisher, Gemma Maria Fowler
Flores, Claudia Beatriz
Forshee, Preston Jeffery
Foshee, Lauren Elizabeth
Freeberg, Craig Andrew
Fuller, Kristi Cary
Galloway, Stephanie Lee
Garland, Catherine Elizabeth
Garrett, Clayton Hall
Garrett, Robert Walker
Gilbert, Jaime Lynn
Gilley, Lee William
Gilliland, Laura Lee
Givens, John Jameson
Goldberg, Michael Louis
Goodwyn, Anne McMaster
Gore, Meg Guscette
Graves, Sheila Rebecca
Gray, Kristin Elizabeth
Groos, III, John Joseph
Hanley, Neil Stewart
Harris, Alysia Janel
Harris, Kirby Marie
Harris, Jr., Steven Blake
Harrison, Bethany Goodloe
Hartzog, Denetra Nicole
Hawley, Bradley Allen
Hays, Brandon Scott
Henderson, Clark Hamilton
Hendrix, Julian Mardel
Henson, Kimberly Michelle
Hicks, Deetric D. Montgomery
Hightower, Ashlee Ann
Hill, Matthew Ryan
Hilson, Henry Carlton
Hirschfield, Alex Ryan
Hodge, Carrie Jo
Hodinka, Ryan Michael
Hogan, Tandice Leigh
Holland, Caitlin Burns
Hollingsworth, Caroline Underwood
Hood, Alyson Marie
Horsley, James Nathan
Howard, Deborah Lynnette
Howard, Grant Houston
Howell, Laura Elizabeth
Huffstutler, Jonathan Andrew
Hunter, Stephanie Angela
Hur, Dajeong
Hutzell, Jacquelyn Mather
Hwang, Ingu
Hwang, Min Jung
James, Julia Carole
Jansen, Julie Anne
Jeffreys, Kristin Leigh
Jeter, Jacob James
Jett, Jr., Gardner Miller
Johnson, Franklin Robert
Johnson, Julia Hanlon
Johnson, Kevin Raynard
Johnson, La Toya Grenese
Johnson, Valerie Rochelle
Jones, Jennifer Elaine
Jones, Woodruff Rives
Jung, Ji Hyun
Jung, Soon Ji

Kappel, Brian Patrick
Kelly, Cari Richelle
Key, Jonathan Riley
Kiessling, IV, Edward Henry
Kim, In
Kim, Siwan
Kral, Jon Ryan
Ku, Jung Il
LaCour, Jr., Edmund Gerard
Lakes, Thomas Wayne
Lane, Marian Janae
Lane, Mary Ann
Langan, Grayson Flora Knight
Lankey, Christine Denise
Latta, Laura Leigh
Lattimore, II, William Albergotti
Leavens, Joseph Dennis
Lee, Chang Hwan
Lee, Euna
Lee, Felicia Malloch
Lee, Hyuna
Lee, Nancy Young Hee
Lee, Sandy Eugene
Lee, Seo Young
Lenger, Jordan Lucas
Lester, James Conrad
Levie, III, Walter Hill
Lim, Mintaek
Little, Jr., John Alan
Livaudais, Laura Elizabeth
Lowery, William Jeffery
Majid, Farahbin A.
Mann, Jonathan Stephen
MartinIII, James Guy
Massey, James Ross
Massey, Kara Elaine
Mauzy, Jane Fulton
McBrayer, Daniel Stuart
McCauley, Christopher Clark
McGough, Benjamin Hudson
McLure, Samuel Jacob
McNeil, Mary Margaret
Meade, Benjamin Hogan
Mebane, Hannah Carol
Meginniss, Sarah Annette
Mehan, Lindzy Michelle
Meigs, Frederick Keith
Merkle, Sarah Elizabeth
Messervy, William Lee
Mestre, Adam Garin
Miller, Cameron Josiah
Miller, Charles Nathan
Miller, Danielle Myrick
Minor, Amanda Michelle
Montgomery, Sean Miller
Mooty, Robert Styles
Morgan, Ryan Elliott
Morris, Andrew Edward
Morse, Caroline Diana
Morton, Anne Knox
Murphy, Margaret Goldthwaite
Nam, Paul Sung Woo
Neal, Brandon Charles
Nelson, II, Charles Anthony
Newton, Daniel Jacob
Nichols, Laura Michelle
Nichols, Preston Ford
Nolan, Katherine Brooks
Nowicki, Meghan Day
Ogburn, Katherine Finley
O'Guin, Shannon Cornman
O'Rourke, Terence Murphy
Palmer, Leslie A.
Pape, Christopher Michael
Park, Jaepyung
Parrott, Katie Lynn
Perkins, Woodie James
Peters, Sarah Kristen
Phelps, Ann Elizabeth
Pierce, William Gantt
Pittman, Adam Wade
Polito, Curt Anthony
Porter, Stephanie Hill
Powell, Heather Aubrey
Powell, Jacqueline Rachel
Premo, Grant Alexander
Presley, Ellen Sloan
Prickett, Charles Russell
Prince, Brandon Christopher
Rabon, John Christopher
Ramey, Brittany Rea
Ramey, Eddie Travis
Reif, Joshua Frederick
Rich, Christopher Collin
Rich, David Abraham
Riley, Allison Lea
Roark, Amy Elizabeth
Roberts, Alieze Drake
Robinson, Ben Bainbridge
Rockwell, Megan Elizabeth
Roedger, Amy-Kate
Rogers, Stephen Clarence
Rohwedder, David Thomas
Rosen, Brent Louis
Rubino, Nathan James
Rutherford, Russell Joseph
Rutledge, William Brennan
Ryu, Allen (Hyun Gi)
Sadberry, Terrie Anneise
Saenz, Nicolas Vicente
Salmon, Jameson Jon
Sasser, Katherine Anthony
Saunders, Caitlin Nicole
Saxon, Jr., John David
Schaefer, Benjamin Hall
Scott, David White
Scott, John Mark
Segarra, Jonathan Joseph Beren
Sevier, Jr., Kirby
Shaefer, Mark McNair
Shaver, Jessica Ashley
Shields, Kristen Marie
Shoemaker, Debra Faye
Shreve, Lewis Robert
Siebert, Derek Adam
Simon, Erin Leigh
Simpler, Sarah Beeland
Sims, Kristen T.
Sims, Jr., James Carlton
Skinner, Amanda Nicole
Smith, Gabriel Joseph
Smith, James Aubrey
Smith, Jimmy Wesley
Smith, Michael Chad
Smith, Timothy Russell
Smith, Jr, Jeffrey Lawrence
Smythies, Victoria Louise Rosalind
Soppet, Katherine Lynn
Spainhour, Charles Frederick
Sparks, Anna Marie
Spencer, Nesha Quwana
Sprague, Tara Blake
Springrose, Pamela Dianne
Stanfield, Christopher Lawrence
Stephens, Stephanie Ann
Stewart, II, Jackson Decatur
Strickland, Michael Harrison
Strickland, Sydney Rene
Strong, Justin Miles
Sung, Jihye
Tate, John Corbitt
Taylor, Jessica Fair
Teal, Mark Randall
Thompson, Brett Cooper
Thompson, Linton Blade
Tomlinson, Jennifer LeAnn
Tompkins, Carrie Amanda
Traylor, Jr., Darryl Steve
Trotter, Zachary Davis
Ulbricht, Alexander Ashton
Umutoni, Joyeuse Marie
Utz, Jessica Leigh
VanCleave, James Naylor
Varner, Nicole Alana
Varner, Jr., George Davis
Vick, Joshua Michael
Vinson, Frederick Nathan Thomas
Vitello, Stacie Elizabeth
Vocino, Nicholas Raymond
Waldrop, Kimberly Cosby
Walker, Joseph Thomas
Walters, Rhonda Kinard
Warren, Kimberly Danielle
Wear, Benjamin Scott
Weaver, Lonnie Earl
Weaver, Zachary Ryan
Welch, Jessica Lynn
Wells, Laura E. Peterman
West, Matthew Thomas
Wheeler-Berliner, Andrew Pearce
White, David Matthew
White, Jillian Laura Guin
White, Kyle Jason
Wickersham, Taylor-Lee
Wilhelm, Susan Franklin
Wilkinson, Ashley Rebecca
Willcox, Ginny Britton
Williams, Christopher Dorian
Williamson, William Ledyard
Wilson, Amber Don
Wilson, Emily Caldwell
Wilson, Ryan Doane
Wimberley, Matthew Thomas
Winokur, Benjamin Joseph
Witcher, Cassi Leanne
Wright, Ashley Tormoen
Xenakis, Nicholas John
Yates, John Parker
Yearout, Christopher Cameron
Yoon, Hoseon
Yun, Sungjun
Zimmerman, Brandon Michael

LAWYERS IN THE FAMILY

1. ***Katherine A. Sasser*** *(2011), Justice J. Gorman Houston, Jr. (1956), Mildred V. Houston (1981) and James T. Sasser (1981)*
   Admittee, grandfather, mother and father

2. ***Christopher Hugh Daniel*** *(2011) and Judge Laura W. Hamilton (1976)*
   Admittee and mother-in-law

3. ***Andrew E. Morris*** *(2011), Kathryn Willis (2002) and Harrison Willis (2002)*
   Admittee, sister and brother-in-law

4. ***Brandon Neal*** *(2011) and Jack Bains (1992)*
   Admittee and uncle

5. ***Sarah Simpler*** *(2011) and Fred Simpler (1982)*
   Admittee and father

6. ***Christopher Joseph Fawal*** *(2011) and Joseph A. Fawal (1977)*
   Admittee and father

7. ***Timothy P. Donahue, Jr.*** *(2011) and Timothy P. Donahue (1982)*
   Admittee and father

LAWYERS IN THE FAMILY

8. ***Ellen S. Presley*** *(2011), Benjamin T. Presley (2010) and J. Hobson Presley, Jr. (1975)*
Admittee, brother and father

9. ***John D. Saxon, Jr.*** *(2011) and John D. Saxon (1977)*
Admittee and father

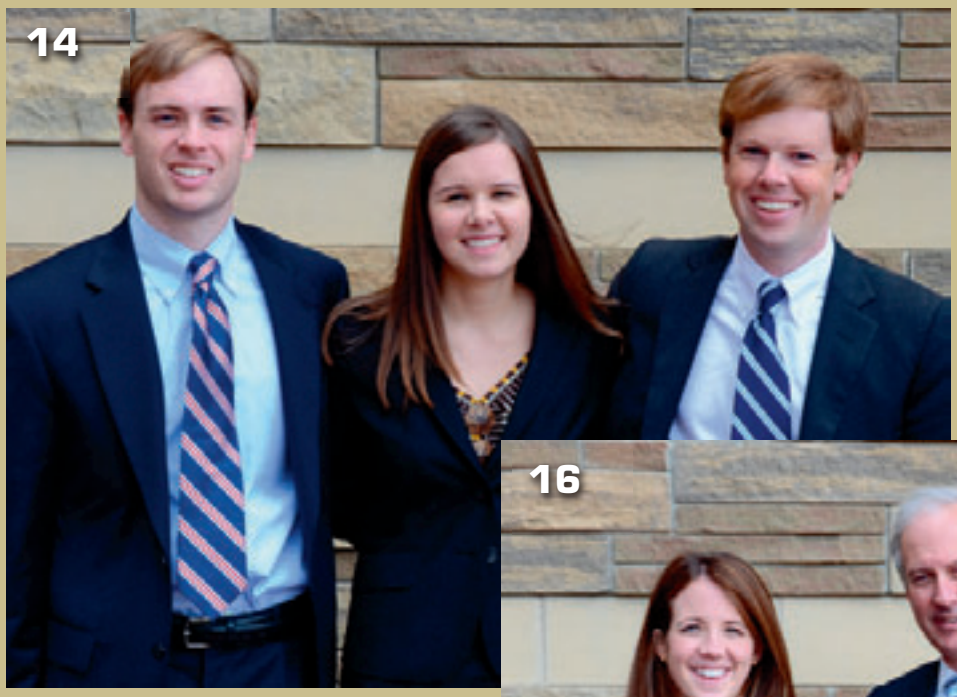
10. ***Bethany Goodloe Harrison*** *(2011), James Goodloe Harrison (1973) and Matthew Rutland Harrison (2009)*
Admittee, father and brother

11. ***E. Travis Ramey*** *(2011) and* ***Brittany Ramey*** *(2011)*
Husband and wife co-admittees

12. ***Danielle Myrick Miller*** *(2011) and William C Tidwell, III (1972)*
Admittee and uncle

13. ***Jennifer Lackey Jones*** *(2011), Gary W. Lackey (1981), Justin A. Lackey (2009) and Patricia S. Lackey (1999)*
Admittee, father, brother and aunt

LAWYERS IN THE FAMILY



14. ***Austin Averitt*** *(2011),* ***Anne Knox Averitt*** *(2011) and James Averitt (2005)*
Husband and wife co-admittees, brother/brother-in-law

15. ***Catherine Phillips Crowe*** *(2011) and James Edward Phillips (1983)*
Admittee and father

16. ***Ann Elizabeth Phelps*** *(2011), Scott Phelps (1979) and William Chandler (1989)*
Admittee, father and uncle

17. ***James Nathan Horsley*** *(2011) and James Michael Horsley (1980)*
Admittee and father

18. ***James Guy Martin, III*** *(2011) and James Guy Martin, Jr. (1984)*
Admittee and father

19. ***John Elton Dill*** *(2011) and Roger Bedford, Jr. (1981)*
Admittee and uncle

20. ***Will Lattimore*** *(2011) and Talley Lattimore (1984)*
Admittee and father

LAWYERS IN THE FAMILY

21. ***John Givens*** *(2011) and Keith Givens (1981)*
Admittee and father

22. ***Frank Tucker Burge, Jr.*** *(2011), Frank Tucker Burge (1983) and Mary W. Burge (1984)*
Admittee, father and mother

23. ***Ky Sevier*** *(2011) and Kirby Sevier (1971)*
Admittee and father

24. ***Adam G. Mestre*** *(2011) and Debra Mestre (1994)*
Admittee and mother

25. ***Jonathan A. Huffstutler*** *(2011) and Watt Buttram (1976)*
Admittee and stepfather

26. ***Christopher Yearout*** *(2011) and Gusty Yearout (1971)*
Admittee and father

27. ***Jesse Kirk Anderson*** *(2011), James H. Anderson (1979) and Charles L. Anderson (1985)*
Admittee, father and uncle

LAWYERS IN THE FAMILY

28. ***Kay Lanier Cox*** *(2011),* ***Joseph Thomas Cox, III*** *(2011), Randolph H. Lanier (1974) and Blair R. Lanier (2009)*
Wife and husband co-admittees, father/father-in-law and sister/sister-in-law

29. ***Jackson D. Stewart, II*** *(2011) and William B. Stewart (1990)*
Admittee and father

30. ***Margaret Goldthwaite Murphy*** *(2011) and Robert D. Thorington (1957)*
Admittee and grandfather

31. ***Robert Mooty*** *(2011) and Dean Mooty (1983)*
Admittee and father

32. *Edwin L. Yates (1978),* ***John Parker Yates*** *(2011), Judge Sharon Yates (1982) and Don Gilbert (1995)*
Father, admittee, mother and uncle

33. ***Josh Vick*** *(2011) and Les Lambert (2001)*
Admittee and brother-in-law

Alabama Law Foundation

25 Years of Making a Difference

The Alabama Law Foundation

marks its 25th anniversary this year. Since its inception, the foundation has grown and accomplished much; however, much remains to be done. Continued and increased support is needed for the foundation to strengthen democracy by making justice available to all citizens regardless of income. The foundation also seeks to increase its assistance to young students in furthering their academic pursuits.

On the occasion of its 25th anniversary, the Foundation celebrates the progress it has made and plans for a bright future with increased efforts to make access to justice a reality for all of Alabama's citizens. "From the first, legal services to low-income citizens was the chief objective," said **John Scott**, first president of the Alabama Law Foundation.

The Alabama Law Foundation–For Alabama Lawyers

Lawyers across Alabama contribute a valuable service to society by devoting their lives to the study and practice of law. Recognizing that lawyers make their living from the legal system, the Alabama State Bar established the Foundation to provide philanthropic opportunities for lawyers to give back to their communities and state, and better the world around them.

The Alabama Law Foundation is the only charitable tax-exempt organization affiliated with the Alabama Sate Bar, and the attorneys of Alabama are the reason for the Foundation's success. Their service and commitment to a just society help the foundation meet its objectives. "We have the most talented, caring lawyers in the

nation," said Tracy Daniel, first and current executive director.

IOLTA–Combining Resources

The Alabama Law Foundation receives funds from the interest on Lawyers' Trust Accounts (IOLTA) Program, and uses those for law-related charitable projects that support the foundation's mission. Eighty percent of the foundation's grants are awarded to groups that provide legal aid to low-income people in civil cases.

The Foundation was designated as the first recipient of IOLTA funds, and its IOLTA program was approved by the Supreme Court of Alabama in May 1987; the program became operational in January 1988. Each year, the Foundation awards IOLTA grants to programs committed to the foundation's mission of making access to justice a reality for all of Alabama's citizens. The grants are awarded for three purposes: civil legal aid to the poor, administration of justice, and law-related education.

The IOLTA program allows attorneys to convert their commingled client trust accounts to interest-bearing accounts. Banks remit this interest to the Foundation, and a grants committee distributes the funds to law-related charities across the state. Since the IOLTA program was established in 1987, the Foundation has awarded $16 million in grants.

IOLTA became mandatory in 2008. The increased revenue has helped meet the need for legal services in the continuing economic downturn. However, the recession has caught up to IOLTA, and the grant amounts have been reduced as lower interest rates have decreased revenue. This reduction comes at a time when an increasing number of Alabama's citizens are in dire need of legal assistance to deal with economic-related problems such as bankruptcy and foreclosure.

The grant reductions would have been even more drastic were it not for the honor, dedication and generosity of Alabama lawyers making a commitment to equal justice by joining the Atticus Finch Foundation.

Atticus Finch Society–Justice for All

In serving the legal needs of the poor, Atticus Finch, from Harper Lee's novel, *To Kill a Mockingbird*, is the epitome of the professional and person who Alabama lawyers strive to be and personifies the mission of the Alabama Law Foundation. Atticus Finch declares, "…in this country our courts are the great levelers, and in our courts all men are created equal."

The Foundation is the only 501(c)(3) charitable, tax-exempt statewide organization whose primary mission is to provide civil legal aid to the underserved. In that effort, the Atticus Finch Society's mission is to build an endowment to secure the future of the Foundation and so to make Atticus Finch's statement a reality in Alabama. To help meet that goal, charter members commit $10,000 over a three-year period.

The Atticus Finch Society's charter membership is comprised of dedicated persons and professionals committed to improving justice in Alabama. Through the Society and the Fellows program, the Foundation recognizes professional excellence and service.

Fellows–Recognizing "Above-and-Beyond" Service

The Fellows are recognized by their peers as exceptional legal professionals committed to helping further the foundation's mission statement of providing access to justice with respect for and understanding of the law. Membership is limited to no more than one percent of bar members who have demonstrated dedication to their profession and their community.

Each Fellow commits $2,000 to further the foundation's mission, in addition to their service and leadership. Every year, the Foundation celebrates commitment to justice by hosting the Fellows Dinner to acknowledge lawyers chosen to join the program. Current lawyers, though, are not the only ones the acknowledged by the Foundation. Future professionals are a key part of the foundation as well.

Law School Scholarships–Preparing the Next Generation

The Foundation funds three education scholarships for up-and-coming lawyers to make a difference in Alabama.

The Cabaniss, Johnston Scholarship's aim is to recognize and assist academically outstanding second-year law students

who are also Alabama residents, and to help promising law students become lawyers who will make a positive impact on society. Recipients have attended Vanderbilt, Harvard, Yale and Columbia, among others.

The Justice Janie L. Shores Scholarship is awarded to one or more female Alabama residents attending an Alabama law school. The Foundation and the Women's Section of the Alabama State Bar established the scholarship, named in honor of the first female Alabama Supreme Court Justice.

The William Verbon Black Scholarship recognizes Alabama law students attending school fulltime at the University of Alabama Law School, and who show the promise of continuing Black's legacy of a stellar law career combined with strong character. The scholarship honors Black's distinguished career and high ethical standards.

Kids' Chance Scholarships–Making Dreams Come True

When a parent dies or is disabled due to an on-the-job accident, a family's standard of living is lowered. As a direct result, some parents cannot help their children with the cost of education after high school. The Workers' Compensation Section of the Alabama State Bar created Kids' Chance scholarships to help these young people. Kids' Chance is administered by the Foundation. Since Kids' Chance began in 1992, it has awarded scholarships totaling more than $500,000 to more than 100 students.

Kids' Chance scholarships are completely funded by contributions from corporations, organizations and individuals and recipients are announced once a year. More than 40 recipients have graduated from college. Many gratefully acknowledge that they could not have gone to school and accomplished their educational and career goals without the help from Kids' Chance.

25 Years...and Counting!

From scholarships to professional recognition to grants for civil legal aid, the Alabama Law Foundation truly is making a difference in Alabama. There have been many changes over 25 years, and the foundation shifts and bends with every turn. The ultimate goal of equal access to justice for all Alabama citizens remains the "heart" of the foundation. Reggie Hamner, former executive director of the Alabama State Bar and first secretary/treasurer of the foundation, sums it up: "I can't imagine the bar without the Alabama Law Foundation." And the Alabama Law Foundation embraces that role, looking forward to the next 25 years. | AL


WORLD'S
BEST
LAWYER

Welcome to the Trophy Generation:

Exaggeration of Your Legal Experience Can Lead to Trouble

By Robert P. MacKenzie, III

It had been a long T-ball season for the Blue Jays. The team of six-year-olds had lost all eight games at Carmichael Field. Now having faced the undefeated Orioles, the season came to a merciful ending with the last out. The Orioles walked away with an 11-1 win. Both teams met at home plate and after shaking hands, the players went back to their dugouts. While the game and season were over, the "celebration" was just about to begin. Amid cameras flashing, each player from the Blue Jays was given a trophy. The champion Orioles followed. The recognition was not for games won or lost, or play on the field. There would be no distinction in the size or shape for the trophies given to the Blue Jays versus the Orioles. Rather, everybody who played had to have a trophy. Everybody was an All-Star.

Today, the legal profession has joined the trophy generation. Every facet from client development to law schools to even the judiciary has been affected. Various services now rank the legal profession as if we are teams vying for the Bowl Championship Series–"Top Forty," "Super Lawyers," "Best Lawyers," "Top Lawyers, "Tip Top Lawyers." Everyone wants to be recognized. The temptation for recognition by misrepresenting one's experience, however, comes with a huge risk. Claims of exaggeration are increasingly the basis of suits for legal malpractice and bar complaints. Alabama has joined the majority of states which recognize a cause of action against an attorney for misrepresenting credentials. Likewise, bar complaints now include claims of over-blown descriptions of success. The need to exaggerate is likely a product of the tough economic times which have led to the increased competition for legal work. Moreover, the Internet has provided an almost unchecked forum for lawyers to describe their legal skills.

In an effort to attract clients, some attorney websites now read like a John Grisham novel. It is not enough to simply be a litigator but, rather, many are self-described as complex litigators. There are no longer routine commercial transactions, only the sophisticated ones. Divorces are only accepted if they are high-end. Such descriptions are in keeping with the times. We live in a world where any airport like Birmingham with more than a direct flight to Atlanta now includes the word "International" within its name. There was a certain comic relief if not irony when a recent CLE speaker jokingly introduced himself to a crowded room of lawyers by saying, "Just like each of you, I am a Superlawyer."

While self-promotion is allowed within the practice of law, unchecked statements are not good for the profession. Every lawyer appreciates recognition. Yet, self-promotion based upon false pretenses can lead to trouble. Such an observation is not meant to silence well-deserved accolades or reputations. Lawyers are allowed substantial latitude to describe their skills.

Historically, Alabama courts have been reluctant to hold attorneys liable for inflating their experience. In *Lawson v. Cagle*, 504 So.2d 226 (Ala. 1997), a Mississippi lawyer found himself the subject of a suit when the client failed to receive a $1,000,000 recovery which the attorney had allegedly guaranteed. The plaintiff had been injured in an accident in Mississippi and hired an Alabama lawyer to file suit in Mississippi. The Mississippi

attorney was subsequently retained as co-counsel. A dispute arose between the attorneys as to the direction of the case. To gain control, the Mississippi attorney purportedly stated he could "guarantee" the plaintiff a $1,000,000 recovery if the client would allow the Mississippi attorney to maintain the case. The client selected the Mississippi attorney based upon this representation. The client, however, failed to recover any settlement or verdict, much less the $1,000,000 allegedly guaranteed.

The client then brought a fraud claim against the Mississippi attorney based upon the $1,000,000 representation. The case proceeded to trial, where the jury awarded the plaintiff $2,500,000. On appeal, the verdict was reversed. The Alabama Supreme Court found that even accepting the plaintiff's version of the attorney's statement as having been made, the attorney did nothing more than make a prediction of a future event. The court observed that the million dollar figure was mere "puffery" which did not constitute actionable fraud. The plaintiff had no right to rely upon the attorney's alleged statements since no one can guarantee the results of a trial.

The distinction between puffing versus misrepresentation was again examined in *Valentine v. Watters*, 896 So. 2d 385 (Ala. 2004), in which the Alabama Supreme Court recognized a cause of action against an attorney for alleged misrepresentation of his skills. The underlying action arose after Valentine suffered complications following bilateral breast implant surgery. Valentine thereafter consulted with Watters (an attorney) to pursue litigation against the implant manufacturer. According to Valentine, Watters represented that he was familiar with and had represented other clients in the breast implant litigation. Based upon these representations, Valentine stated she was "enticed" to retain the attorney. After Watters was hired to represent Valentine, there was a delay in filing the suit. This delay led to Valentine's dissatisfaction and Watters's termination. Valentine later learned her claims were never filed as part of the multi-district litigation. Valentine thereafter brought suit against Watters.

Within her complaint, Valentine alleged in part a breach of the Alabama Legal Services Liability Act, including a specific claim of misrepresentation as to Watters's reference to having counseled other breast implant litigants. Watters, however, stated he held himself out only as having represented clients in product liability actions but not specifically in breast-implant litigation. Watters filed a motion for summary judgment relying in part upon his affidavit. Watters argued that he satisfied the standard of care and that Valentine had failed to submit rebuttal evidence in the form of expert testimony. The motion was granted. On appeal, however, the Alabama Supreme Court reversed the trial court's findings.

The Alabama Supreme Court recognized that Valentine did state a cause of action by and through her claim that Watters had allegedly misrepresented his experience. The court rejected Watters's argument that Valentine's failure to have expert testimony was a sufficient ground for the motion for summary judgment to have been granted. Instead, the court determined that an attorney's breach of the standard of care by and through a misrepresentation of his qualifications is a matter that does not require expert testimony. A jury of laypersons would be competent to determine by the exercise of common knowledge whether or not the representation was true. Accordingly, the court held that Valentine's claim that Watters misrepresented his experience could go forward without Valentine's having an obligation to produce expert testimony.

Beyond being sued for civil damages, an attorney's misrepresentation of qualifications may lead to a bar complaint and disciplinary action.

If the Alabama Supreme Court's recognition of a cause of action for an attorney's misrepresentation is not sufficient warning, consider the results in *Baker v. Dorfman*, 239 F.3rd 415 (2d Cir. 2000). In a case filed in New York, the client brought a legal malpractice action against Dorfman (an attorney) arising out of an underlying suit for personal injury. The attorney had missed a court deadline, leading to a dismissal of his client's case. Among the allegations of the malpractice complaint was a claim that Dorfman had misrepresented his legal background and experience.

A review of Dorfman's resume included statements that he engaged in a challenging and highly diversified practice; was a member of multiple state bars; had a strong reputation for excellence; was a founder and editor of a law journal; created a master's of law program in healthcare law at New York University (NYU); had taught at Boston University and NYU School of Law; was regular counsel to multiple public and private companies; engaged extensively in trial and appellate litigation in both state and federal courts; and had been called a "litigator's litigator." The plaintiff claimed she relied upon these representations when she hired Dorfman, only to later determine the representations were not accurate.

Dorfman denied any liability. He characterized his statements to the plaintiff and information included on his resume as mere puffery which did not rise to any material misrepresentation. The jury and appellate court found otherwise. In fact, Dorfman was not an experienced lawyer. Dorfman had only been practicing one month before he was retained to pursue Baker's personal injury claim. Dorfman was not a member of all the state bars that he claimed membership. Dorfman never represented any healthcare organizations. Dorfman had not created an LLM program at NYU and had not taught courses at any law school. As far as being a "litigator's litigator," the first jury trial that Dorfman ever participated was the case against himself. The jury awarded the plaintiff $390,000, including punitive damages.

Beyond being sued for civil damages, an attorney's misrepresentation of qualifications may lead to a bar complaint and disciplinary action. *Alabama Rule of Professional Conduct (ARPC)* 1.1 outlines the requirement that an attorney provide competent

representation. Helpful to attorneys is the provision of *ARPC* 1.5, which allows an attorney to accept a matter in a wholly novel field if the attorney can gain an understanding of the matter through necessary study. The compliance with Rule 1.5, however, should include an understanding by the client that the attorney will, in fact, have to become educated on the particular matter. Otherwise, an attorney stands to violate *ARCP* 7.1. *ARPC* 7.1 warns lawyers not to engage in conduct involving representations which create an "unjustified expectation" about the results:

> A lawyer shall not make or cause to be made a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it:
>
> (a) Contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;
>
> (b) Is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the *Rules of Professional Conduct* or other law;
>
> (c) Compares the quality of the lawyer's services with the quality of other lawyers' services, except as provided in Rule 7.4; or
>
> (d) Communicated the certification of the lawyer by a certifying organization, except as provided in Rule 7.4.

Given the broad parameters of the *ARPC*, any misrepresentation of expertise and skill may be grounds for violation.

Like Alabama, other states have taken a dim view of attorneys' misrepresenting their credentials. In the matter of *Michael Hensley Wells*, Opinion No. 26969 (May 9, 2011), the Supreme Court of South Carolina issued a public reprimand and monetary fine against an attorney for exaggeration of his law firm experience. The attorney had advertised by way of a website, brochures, telephone book and even a kiosk in a local shopping mall. The advertisements promoted the attorney as having "worked in the legal environment for over 20 years." In reality, the attorney had only practiced law for seven years. The firm described its associates as "numerous trained and experienced attorneys," "highly skilled" and having a "deep personal knowledge of the courts, judges, and other courthouse personnel." The numerous trained and experienced attorneys were two associates who had each been admitted to practice law for less than one year. The lawyer represented the firm had offices not only in South Carolina, but also Georgia and Florida. The lawyer did have a referral agreement with attorneys in Georgia and Florida but no offices. Moreover, the public was advised that the firm had served clients in the areas of constitutional law, civil rights, professional responsibility and toxic torts. It was determined that no lawyer in the firm had ever handled such matters, but only that they were willing to accept those types of cases. The firm's website even included a section entitled "Consumer Protection and Products Liability Lawyer." The description proclaimed the firm had a "history of winning product

liability cases," and the lawyers understood "how to deal with both corporations and insurance companies and have a history of winning cases for our clients." It was confirmed, however, that no lawyer in the firm had ever handled a products liability matter.

A Virginia lawyer received a 30-day suspension followed by one year of probation when a Virginia court found the lawyer guilty of ethical misconduct. *Virginia State Bar EX REL Second District Committee v. Jason Matthew Head*, CL 10-4043 (Circuit Court of City of Virginia Beach, Virginia). Multiple charges were brought by the Virginia State Bar against the defendant for, among other causes, misrepresenting the size, location of his office and areas of practice. The firm was referred to as Jason Head & Associates, PLC. The attorney represented that the firm maintained three locations and had decades of experience. In fact, the firm was a solo practice. There was only one office and certain practice groups were non-existent. The "decades of experience" was also incorrect: the lawyer had only been licensed to practice law for eight years.

In a bizarre case, *Disciplinary Counsel v. Martin Villeneuve* (AC 31841, February 22, 2011), the Connecticut Appellate Court found that a lawyer not only exaggerated his experience, but falsely represented his own identity. In 2008, the lawyer applied for a staff attorney position with the state Workers' Compensation Commission. During the interview process, the defendant submitted his resume and described his experience. The Commission's human resources director became suspicious. After further investigation, it was determined the lawyer did not graduate with honors from the law school as he had claimed. The attorney was not the assistant note editor for his law school's review. The law firm for which the attorney said he had worked did not even exist. During the resource director's attempt to speak with the named references by telephone, contact was made with two people who "sounded very similar on the phone" causing her to doubt the legitimacy of the reference information. After the bar complaint was filed, the defendant denied any knowledge of the application, attending the interview or even contacting the state Workers' Compensation Commission. Instead, the lawyer claimed that his identity had been stolen. No information, however, was provided to substantiate this defense. The court observed the attorney refused to even appear at the initial hearing, much less resolve the issue by just meeting with the human resources director so to prove his case of "mistaken identity." The court affirmed the attorney's suspension to practice law.

The temptation to exaggerate qualifications is not limited to just a lawyer's trying to impress a client or obtain a new position. Unfortunately, such misrepresentations and exaggerations have permeated the entire landscape of the legal profession from students to law schools to the judiciary. In 2010, the Illinois Supreme Court issued a three-year suspension to a then-practicing attorney (*ABA Journal*, May 20, 2010). The suspension arose out of a finding that the attorney, while a student at the University of Chicago Law School, had changed his grades for approximately 20 classes. The alterations included "whiting out" his transcript and changing certain grades from Cs and Bs to Bs and As. The changes were part of his effort to gain a summer

clerkship position at a large firm. The law student was hired based upon the false transcript. After graduation and passing the bar, the associate worked for several firms. The misrepresentations were discovered when the associate's resume, containing his real grades, was circulated by a head hunter to other firms, including the hiring partner at the firm where the lawyer had worked as a summer clerk. Notably, the three-year suspension by the court exceeded the 18-month recommendation by the Disciplinary Panel.

The pressure to exaggerate credentials has touched the very institutions in which lawyers are trained. Law schools have now become the subject of scrutiny for representations as to the percentage of graduates who find employment and the actual starting salaries. During the past year, suits have been filed against New York Law School, Thomas Jefferson School of Law and Thomas Cooley School of Law on behalf of disgruntled students who find themselves burdened with debt but no job as promised. Within the complaint against New York Law School, the plaintiffs allege:

> Unfortunately, NYLS's false and fraudulent representations and omissions are endemic in the law school industry, as nearly every school to a certain degree blatantly manipulates their employment data to make themselves more attractive to prospective students. It is a dirty industry secret that law schools employ a variety of deceptive practices and accounting legerdemain to "pretty up" or "cook" the job numbers, including, among other things, hiring recent unemployed graduates as "research assistants" or providing them with "public interest" stipends so as to classify them as employed, excluding graduates who do not supply employment information from employment surveys, refusing to categorize unemployed graduates who are not "actively" seeking employment as unemployed, and classifying graduates who have only secured temporary, part-time employment as being "fully" employed.

Alexander Gomez-Jimenez, et al. v. New York Law School, Supreme Court of New York, County of New York Index No. 652226/2011. The defendant law schools have denied the allegations.

"Padding the resume" may even extend to the judiciary. In New Orleans, questions have been raised about the number of jury trials handled by certain judges. (*ABA Journal*, March 2, 2011). In February 2011, the sitting district attorney challenged 12 judges of the criminal court division to complete 600 jury trials a year among themselves. The district attorney himself had previously served on the bench for 17 years. He was reported to have described himself as a "trial machine." As a judge, he had allegedly tried an average of 100 cases a year beginning in 1986 until he left the trial bench. That number, however, was challenged by others as being inflated. According to the investigation, certain judges orchestrated a "pick-and-plea" deal in the courtroom. The judges would allow attorneys to pick a jury even though all parties and the judge knew the defendant wanted to plead guilty and enter a plea. Once the jury was selected, the matter would officially be credited as a trial. The defendant would then plead guilty and case dismissed. The judge and lawyers would receive credit for a trial and increased experience. There was even a trophy given to the judge who tried the most cases. The district attorney denied the claims. Unfortunately, the investigation could not be completed because the pertinent records were destroyed by Hurricane Katrina.

The pressure to exaggerate credentials has touched the very institutions in which lawyers are trained.

Suffice it to say, the problem of misrepresentation cannot go unchecked. Our profession is self-governed, and we generally do a good job of policing our own and holding lawyers accountable. The *Rules of Professional Conduct* require a lawyer to act with candor, honesty and integrity. These rules do not allow a lawyer to create an unjustified expectation by the client concerning the potential success of a legal matter, or the attorney's credentials. These are rules of reason and common sense. Clients come to lawyers seeking sound, honest advice. Clients are entitled to know exactly who will represent them, and the attorney's true background and experience. If an attorney cannot be truthful about himself or herself, it is unlikely the attorney can be completely honest about the client's situation. Ultimately, the client who experiences an unfavorable result will question the outcome and may search for someone to blame. That search will quickly focus on issues with the lawyer's own training and experience. If there is any misrepresentation, a civil action and bar investigation could follow. The results will be not only embarrassing but costly. | AL

Fundamental School Finance Reform Comes to Alabama

By Frank D. McPhillips and Heyward C. Hosch, III

On August 1, 2011, Act No. 2011-631 became law in Alabama, marking the first comprehensive reform, since 1959, of the Depression-era laws governing public school finance. This effort attempted to modernize and streamline the process by which local school boards gain access to the capital markets and strengthen the credit of school boards to lower their costs of borrowing.

Almost immediately, the positive effects of the new law were felt by local school boards throughout the state. In the month of August alone, one small county school board was upgraded from A- to A by Standard & Poor's and another small county school board received a commitment for bond insurance for the first time–both as a result of the new law. In an era when public resources supporting education are continually stretched and proration is a constant threat, this is indeed welcomed news.

The new law has had another important salutary effect: strengthening State Department of Education oversight over local school boards. The new law explicitly requires state approval of all forms of local school indebtedness, regardless of the plan of financing which the school board may choose to undertake. As will be described in more detail below, the necessity of state approval of all forms of local school indebtedness is consistent with the state's overall responsibility for K-12 education.

This article addresses many highlights of this important legislation. The purpose of this article is not to summarize or analyze every aspect of Act No. 2011-631. For a thorough understanding of this new law, readers are advised to read the Act itself, which is available online at the Alabama Secretary of State's website (*http://arc-sos.state.al.us/CGI/actnumber.mbr.input*).

Sale of Warrants

Prior to enactment of Act No. 2011-631, Alabama law required school boards to sell their warrants as follows:

- Select a date 30 to 60 days in advance;
- Publish a notice in the local weekly newspaper; and
- Hope that a bank or other financial institution would submit a reasonable bid on the prescribed date.

Enormous volatility in the capital markets since 2008 has rendered this procedure increasingly obsolete. Often, a school board has gone to the trouble and expense of advertising for bids, but missed an ideal marketing opportunity while waiting for the bid date. As a result, the board was left empty-handed when it failed to receive a single bid. Or worse, the school board may have received only one bid that had a costly built-in margin to protect the bidder from wild swings in the market.

ASB Lawyer Referral Service

The Alabama State Bar Lawyer Referral Service can provide you with an excellent means of earning a living, so it is hard to believe that only three percent of Alabama attorneys participate in this service! LRS wants you to consider joining.

The Lawyer Referral Service is not a pro bono legal service. Attorneys agree to charge no more than $50 for an initial consultation, not to exceed 30 minutes. If, after the consultation, the attorney decides to accept the case, he or she may then charge his or her normal fees.

In addition to earning a fee for your service, the greater reward is that you will be helping your fellow citizens. Most referral clients have never contacted a lawyer before. Your counseling may be all that is needed, or you may offer further services. No matter what the outcome of the initial consultation, the next time they or their friends or family need an attorney, they will come to you.

For more information about the LRS, contact the state bar at (800) 354-6154, letting the receptionist know that you are an attorney interested in becoming a member of the Lawyer Referral Service. Annual fees are $100, and each member must provide proof of professional liability insurance.

As competitive sales have become more impractical and uncertain, school boards and their bond counsel have developed innovative ways to avoid this requirement. Usually, this has involved utilizing a city or county, or perhaps another public entity, to incur debt for the benefit of the school board through a sale-leaseback or a funding agreement arrangement. Such indirect alternative financing arrangements have entailed greater complexity which, in turn, has resulted in higher transaction costs and interest rates for the school board. These financing arrangements often contain "lockbox" provisions for pledged taxes that created cash flow problems for school board operations. Since such alternative arrangements do not require state approval, the State Department of Education's traditional oversight responsibility has eroded over time.

Act No. 2011-631 fixes the problem by expressly granting to school boards the power to sell their warrants directly to a bank or an underwriter on a negotiated basis. School boards may now enter the market on a date of their choosing, when conditions are most advantageous in the light of existing market conditions. In addition, the new law clearly requires the state superintendent's approval before a local school board may incur indebtedness, regardless of what form such indebtedness may take. As a result, school boards no longer have an incentive to avoid state scrutiny by employing "creative" financing arrangements. In the end, such scrutiny will allow the state to ferret out problematic financings on the front end rather than being forced to bail out a school board under duress.

Combined School Taxes

Under the old school finance law, school boards could not pledge more than one tax as security for an issue of school warrants. The primary source of local funding for Alabama school boards is property taxes, but for many school boards this single tax revenue stream is often inadequate to finance a major capital project. Therefore, under the old law, school boards were forced to initiate multiple financings to pay for a single capital project. Such bifurcated financings resulted in higher transaction costs and higher interest rates for the school board.

Act No. 2011-631 allows school boards, for the first time, to combine multiple school taxes as security for a single issue of school warrants. By combining school taxes, a school board may achieve a better coverage ratio–meaning, the maximum annual principal and interest payable on the indebtedness will be covered by more available tax revenues. A more favorable coverage ratio generally results in a better credit rating because the investment is considered less risky, which generally lowers the interest rate on the investment.

Act No. 2011-631 makes clear that any tax pledge constitutes a preferred claim against the taxes so pledged, and takes priority over claims for salaries or other operating expenses of the school board. This is not necessarily true in the case of city and county general obligation indebtedness, where courts have held that the reasonable and necessary expenses of operating general government can take priority over the claims of creditors under certain circumstances. The credit markets are keenly aware of bankruptcy risk as it relates to cities and counties. Local school boards in Alabama are instrumentalities of the state and receive the vast majority of their operating funds from state government through constitutionally earmarked taxes, not from the school board's local government. Because of the reliable nature of the income from the state, credit rating agencies are increasingly comfortable issuing higher credit ratings to school boards than to their respective cities and counties.

Because creditors have priority over the payment of operating expenses, it is critically important that school board financings receive adequate scrutiny from the state. Act No. 2011-631 prohibits the state superintendent from approving any financing that could jeopardize the state's foundation program of education. The Alabama Legislature created the Foundation Program Fund to ensure that each Alabama school district is sufficiently funded to meet a minimum operating budget. Beginning in 1995, as a condition to the receipt of state appropriations from the Foundation Program Fund, each local school board was required to provide a local match equivalent to ten mills of local school ad valorem tax. This requirement of minimum local effort became embedded in the Alabama Constitution with the ratification of Amendment No. 778, which mandates that not less than 10 mills of local ad valorem taxes be levied in each school district in the state. As a

matter of policy, the state superintendent generally will not approve a school board financing unless a minimum of 10 mills or its equivalent is unencumbered following the issuance of such school warrants.

Working Capital

Under old law, a school board could borrow to pay operating expenses for a period ending not later than September 30 of the fiscal year in which the borrowing occurred. Over the past several years, a school board struggling with the effects of a July or August proration declaration often had no choice but to request its local bank to lend it enough money to permit the board to close out the fiscal year. The bank loan, by law, was required to be paid on September 30, when the school board's cupboard was bare. Although the bank would usually agree to roll over the loan for another year, the law prevented the bank and school board from negotiating a deal to pay off the loan over a longer period, such as two or three years.

The new law allows a school board, with the prior approval of the state superintendent, to incur working capital indebtedness for periods longer than a year. Although it is not usually prudent to incur long-term debt to pay operating expenses, there are extenuating circumstances where that may be unavoidable. As school boards deal with the ravages of the recent financial meltdown and recession, flexibility in the new law has become vital.

Financing All School Property

Under old law, school boards had the power to borrow funds to finance certain specific types of capital improvements–essentially school buildings, playgrounds and school buses. In 1939, school boards did not need sports facilities, performing arts centers, telecommunications facilities, broadband, or separate heating and cooling facilities.

Act No. 2011-631 modernizes the definition of what can be financed so there is no doubt that a school board can borrow to meet the challenges of the 21st century. "Public School Facilities," as defined in the Act, includes "all tangible and intangible property and interests in property, whether real or mixed, used or useful for educational and public school purposes, . . ." and includes a laundry list of special educational facilities.

In another departure from old law, the Act permits school boards to finance, with the approval of the state superintendent, other "extraordinary, nonrecurring items that are not customarily payable from current revenues including, without limitation, casualty losses, legal judgments, and payments due upon early termination of contractual agreements or prepayments of indebtedness." The flexibility of the new law is further evident by the provision that empowers school boards to incur debt "for such other purposes for which a board is authorized by law to expend money."

Refunding City or County School Warrants

As discussed above, school boards have discovered innovative financing arrangements to avoid the competitive sale and single tax restrictions in the old school finance law. In many cases, it now makes sense for school boards to unwind these alternative financings to achieve significant savings. Not only were the alternative financings more expensive because of their relative complexity, but they often were done when tax-exempt rates were higher than they are today.

The new law permits school boards to issue school warrants to refund outstanding lease obligations, funding agreement obligations and "any valid indebtedness or obligations of such board incurred pursuant to any agreement . . . by such board and a public person whereunder such board shall make payments." In the course of unwinding these alternative financings, many school boards will achieve significant savings by relying on their own credit ratings instead of the political jurisdictions they serve.

Assistance by Other Governmental Entities

The new law expressly grants to cities, counties and other governmental entities, the power to guarantee school warrants, make grants to school boards and provide other types of financial assistance directly to school boards. Such powers generally did not exist prior to enactment of Act No. 2011-631, so once again alternative financing plans had to be developed to make use of the generosity of the political jurisdiction served by the school board. By expressly granting broad powers to municipalities and counties, the new law permits cooperative financings to be accomplished in the most direct and cost-effective manner.

Conclusion

It is essential that lawyers who represent all public entities–especially school boards–develop a working knowledge of Act No. 2011-631. This Act presents significant opportunities for school boards and the political jurisdictions they serve. | AL

Legal Malpractice Actions under the Alabama Legal Services Liability Act:

Alleged Involuntary Attorney-Client Relationships and Attendant Statute Of Limitations Issues

By Max Cassady

Legal malpractice actions in Alabama are governed by the Alabama Legal Services Liability Act ("LSLA" or "Act"), which provides that "[t]here shall be only one form and cause of action against legal service providers in courts in the State of Alabama and it shall be known as the legal service liability action . . ." *Ala. Code* § 6-5-573. Thus, where the Act applies, all other tort, contract and statutory causes of action are foreclosed and the action must be brought within the ALSLA's statute of limitations. Id. § 6-5-570.

The Act governs "[a]ny action against a legal service provider in which it is alleged that some injury or damage was caused in whole or in part by the legal service provider's violation of the standard of care . . ." *Ala. Code* § 6-5-573. "Legal service providers" includes lawyers who are licensed by the Alabama State Bar, foreign attorneys "engaged in the practice of law in the State of Alabama" and their law clerks, legal assistants, legal secretaries, investigators, paralegals, and couriers.[1] The "standard of care" required is the "reasonable care, skill, and diligence as other similarly situated legal service providers in the same general line of practice in the same general locality ordinarily have and exercise in a like case." Id. § 6-5-572(3).

The ALSLA Limitations Period vs. Common Law Limitations

In creating a cause of action against legal service providers, the Alabama legislature also "provide[d] for the time in which a legal service liability action may be brought and maintained." *Ala. Code* § 6-5-570. In general terms, the ALSLA provides for a two-year limitations period for cases not involving fraud, but that period is extended by a six-month discovery rule in non-fraud actions if the "cause of action is not discovered and could not reasonably have been discovered within such period."[2] In cases alleging fraud, the

limitations provision runs two years from the date of discovery of the facts constituting fraud.[3] In all cases, however, a four-year absolute bar applies.[4]

This statute of limitations perhaps may be the most important of the Act's protections for attorneys. In *Kinney v. Williams*, 886 So. 2d 753 (Ala. 2003), for example, a lawyer explaining a deed allegedly negligently misrepresented that a road passing through a parcel of property was private and not public. The lawyer explained the deed to four persons–two were his clients, and two were not his clients. All four filed suit when the road was declared to be public, contrary to the attorney's opinion. The ALSLA applied to the claims of the clients and resulted in summary judgment on limitations grounds under the more rigorous statute of limitations in the ALSLA. The two non-clients asserted common law claims of fraud based on the defendant attorney's knowledge that he was making professional representations they would rely upon, even though they relied upon the attorney's opinion outside of the attorney-client context. The two non-clients avoided summary judgment under the common law limitations period.

In cases where the ALSLA limitations provision does apply, the statute of limitations analysis remains difficult because of uncertainty on whether the "act or omission" constituting alleged malpractice commences the running of the limitations period, or the resulting "injury or damage" caused by the alleged malpractice. The Act's definition of a "[l]egal service liability action" as "[a]ny action against a legal service provider in which it is alleged that some injury or damage was caused," *Ala. Code*. § 6-5-572, led to early ALSLA cases holding that "injury or damage" had to be objectively apparent to the client for the ALSLA limitations period to commence. In 1991, *Michael v. Beasley*, 583 So. 2d 245 (Ala. 1991), held that a legal malpractice action accrued when the client suffered "a legal injury" which was "sufficient to maintain an action." The opinion further held that the period ran "from the date of the accrual of a cause of action and not from the date of the occurrence of the act or omission." Applied to the facts, the court held that an adverse jury verdict against a client caused the action to accrue and commenced the running of the statute of limitations, not the "act or omission" occurring before the verdict itself.

In cases where the ALSLA limitations provision does apply, the statute of limitations analysis remains difficult because of uncertainty on whether the "act or omission" constituting alleged malpractice commences the running of the limitations period, or the resulting "injury or damage" caused by the alleged malpractice.

The "injury or damage" rule was applied again in *Cantrell v. Stewart*, 628 So.2d 543 (Ala. 1993) in which the lawyer missed a statute of limitations but continued litigating the matter in the underlying action in an effort to save the client's cause of action. After the underlying action was lost and the client sued for legal malpractice, the lawyer contended that the statute of limitations for the legal malpractice action had expired even as the lawyer continued litigating the underlying action. The court again held that the trial court's dismissal of the underlying action was the injury or damage that gave rise to the ALSLA claim and commenced the running of the statute.

While the phrase "injury or damage" appears in the definition of an "action" under the Act, the phrase does not appear limitations provision of the Act, § 6-5-574, which requires that "[a]ll legal service liability actions against a legal service provider must be commenced within two years after the act or omission or failure giving rise to the claim." That language–and not "injury or damage"–became the focus of a 1999 plurality decision in *Ex Parte David R. Panell*, 756 So.2d 862 (Ala. 1999), which held that the Alabama legislature had "intended to replace" the "damage rule" with an "act or omission" rule. In *Panell* the client alleged that his attorney in the underlying action had settled his case without his consent. The court concluded that "[i]t is immaterial for purposes of the statute of limitations whether the client knows the full extent of the damage resulting from the tortious act or omission."

Three of the nine members of the court agreed with the rationale[5], part of which was that the legislature had inserted the "ameliorative discovery provision" in Section 6-5-574(a), which provides a six-month extension to the two-year limitations period where "the cause of action is not discovered and could not reasonably have been discovered within such period."[6] Applying the "act or omission" rule, the court held that the client's ALSLA claim was time barred because the limitations period ran from the date of the alleged wrongful settlement of the underlying action, not date of the dismissal of the action (i.e., the "injury"), which came some time later.

The *Panell* "act or omission" rule has been subject to criticism.[7] A *Cumberland Law Review* article written by attorneys who "typically act as advocates for defendants in suits for professional negligence," concluded that the *Panell* decision produces "illogical" results when read literally.[8] An *Alabama Law Review* commentary viewed *Panell* as suggesting that "that a client's statute of limitations could run before a cause of action accrues" when "[l]egal representation is often a long and protracted process" in which the damage of the act or omission only becomes apparent to a reasonable person when the case is dismissed.[9]

Decisions following *Panell* have not resolved the confusion on whether to apply an "act or omission" occurrence test or an "injury or damage" test. In *Sirote & Permutt, P.C. v. Bennett*, 776 So. 2d 40, 45 (Ala. 2000), just one year after *Panell*, the court noted that "our decision is based on the case law applying the *Michael* rule that the period of limitations begins to run as soon as the plaintiff sustains a legal injury." In the same year, in *Ex parte Seabol*, 782 So. 2d 212, 214-215 (Ala. 2000), the court acknowledged *Panell* but held that "the running of the limitations period is tolled until the client discovers, or reasonably should discover, the attorney's act or omission or failure."

Since 2001, the court has not resolved the uncertainty because it has not been required to do so to reach a decision. In *Floyd v. Massey & Stotser, P.C.*, 807 So. 2d 508, 511 (Ala. 2001), the court acknowledged the "injury or damage" test as well as the "act or omission" occurrence test, but declined to establish either test as correct because the court concluded that the ALSLA claim was

time barred under either test. In *Denbo v. DeBray*, 968 So. 2d 983 (Ala. 2006), the court again declined to choose between "the two different approaches for determining when the statute of limitations begins to run," holding that under either the client's complaint was untimely. Finally, in 2010, in *Coilplus-Alabama, Inc. v. Vann*, 53 So. 3d 898, 909 (Ala. 2010), the court did not declare either test to be correct, and stated: "[b]ecause Coilplus's legal-malpractice action is time-barred under all applicable provisions of § 6-5-574, regardless of whether the 'occurrence' approach or the 'damage' approach is used to determine when that action accrued, and because Coilplus failed to present any evidence to support a claim of fraudulent suppression, we affirm the trial court's summary judgment in favor of the defendants."

When Does the ALSLA Apply?

Any lawyer sued may wish to invoke the advantageous statute of limitations under the ALSLA. The Act does not apply, however, simply because the defendant in a civil action is an attorney; rather, the Act and its statute of limitations apply only to claims between "legal service providers" and those "who have received legal services."[10] Thus, the ALSLA clearly applies when the parties agree that the claim arises out of an attorney-client relationship over legal services allegedly falling below the standard of care;[11] conversely, it does not apply when the parties agree that the disputed facts did not involve legal services rendered pursuant to an attorney-client relationship. In such situations, general civil law applies, because the Act does not apply to a dispute between a lawyer and a non-client.[12]

What if the parties cannot agree that the Act applies or does not apply to the civil action at hand? In such a case, the trial judge and the parties are forced to navigate through both the common law and the Act until the applicability of the Act is determined either by the judge as a matter of law, or by the jury as a matter of fact. This article details several scenarios where parties disagree on the whether the Act or the common law applies. In each situation, the trial judge confronts a maze of difficult statute of limitations uncertainties.

Disputed Attorney-Client Relationships in Litigation: Dual Roles of Attorney and Fiduciary

When one party asserts the attorney-client relationship and the other denies the relationship, both the ALSLA and general common and statutory law apply until a jury or judge makes a factual finding that an attorney-client relationship did or did not exist. For example, in *Line v. Ventura*, 38 So. 3d 1 (Ala. 2009), the Alabama Supreme Court was faced with a lawyer serving dual roles: as the attorney filing the conservatorship, and as the fiduciary co-signer of checks under an agreement with The Hartford, the bonding company for the conservatorship. The blank checks were given to the minor's mother, who allegedly wasted the money on inappropriate goods such as a polo pony, a BMW and inappropriate investments.

Once the minor reached the age of majority and learned that the $500,000 in wrongful death proceeds were exhausted, he filed suit against the attorney and The Hartford insurance company. The attorney denied that the minor child had been his client but also asserted that the ALSLA barred any claims against him because he had been providing legal services as a licensed lawyer. In opposition, the plaintiff presented expert testimony from a practicing lawyer (a) that the defendant attorney had a duty under the ALSLA in filing for the conservatorship distinguishable from his separate duty as a fiduciary in jointly co-signing the checks with the mother; and (b) that the attorney's conduct had fallen beneath the standard of care required by the ALSLA; but (c) that the attorney's breach of the standard of care in releasing the blank checks was under his general fiduciary duty outside of an attorney-client relationship. The Hartford also sued the attorney for breach of his fiduciary duty and for indemnification under an agreement he had executed with The Hartford in which he agreed to be The Hartford's representative charged with the duty of cosigning checks issued by the conservatorship.

At the close of the evidence the trial judge concluded that no attorney-client relationship had existed and dismissed the ALSLA claim. The case proceeded on common law claims of negligence, wantonness and breach of fiduciary duty,[13] and the jury returned a verdict in favor of the claimant and in favor of The Hartford. On appeal, the attorney argued that the loss of conservatorship funds necessarily related to his providing "legal services" as an Alabama licensed attorney. The supreme court disagreed, holding that the trial judge and jury had properly inferred that the defendant attorney had undertaken an "entirely separate fiduciary obligation to [the minor child and the company] by explicitly agreeing to participate in the conservatorship by cosigning checks and being actively involved with the conservatorship funds."

Involuntary Attorney-Client Relationships:

The Lawyer's Duty to Manifest Lack of Consent to an Attorney-Client Relationship

Section 14 of The Restatement of Law Governing Lawyers provides that "[a] relationship of client and lawyer arises when a person manifests to the lawyer the person's intent that the lawyer provide legal services for the person; and either (a) the lawyer manifests to the person a consent to do so; or (b) the lawyer fails to manifest lack of consent to do so, and the lawyer knows or reasonably should know that the person reasonably relies on the lawyer to provide the services." The attorney's subjective lack of consent to attorney-client relationship does not control because the attorney-client relationship is a matter of contract formation, and Restatement Section 14 adopts the objective theory of contracts.[14] The Supreme Court of Alabama has held that "[a]n attorney's representations to a potential client" may impose the relationship by law and not the attorney's consent "because [t]he mere existence or nonexistence of an express contract, employment, the payment of legal fees, or the length of the consultation is not determinative of whether a preliminary consultation has matured into an attorney-client relationship."[15]

Small Business Organization Counsel: Beware of Involuntary Attorney-Client Relationships with Investors

Alabama Rules of Professional Conduct, Rule 1.13 addresses the "Organization as Client," and provides that "[a] lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents," but the rule concurrently directs that "a lawyer shall explain the identity of the client when it is apparent that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing." Further, Rule 1.13 allows that "[a] lawyer representing an organization may also represent any of its directors, officers, employees, members, shareholders or other constituents," but "[i]f the organization's consent to the dual representation is required by Rule 1.7, the consent shall be given by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders." Although the *Rules of Professional Conduct* may not be used as evidence in an action under the ALSLA,[16] the rules alert the practitioner to the potential client-identification issues confronting small business counsel and mirror the "lack of consent" standard of the Restatement.

Investors often organize a business entity with a single attorney to avoid paying multiple lawyers and because they share an optimistic unity of purpose and no perceived conflicts among themselves. But conflicts may surface when an individual investor is faced with deep losses or feels unrewarded when large profits are distributed. The lawyer who organized the company may become the first professional the disappointed investor calls because the investor expects the "company attorney" to resolve a conflict among the partners or shareholders. That investor later may seek to blame the attorney for failing to protect that investor's individual legal interests in the company formation process or in subsequent transaction documents or that the attorney represented each investor in pre-entity formation proceedings and also represented the business organization after it commenced its formal existence. The individual investor may assert that his intent to receive legal services was manifested in his or her signing of legal documents in an individual capacity.

A primary risk for a lawyer joining a group as an investor or partner is the dilution of the attorney's self-perception of his or her lawyer status.

Once the investor claims an attorney-client relationship, the Restatement places the burdens on the attorney to show evidence of the attorney's "manifest lack of consent" to form the attorney-client relationship. This burden may be mitigated and a legal malpractice claim avoided, for example, by a Southeastern Transactions Manual model letter entitled, "Representing Multiple Investors in Organization of Corporation and Acting as General Counsel."[17] The letter calls for the signature of each investor and:

- Clarifies to the investors who the attorney represents;
- Cautions that attorney-client privileges will be lost in the event of a conflict arising out of misconduct by an investor;
- Gives notice that the lawyer will have a duty to report any investor's misconduct to other investors and the business entity;
- Warns that disagreements may arise on capitalization and other organizational matters;
- Advises that if the disagreements prove to be material and intractable, the attorney will have to withdraw and recommend new counsel to each; and
- Explains that in litigation between the investors over the meaning of a transactional document drafted by the lawyer, the lawyer will be a witness at trial and cannot represent any investor.

Practicing Business (Or Law, or Both?) With Non-Lawyer Business Partners

A related red-flag situation arises when a lawyer is an investor or partner in a business venture with non-lawyers, and the lawyer provides both legal services and non-legal contributions. The attorney may be invited into the business-partner role by an investment group which has a minimal legal budget and is willing to barter for legal services. Or the attorney may affirmatively ask to join a growing, successful venture which has higher potential profits than practicing law. The real estate market has been a common route for lawyers into investment groups because it tends to involve a local focus and an area upon which many lawyers' practices touch.

A primary risk for a lawyer joining a group as an investor or partner is the dilution of the attorney's self-perception of his or her lawyer status. The lawyer may begin to perform legal services more routinely and without advising partners or organization of the risks. Less documentation and less discussion with the "client" is a logical development because the attorney is also representing himself or herself with a genuine, vigorous self-interest of avoiding injury. That is not necessarily a bad thing when the business is doing well: the group has the confidence of having a lawyer involved in the regular conduct of the business. The group then

may naturally drift into exercising less control over material legal decisions ordinarily reserved for the client. Even the lawyer's own self-perception may become more of a sense of a business partner than the attorney for the investors or the business entity.

The attorney's central identity as the legal service provider may re-surface if the business venture fails or is threatened for legal reasons related to services provided by the lawyer. The lawyer's "legal service" role might involve failing to record a mortgage or lien, or not correctly interpreting a legal document, or mistakenly releasing company funds from the lawyer's trust account, or lack of pre-entity document clarity which only becomes apparent when a dispute arises about the meaning of a profit-sharing document prepared by the attorney for himself and the group. If no outside counsel provided overview for the company, the lawyer may have difficulty denying an attorney-client relationship with the company and perhaps with some of the individual investors. In the context of Restatement Section 14, some investors may contend that they expressed intent to receive legal services, and did receive legal services, and further that the lawyer failed to manifest lack of consent to act as that individual's attorney. In litigation, the attorney's denial of the attorney-client relationship would require the court and counsel to address the common law and the ALSLA.

Trust Account Transactions: Involuntary Attorney-Client Relationships or Common Law Negligence

A lawyer's handling of the firm's trust account may possibly implicate the ALSLA as well. In recent Alabama litigation, a young lawyer had an existing client who was a real estate finance specialist, and the client had an impressive past record of locating and finding private investors for sound real estate investments. The finance specialist persuaded two investors to wire $500,000 to a lawyer's trust account. The finance specialist represented that he would also contribute $500,000 of his own money to the investment. The finance specialist also represented that his attorney would act for all of the investors and create the LLC, prepare the transaction documents, take a security interest in property outside of Alabama and close the deal utilizing his law firm's trust account. The young lawyer had no prior relationship with the two investors and did not meet them during the entire business transaction. But the lawyer communicated with the two investors through faxes of transaction documents and "CCs" of e-mails.

The lawyer created an LLC for the group and accepted into his firm's trust account a $500,000 wire from the two investors. The finance specialist privately e-mailed the attorney and represented that he had wired $500,000 in funds into the attorney's trust account. The e-mail instructed the attorney to immediately pay himself a substantial fee and to wire the remaining funds to another bank. When the finance specialist absconded with the two investors' money, the investors filed suit, alleging that they had received legal services and trust account services from the attorney, and that the attorney had not manifested his lack of consent to act as their attorney. The two investors asserted that the attorney had released their $500,000 without any documentation of the capital and/or service contributions of individuals in the group, without closing instructions and without written authorization from them as individuals. The lawyer denied the attorney-client relationship and left the trial court in the position of navigating the common law and the ALSLA.

Application of the ALSLA to Out-of-State Counsel

In the age of the Internet and cable television, state boundaries do not confine an attorney's audience of potential clients. Thus, out-of-state mass tort attorneys frequently represent thousands of Alabama clients as individuals by opting them out of class actions. The sheer geographic distance between the client and the out-of-state attorney frequently results in attorney-client relationships being formed by U.S. Mail and in settlements without the Alabama client and the out-of-state attorney ever meeting face to face. Injury attorneys also advertise broadly across state lines, and cross those state lines to settle Alabama claims for Alabama citizens without filing any litigation. Arguably, these attorneys may not be covered by the Act if they fail to at least associate with an Alabama-licensed lawyer who is working for the benefit of the client because *Alabama Code* § 6-5-572(2) defines a "Legal Service Provider" as "[a]nyone licensed to practice law by the State of Alabama or engaged in the practice of law in the State of Alabama."

In *Alabama Educ. Ass'n v. Nelson*, 770 So. 2d 1057, 1059 (Ala. 2000), the court held that "the plain language of § 6-5-572(2), as well as that of the other portions of the ALSLA, clearly indicates that the legislature intended for the ALSLA to apply only to lawyers and to entities that are composed of members who are licensed to practice law within the State of Alabama." See also *Fogarty v. Parker, Poe, Adams & Bernstein, L.L.P.*, 961 So. 2d 784 (Ala. 2006) (holding that ALSLA did not apply to defendant attorneys from North Carolina had not appeared in any Alabama court or litigation, but rather had handled transactional work for Alabama investors forming an Alabama LLC). According to the 2011 decision of *Roberts v. Lanier*, 2011 Ala. LEXIS 49 (Ala. Apr. 15, 2011), the court a "legal service provider" includes out-of-state attorneys once admitted pro hac vice.

In the age of the Internet and cable television, state boundaries do not confine an attorney's audience of potential clients.

The *Fogarty* holding was curtailed in 2009 by *Wachovia Bank, N.A. v. Jones, Morrison & Womack, P.C.*, 42 So. 3d 667, 677 (Ala. 2009), in which the court stated, "We disagree with [the defendant law firm's] contention that . . . it cannot be held liable under the ALSLA because none of its attorneys were licensed to practice law within the State of Alabama." The court focused on two factors to distinguish *Fogarty*: first, the out-of-state defendant law firm in *Jones, Morrison* agreed that it had provided legal services, whereas the lawyers in *Fogarty* had denied providing legal services; and second, the law firm had assisted an Alabama-licensed law firm in the matter.

Returning to the mass tort, the following scenario is not uncommon: an out-of-state mass tort firm acquires an inventory of 2,000 clients in Alabama and reaches a tolling agreement with

the defendant manufacturer as to all 2,000 Alabama clients. The Alabama clients are simply held as inventory while a bellwether case being tried in another state or while MDL negotiations establish settlement values. At some point, when settlement values are established, the 2,000 Alabamians may be invited to participate in a global or "aggregate" settlement. The settlement may involve thousands more of claimants in other states as well as various fee-splitting agreements among the mass tort counsel. The disbursement mechanism for the aggregate settlement money may be established in another state. In the event of negligence in the handling of an Alabama claim, the applicability of the ALSLA would likely depend on a determination of whether the out-of-state attorneys assisted an Alabama-licensed lawyer for the benefit of that Alabama client. Failing that, the common law of negligence would logically apply because an attorney cannot be "engaged in the practice of law in the State of Alabama" without a license, except on a pro hac vice basis. In fact, in *Fogarty*, the plaintiff had not even pleaded the ALSLA, but instead pleaded a claim for the "Unauthorized Practice of Law" under *Alabama Code* Section 34-3-6, and it was that claim which the court held was sufficient to state a claim. The inapplicability of the ALSLA removes the absolute four-year limitations bar, and, thus, could be critically important as a matter of law at the outset of a claim against an out-of-state attorney.

Claims against attorneys are governed by the ALSLA only when there is an attorney-client relationship; otherwise, the claim is governed by general civil law.

Conclusion

Under the ALSLA, the statute of limitations is frequently the outcome-determinative issue and an issue which dominates the case law relating to the Act. To even get to that issue, though, the lawyer must first establish that the Act applies. Claims against attorneys are governed by the ALSLA only when there is an attorney-client relationship; otherwise, the claim is governed by general civil law. In cases where an involuntary attorney-client relationship is alleged, the defendant attorney in denying the attorney-client relationship loses many of the protections of the ALSLA, in particular, the limitations provision and the opportunity to argue an "act or omission" or occurrence limitations period. In cases where an out-of-state attorney is sued by an Alabama client in an Alabama court, the applicability of the Act and whether the ALSLA limitations provisions apply appear to depend on whether an Alabama-licensed attorney was also involved in the provision of legal services. Once that hurdle is overcome, the question becomes when the statute of limitations began to run. On this point, the law has not yet been declared as to whether the "act or omission" occurrence rule or the "injury or damage" rule commences the statute of limitations, thus leaving fodder for the attorneys, and toil for the trial judges. | AL

Endnotes

1. *Alabama Code* Section 6-5-572(2) defines a "legal service provider" as"*[a]nyone* licensed to practice law by the State of Alabama *or engaged in the practice of law in the State of Alabama"* and goes on to state that "[t]he term legal service provider includes professional corporations, associations, and partnerships and the members of such professional corporations, associations, and partnerships and the persons, firms, or corporations either employed by or performing work or services for the benefit of such professional corporations, associations, and partnerships including, *without limitation*, law clerks, legal assistants, legal secretaries, investigators, paralegals, and couriers."
2. Section 6-5-574, *Ala. Code* 1975, provides: "(a) All legal service liability actions against a legal service provider must be commenced within two years after the act or omission or failure giving rise to the claim, and not afterwards; provided, that if the cause of action is not discovered and could not reasonably have been discovered within such period, then the action may be commenced within six months from the date of such discovery or the date of discovery of facts which would reasonably lead to such discovery, whichever is earlier; provided, further, that in no event may the action be commenced more than four years after such act or omission or failure; except, that an act or omission or failure giving rise to a claim which occurred before August 1, 1987, shall not in any event be barred until the expiration of one year from such date.
3. Section 6-5-574, *Ala. Code* 1975, provides: "(b) Subsection (a) of this section shall be subject to all existing provisions of law relating to the computation of statutory periods of limitations for the commencement of actions, namely, Sections 6-2-1, 6-2-2, 6-2-3, 6-2-5, 6-2-6, 6-2-8, 6-2-9, 6-2-10, 6-2-13, 6-2-15, 6-2-16, 6-2-17, 6-2-30, and 6-2-39; provided, that notwithstanding any provisions of such sections, no action shall be commenced more than four years after the act, omission, or failure complained of; except, that in the case of a minor under four years of age, such minor shall have until his or her eighth birthday to commence such action."
4. Section 6-5-574, *Ala. Code* 1975, provides: "(a). . . .provided, further, that in no event may the action be commenced more than four years after such act or omission or failure. . ."
5. *Ex parte Stonebrook Dev., L.L.C.*, 854 So. 2d 584, 592 (Ala. 2003) (rejecting *Panell* in part because "*Panell* was a plurality opinion; its rationale was approvedby only three of the nine members of this Court").
6. *Ex parte Panell*, 756 So. 2d at 867.
7. *Panell v. American Home Prods. Corp.*, 106 F. Supp. 2d 1240, 1242 & n.2 (N.D. Ala. 2000)("It is highly unlikely that the six justices would ever agree with the rationale of Justice See. In light of *stare decisis, Panell* cannot stand. . . . This result is nonsensical; a plaintiff cannot maintain an action until he has a cause of action. The limitations period could not only run but expire before the plaintiff ever had a right to maintain an action.")
8. W. Michael Atchison and Robert P. MacKenzie, III, *The Professional Liability of Attorneys in Alabama*, 30 Cumb. L. Rev. 453, 453, 483 and 483 n.3. (1999).
9. Amy Ann Ray, *A Fox Guarding the Henhouse: A Comment on Ex parte Panell* , 52 Ala. L. Rev. 743 (2001).
10. *Cunningham v. Langston, Frazer, Sweet & Freese,* P.A., 727 So. 2d 800, 804 (Ala. 1999).
11. *Valentine v. Watters,* 896 So. 2d 385, 391 (Ala. 2004)
12. "[T]he ALSLA does not apply to an action filed against a 'legal service provider' by someone whose claim does not arise out of the receipt of legal services." *Cunningham v. Langston, Frazer, Sweet & Freese,* P.A., 727 So. 2d 800, 804 (Ala. 1999). *See also Fogarty v. Parker, Poe, Adams, and Bernstein, L.L.P.,* 961 So. 2d 784, 789 (Ala. 2006) (The

Supreme Court of Alabama rejected a law firm's argument that the ALSLA preempted all other claims because the law firm expressly denied throughout the proceedings that it had provided any legal services to the Fogartys, who were investors in an LLC represented by the law firm). It also does not apply to a devisee under a will. *See Robinson v. Benton*, 842 So. 2d 631, 637-638 (Ala. 2002) (holding that lack of privity between the devisee and attorney barred the ALSLA claim, and noting, "Robinson also argues that his negligence claim against Benton falls outside the Legal Service Liability Act, § 6-5-570 *et. seq.*, *Ala. Code* 1975. However, the record shows that this issue was never raised before the trial court. Therefore, we cannot address this issue on appeal.")

13. *Line v. Ventura* recited fiduciary duty broadly: "The fiduciary relation is not restricted to such confined relations as trustee and beneficiary, partners, principal and agent, guardian and ward, managing directors and corporation, etc. It applies to all persons who occupy a position out of which the duty of good faith ought in equity and good conscience to arise. It is the nature of the relation which is to be regarded, and not the designation of the one filling the relation." (citations omitted)

"Such a relationship is one in which one person occupies toward another such a position of adviser or counselor as reasonably to inspire confidence that he will act in good faith for the other's interests, or when one person has gained the confidence of another and purports to act or advise with the other's interest in mind; where trust and confidence are reposed by one person in another who, as a result, gains an influence or superiority over the other; and it appears when the circumstances make it certain the parties do not deal on equal terms, but, on the one side, there is an overmastering influence, or, on the other, weakness, dependence, or trust, justifiably reposed; in both an unfair advantage is possible. It arises in cases in which confidence is reposed and accepted, or influence acquired, and in all the variety of relations in which dominion may be exercised by one person over another."

Cf. Hannon v. State, 48 Ala.App. 613, 618 (Ala. Crim. App. 1972) and *Satterwhite v. State*, 359 So. 2d 816, 818 (Ala. Crim. App. 1977)("The relationship of attorney and client . . . places upon the attorney a position likened to a fiduciary calling for the highest trust and confidence, so that in all his relations and dealings with his client, it is his duty to exercise the utmost honesty, good faith, fairness, integrity and fidelity.")

14. Note, *An Expectations Approach to Client Identity*, 106 Harv. L. Rev. 687 (1993).
15. *Valentine v. Watters*, 896 So. 2d 385, 391 (Ala. 2004).
16. Section 6-5-578(b) provides: "Neither evidence of a charge of a violation of the rules of professional conduct against a legal service provider nor evidence of any action taken in response to such a charge shall be admissible in a legal services liability action and the fact that a legal service provider violated any provision of the rules of professional conduct shall not give rise to an independent cause of action or otherwise be used in support of recovery in a legal services liability action." *Accord Ex parte Toler*, 710 So. 2d 415 (Ala. 1998).
17. Southeast Transactions Manual, Section, 2.201, Model Engagement Letter.

Adverse Reaction Without a Remedy

By Steven F. Casey and David A. Lester

Most consumers decide whether to buy a brand-name or generic drug based on one of two considerations–price or myths regarding quality. Few, if any, give thought as to whether their choice will affect their ability to pursue a claim against the manufacturer in the event they suffer an adverse reaction to the drug. However, after recent decisions by the United States Supreme Court, consumers who purchase generic drugs may have no avenue to pursue claims against generic drug manufacturers for failing to warn about potential adverse effects of drugs. To comprehend how a consumer could possibly suffer an adverse drug reaction and be left without a legal remedy, it is helpful to review a bit of the history of drug regulations in the United States.

History

The Food, Drugs, and Cosmetics Act ("FDCA") can trace its roots back to the Pure Foods and Drugs Act of 1906.[1] From 1906 to 1962, drugs were reviewed and approved only for safety.[2] During this time, a generic version of a brand name drug could be approved based upon the submission of a "paper" new drug application, which contained published scientific and medical literature demonstrating that the drug was safe.[3] The FDCA was amended in 1962 to require drug companies to show that their drugs were effective through clinical trials.[4] The amended FDCA contained no provision by which companies could gain approval of a generic version of a brand-name drug in an abbreviated process.[5] The generic drug companies were hesitant to invest the time and expense required for clinical trials and, as a result, by 1984, there were 150 drugs whose patents had expired but for which there was no generic drug equivalent.[6] In fact, only 35 percent of the top-selling drugs with expired patents had generic equivalents.[7]

By the early 1980s, as the availability of generic drugs declined, the average price for prescription drugs increased.[8] The Food and Drug Administration ("FDA") began considering the possibility of implementing new regulations that would allow abbreviated new drug applications for generic drugs.[9] Instead, Congress intervened and passed the Drug Price Competition and Patent Term Restoration Act of 1984, better known as the Hatch-Waxman amendments to the FDCA.[10] The amendments sought to balance two competing objectives:

- Encourage competition from generic drugs and

- Continue to provide incentives for brand-name drug companies to develop new drugs.[11]

The Hatch-Waxman amendments preserved the incentive for brand-name companies to invest in research to develop new drugs by increasing the patent exclusivity period for new drugs.[12] The amendments also allowed brand-name drug companies to obtain patent extensions for a period of time equal to the time the drug spent in clinical trials, so that the brand-name drug company could reap the financial benefits from its new drug for the entire patent term.[13]

The amendments streamlined the process for approving generic drugs by requiring only that manufacturers demonstrate bioequivalence to an already-approved drug through the submission of an abbreviated new drug application.[14] Bioequivalence means that the active ingredient in the generic drug is absorbed at the same rate and to the same extent as the active ingredient in the brand-name drug.[15] The tests required to prove bioequivalence are much less costly than those required to prove safety and efficacy.[16] The amendments also require that generic drug companies label their drugs with the same label that is approved for their brand-name equivalent.[17] The amendments further allowed generic drug companies to submit abbreviated drug applications before the expiration of the brand-name drug's patent.[18] This change alone shortened the average time between the expiration of a brand-name drug's patent and the entry of generic versions into the market from three years to three months.[19]

There is no doubt that the Hatch-Waxman amendments achieved the goal of increasing competition from generic drug manufacturers. In 1983, generic drugs accounted for 13 percent of the prescription drug market.[20] In 2010, generic drugs accounted for 78 percent of all drugs sold in the United States.[21] Today, on average, more than 80 percent of a brand's prescription volume is replaced by generics within six months of patent expiration[22]

Pharmaceutical Litigation After Hatch-Waxman

As long as there have been prescription drugs on the market, there have been patients who suffered adverse reactions from taking those drugs. Accordingly, litigation has been a part of the pharmaceutical industry for as long as it has been around. Some adverse reactions are foreseeable and drug companies warn of those potential reactions in their labels and warnings. Sometimes, there are reactions that were not discovered in clinical trials. Over the years, plaintiffs have asserted claims against pharmaceutical companies based upon countless theories of liability, but most claims have included some variation of a common law failure to warn claim.

Both brand name and generic pharmaceutical companies have also experimented with many theories in defending against failure to warn claims. For most of the past generation, the "learned intermediary doctrine" was an industry favorite.[23] Under the learned intermediary doctrine, a pharmaceutical company cannot be held liable for a patient's adverse reaction to its drug if the patient's physician was aware that the possibility of such a reaction existed.[24] In other words, the doctrine shifts liability from the pharmaceutical company who had no interaction with the patient to the physician, who knew the patient's medical history, physical condition and other medications the plaintiff was taking.[25] Today, some variation of the learned intermediary doctrine has been adopted by 48 states.[26]

In the past few years, however, new theories of defense have arisen in the pharmaceutical industry that led to landmark decisions from the Supreme Court of the United States. Brand-name drug companies began arguing that plaintiffs could not maintain failure to warn claims against them because it was the FDA, not the drug companies, who had the ultimate say as to what is, and what is not, contained in drug labels and warnings. Generic drug companies argued that plaintiffs could not maintain failure to warn claims against them for two reasons: first, because the Hatch-Waxman amendments require them to use the same labels and warnings on their drugs as are used on the brand-name equivalent; and, second, because neither the FDCA nor FDA regulations provide a mechanism by which the generic manufacturers could amend the labels or warnings. The Supreme Court addressed the brand-name drug companies' labeling defense in *Wyeth v. Levine*[27] and the generic drug companies' labeling defense in *PLIVA, Inc. v. Mensing.*[28]

Wyeth v. Levine

In April 2000, Diane Levine, a professional musician in Vermont, suffered a severe migraine headache and associated nausea.[29] She went to a local clinic, where she was treated with intramuscular injections of Demerol, for the headache, and Phenergan, for the nausea.[30] The injections did not relieve Levine's headache and she returned to the clinic, where she was again treated with Demerol and Phenergan, this time through an intravenous push injection.[31]

Wyeth produces Phenergan.[32] At the time Levine was treated, the drug's labeling identifies intramuscular injection as the preferred method of administration.[33] The package insert warned in at least four places that adverse reactions, including gangrene, can result from exposure of Phenergan to arterial blood.[34] In fact, the FDA had reviewed Wyeth's labeling for Phenergan three years before Levine's treatment and, during that review, ordered Wyeth to maintain its gangrene warning.[35]

As you could probably guess, the healthcare provider who had given Levine the injection of Phenergan inadvertently injected it into her artery rather than her vein.[36] Levine developed gangrene in her arm, which she ultimately had to have amputated. Levine sued the clinic and healthcare providers for malpractice and settled those claims for $700,000.[37] She then sued Wyeth in Vermont state court, asserting that Wyeth had inadequately warned of the dangers of injecting Phenergan into an artery.[38]

Wyeth's expert testified that Wyeth should have contraindicated intravenous injection of Phenergan on the drug's labeling even though the FDA never required such a contraindication.[39] Wyeth moved for summary judgment, arguing that the plaintiff's state law failure-to-warn claims were preempted by federal law.[40] Wyeth explained that the FDA dictated the warnings that were included in the Phenergan labeling and argued that state law could not require Wyeth to provide different warnings.[41] The trial court rejected Wyeth's argument and a jury awarded Levine a verdict for $7,400,000.[42]

Wyeth appealed the verdict to the Vermont Supreme Court.[43] Wyeth reiterated its argument that it could not comply

with its federal duty to distribute Phenergan only under the precise labeling approved by the FDA and its Vermont common law duty to give different warnings.[44] The Vermont Supreme Court was unpersuaded and affirmed the jury verdict.[45]

Wyeth petitioned the Supreme Court of the United States for a writ of certiorari.[46] The Supreme Court issued its opinion in March 2010, rejecting Wyeth's preemption argument in a six-to-three decision.[47] The Court explained that the FDA's "changes being effected" ("CBE") regulation provides that if a manufacturer is changing a label to "add or strengthen a contraindication, warning, precaution, or adverse reaction" or to "add or strengthen an instruction about dosage and administration that is intended to increase the safe use of the drug product," it may make the labeling change upon the filing of a supplemental application with the FDA and it need not wait for FDA approval.[48] The Court went on to explain that "it has remained a central premise of federal drug regulation that the manufacturer bears responsibility for the content of its label at all times. It is charged both with crafting an adequate label and with ensuring that its warnings remain adequate as long as the drug is on the market."[49]

After the Supreme Court's decision in *Wyeth v. Levine*, most legal scholars concluded that the preemption argument was dead in the pharmaceutical failure to warn context. Needless to say, very few people foresaw the Court's decision in *Mensing*.

PLIVA, Inc. v. Mensing

A year after its decision in *Wyeth v. Levine*, the Supreme Court addressed the generic drug manufacturer's preemption argument in *PLIVA, Inc. v. Mensing*.[50] The plaintiff in *Mensing* was prescribed metoclopramide, the generic form of the brand-name drug Reglan.[51] At the time the plaintiff was initially prescribed metoclopramide, the warning label stated that "tardive dyskinesia . . . may develop in patients treated with metoclopramide," and the drug's package insert added that "[t]herapy for longer than 12 weeks has not been evaluated and cannot be recommended."[52] In 2004, the warning label was changed to read "[t]herapy should not exceed 12 weeks in duration."[53] The label was once again strengthened in 2009 when the FDA ordered a black-box warning stating that "[t]reatment with metoclopramide can cause tardive dyskinesia, a serious movement disorder that is often irreversible. . . . Treatment with metoclopramide for longer than 12 weeks should be avoided in all but rare cases."[54] After taking the drug as prescribed for several years, the plaintiff developed tardive dyskinesia[55] and filed suit against the generic manufacturers and the manufacturers of the brand-name equivalents, alleging that the manufacturers failed to warn of the effects of long-term use of metoclopramide.[56]

The generic and brand-name manufacturers moved to dismiss the plaintiff's claims, arguing that federal statutes and FDA regulations preempted the plaintiff's state law claims.[57] The generic companies argued that they were required to label the metcolopramide they produce with the same warnings that are required for Reglan, the brand-name form of the

drug.[58] The brand-name companies argued that they owed no duty to warn consumers of the risks associated with taking the generic forms of their drugs.[59] The district court agreed and dismissed the case.[60] On appeal, the Eighth Circuit affirmed the district court's dismissal of the brand-name manufacturers, but reversed the dismissal of the generic manufacturers.[61] The Eighth Circuit found that the FDA regulations provided mechanisms by which the generic manufacturers could propose changes for their labels.[62] The generic manufacturers appealed the Eight Circuit's ruling.[63]

On appeal, the Supreme Court noted that a conflict between state and federal law exists, making it impossible for a private party to comply with both state and federal law requirements.[64] In such situations, state law must give way.[65] The Supreme Court found that a conflict exists between state law failure-to-warn claims asserted in the *Mensing* case and the Hatch-Waxman amendments to the FDCA.[66] Specifically, the Court found that, under the Hatch-Waxman amendments, a generic manufacturer seeking approval to produce a generic form of a brand-name drug must show that the drug it wishes to produce is equivalent to an already-produced brand-name drug and that the safety and efficacy labeling it proposes is the same as that already approved for the brand-name drug.[67] Therefore, the Court reasoned, the generic drug manufacturers could not comply with the Hatch-Waxman amendments and provide the strengthened warnings that the plaintiffs contended were required, because the generic manufacturers had no ability to change their labels.[68]

In reaching this decision, the Court specifically rejected the Eighth Circuit's reasoning that the generic manufacturers could have satisfied the state law warning requirements by proposing label changes to the FDA.[69] The Court explained that state law demanded a safer label, not communication between the manufacturer and the FDA.[70] Therefore, even if the generic manufacturers had proposed label changes to the FDA, they could not have compelled the FDA to approve such changes.[71] In such a circumstance, if the generic manufacturers' suggested label changes had not been approved, the generic manufacturers would still be in violation of state law.[72]

The Supreme Court further noted that if the plaintiff had taken Reglan rather than metoclopramide, her claims would not have been preempted. The Court acknowledged that, from the plaintiff's perspective, the finding of preemption in this case but not in *Wyeth v. Levine* makes little sense.[73] The Court noted, however, that Congress enacted meaningfully different statutory schemes to govern generic manufacturers than it did to govern brand-name manufacturers.[74] The Court concluded that those different statutes and regulations lead to different preemption results and noted that Congress and the FDA have the authority to change the law and regulations if they so desire.[75] Until Congress or the FDA adopts such changes, plaintiffs will not be able to maintain state law failure to warn claims against the manufacturers of generic drugs.[76]

Failure-to-Warn Claims After *Wyeth* and *Mensing*

After the *Wyeth* and *Mensing* decisions, it would be easy to conclude that consumers who suffer adverse reactions from taking a generic drug are left without a legal remedy to compensate them for their injury. That could be true, but plaintiffs have pursued an alternate theory of liability which would compel a different result.

This alternate theory was first advanced in *Conte v. Wyeth, Inc.*, a 2008 California case.[77] In that case, the plaintiff developed tardive dyskinesia after taking metoclopramide for almost four years.[78] He sued Wyeth, the manufacturer of Reglan–the brand name version of metoclopramide–and three manufacturers of generic metoclopramide, alleging that the defendants should have known of a widespread tendency among physicians to mistakenly prescribe metoclopramide for periods longer than that called for in the labeling because the label allegedly understated the risks of extended treatment with metoclopramide[79] It was undisputed that the plaintiff only ingested generic metoclopramide, not Reglan.[80] His claims against Wyeth were premised on misrepresentation in Wyeth's labeling of Reglan and in a monograph on Reglan it provided for the *Physician's Desk Reference*.[81] The trial court entered summary judgment in favor of the defendants and the plaintiff appealed.[82]

On appeal, the California Court of Appeals held that it is very likely that a doctor would rely on Wyeth's Reglan product information when prescribing generic metoclopramide.[83] Based on this logic, the California Court of Appeals reversed the trial court's entry of summary judgment and held that a brand-name manufacturer could be held liable for its failure to warn consumers of generic drugs of the adverse reactions they could suffer from ingesting a generic version of the brand-name manufacturer's drug.[84]

While this may seem to be an incredible result, remember that the FDA regulations impose a duty on the brand-name manufacturer to provide an adequate label and to ensure that its warnings remain adequate as long as the drug is on the market. Generic manufacturers, on the other hand, must label their drugs with the exact language found on the brand-name drug's label. Even so, a number of courts have rejected the reasoning of *Conte*.[85] The Alabama Supreme Court has yet to weigh in on the *Conte* theory of liability, though the question is currently before it in question certified by the United States District Court for the Middle District of Alabama, in *Wyeth, Inc. v. Danny Weeks*.[86]

Conclusion

At this point, it is difficult to predict how liability for adverse reactions to generic drugs will be apportioned. It seems unlikely that Congress and the Courts will allow generic manufacturers to remain immune from suit in failure to warn claims forever. The FDA or Congress may impose a duty on generic manufacturers to seek changes for their labels when they become aware of adverse events that are not discussed in their warnings. In any event, this area of the law has witnessed extraordinary changes in the past few years and there is no indication that the evolution is close to an end. | AL

Endnotes

1. Food and Drug Administration, History, *http://www.fda.gov/AboutFDA/WhatWeDo/History/default.htm* (October 30, 2011).
2. Mossinghoff, Gerald J., "Overview of the Hatch-Waxman Act and Its Impact on the Drug Development Process," *Food and Drug Law Journal* (1999): 187.
3. *Id.*
4. *Id.*
5. *Id.*
6. *Id.*
7. Congressional Budget Office, "How Increased Competition from Generic Drugs Has Affected Prices and Returns in the Pharmaceutical Industry," *http://www.cbo.gov/doc.cfm?index=655&type=0* (July 1998).
8. Mossinghoff, Gerald J., "Overview of the Hatch-Waxman Act and Its Impact on the Drug Development Process," *Food and Drug Law Journal* (1999): 187.
9. *Id.*
10. Congressional Budget Office, "How Increased Competition from Generic Drugs Has Affected Prices and Returns in the Pharmaceutical Industry," *http://www.cbo.gov/doc.cfm?index=655&type=0* (July 1998).
11. *Id.*
12. *Id.*
13. *Id.*
14. *Id.*
15. *Id.*
16. *Id.*
17. *Id.*
18. *Id.*
19. *Id.*
20. *Id.*
21. IMS Institute for Healthcare Informatics, "U.S. Spending on Medicines Grew 2.3 Percent in 2010, to $307.4 Billion," *http://www.imshealth.com/portal/site/ims/menuitem.d248e29c86589c9c30e81c033208c22a/?vgnextoid=1648679328d6f210VgnVCM100000ed152ca2RCRD&vgnextchannel=4eb65890d33ee210VgnVCM10000071812ca2RCRD&vgnextfmt=default* (Apr. 19, 2011).
22. Congressional Budget Office, "How Increased Competition from Generic Drugs Has Affected Prices and Returns in the Pharmaceutical Industry," *http://www.cbo.gov/doc.cfm?index=655&type=0* (July 1998).
23. *In re Norplant Contraceptive Prods. Liab. Litig.*, 215 F. Supp. 2d 795, 806 (E.D. Tex. 2002).
24. *Id.*
25. *Id.*
26. *Id.*
27. *Wyeth v. Levine*, 555 U.S. 555, 129 S. Ct. 1187, 173 L. Ed. 2d 51 (2009).
28. *PLIVA, Inc. v. Mensing*, 131 S. Ct. 2567, 180 L. Ed. 2d 580 (2011).
29. *Wyeth v. Levine*, 555 U.S. 555, 129 S. Ct. 1187, 173 L. Ed. 2d 51 (2009).
30. *Id.*
31. *Id.*
32. *Id.*
33. *Id.*
34. *Id.*
35. *Id.*
36. *Id.*
37. *Id.*
38. *Id.*
39. *Id.*
40. *Id.*
41. *Id.*
42. *Id.*
43. *Id.*
44. *Id.*
45. *Id.*
46. *Id.*
47. *Id.*
48. *Id.*
49. *Id.*
50. *PLIVA, Inc. v. Mensing*, 131 S. Ct. 2567, 180 L. Ed. 2d 580 (2011).
51. *Id.*
52. *Id.*
53. *Id.*
54. *Id.*
55. *Id.*
56. *Id.*
57. *Id.*
58. *Id.*
59. *Id.*
60. *Id.*
61. *Id.*
62. *Id.*
63. *Id.*
64. *Id.*
65. *Id.*
66. *Id.*
67. *Id.*
68. *Id.*
69. *Id.*
70. *Id.*
71. *Id.*
72. *Id.*
73. *Id.*
74. *Id.*
75. *Id.*
76. *Id.*
77. *Conte v. Wyeth, Inc.*, 168 Cal. App. 4th 89 (Cal. App. 2008).
78. *Id.*
79. *Id.*
80. *Id.*
81. *Id.*
82. *Id.*
83. *Id.*
84. *Id.*
85. *See, e.g., Mosley v. Wyeth, Inc.*, 719 F. Supp. 2d 1340 (S.D. Ala. 2010).
86. *Wyeth, Inc. v. Danny Weeks*, Alabama Supreme Court, Case Number 1101397.

ALABAMA STATE BAR VOLUNTEER LAWYERS PROGRAM

2011 Pro Bono Honor Roll

Autauga County

Joe T. Booth, IV
Chip W. Cleveland, II
Clifford W. Cleveland
Raymond J. Hawthorne, Jr.
Harold Howell
Karen H. Jackson
Kimberly G. Kervin
Nancy M. Kirby
Jim T. Norman, III
Andy W. Tampling, Jr.
George P. Walthall, Jr.

Baldwin County

Shawn T. Alves
William D. Anderson
Vincent A. Bellucci
Bayless E. Biles, Jr.
W. Donald Bolton, Jr.
Katherine B. Bonnici
J. Byron Brackin, III
J. E. Bridges, III
H. Max Cassady, Jr.
R. Paul Cater
Allan R. Chason
John Earle Chason
L. Brian Chunn
Elizabeth A. Citrin
Frances R. Clement
James P. Coleman
R. Mike Conley
Samuel N. Crosby
Manley L. Cummins
Jim G. Curenton, Jr.
Harry M. D'Olive
Brian A. Dasinger
Michael A. Dasinger, III
Carolyn M. Dohn
Naomi G. Drake
Fred K. Granade
Robert L. Hagler, Jr.
Charles W. Ham
Mary Ann Hampton
Warren T. Harbison
Michael A. Hart
Jule R. Herbert, Jr.
J. Bradford Boyd Hicks
David A. Horton
Michael J. Hoyt
George R. Irvine, III
Brian C. Isphording
Joshua G. Kesling
Harold A. Koons, III
Oliver J. Latour, Jr.
Jonathon R. Law
Gregory L. Leatherbury, Jr.
Robert S. Lewis
Corey B. Lipscomb
J. Alan Lipscomb
Jessica M. McDill
Samuel G. McKerall
Leonard F. Mikul
Barney A. Monaghan
T. Deven Moore
Mary E. Murchison
Joshua P. Myrick
Meegan B. Nelson
Narissa G. Nelson
Thomas B. Norton, Jr.
Craig D. Olmstead
James D. Patterson
Allyson C. Pearce
Wendy A. Pierce
Diane M. Porter
J. Rachel Powell
Julie H. Ralph
Matthew E. Rone
Mark D. Ryan
William E. Scully, Jr.
David P. Shepherd
Shelia V. Stone
Daniel P. Sweet
Ashley E. Swink
Whit A. Thomas
Earl P. UnderwoodJr.
David P. Vaughn
Stacie E. Vitello
Angela L. Walker
Sara C. Wallace
Robert W. Waller, Jr.
A. Shane Weldon
Chandra C. Wright
Marion E. Wynne, Jr.

Barbour County

Karen S. Benefield
Jimmy S. Calton, Jr.
Jimmy S. Calton, Sr.
Walter B. Calton
W. Thomas Gaither
Richard A. Harrison, III
Deborah W. Hicks
J. Matthew Horne
James L. Martin
Donald J. McKinnon
Courtney Potthoff
L. Shane Seaborn
Joel P. Smith, Jr.
S. Boyd Whigham

Bibb County

Erica K. Boozer
Craig A. Cargile
John Hamilton, Jr.
Anthony Johnson
Thomas G. Owings

Blount County

John B. Boyd
Harris S. Burns, III
William A. Ellis, III
Steven J. Goldstein
Roy M. Johnson, III
Brett A. King
Angela H. Sahurie
Alexander M. Smith
Ted L. Williams, Jr.

Bullock County

Bradley S. Braswell
Christina D. Crow
Lynn W. Jinks, III
Carmella J. Penn
Louis Rutland
Elizabeth C. Smithart

Butler County

Timothy O. Craig
Lewis S. Hamilton
P. Richard Hartley
Walton W. Hickman
D. Nicky M. Miller
Danielle M. Miller
Angie R. Rogers
Forrest C. Rule, Jr.
C. Brandon Sellers, III
Samantha R. Sellers
Jason T. Simmons
T. Brandon Simmons
Charlotte M. Tesmer
Stephen J. Townes
J. McGowin Williamson

Calhoun County

Christopher D. Albert
David C. Alexander, Jr.
Jayme K. Amberson
Jennifer L. Argo
Hobart H. Arnold, III
William H. Broome
Raymond C. Bryan
LeRoy Alan Cobb
Brian K. Combs
Richard W. Couch
Charles S. Doster
Wendy Ghee Draper
Robert B. Folsom, Jr.
John M. Gruenewald
Leslie Susan Henderson
Christopher M. Hopkins
Janet May M. Hudson
Kenneth Alan Hunt, Jr.
Rochelle D. Hunt
Charles E. Isom
Carey N. Kirby
Adrienne M. LaBudde
Fred Lawton, III
Christopher M. McIntyre
Stephen H. Miller
William J. Miller
Shirley A. Millwood
D. Brent Morrison
Nathaniel D. Owens
William L. Pfeifer, Jr.
Polly E. Russell
William D. Senter
Aundrea M. Snyder
Gary G. Stanko
Brenda S. Stedham
Vaughn M. Stewart, II
Cleophus Thomas, Jr.
Stacy L. Upton
Nancy P. Vernon
Joseph E. Whittington

Chambers County

Lisa M. Burdette
Mark H. Carlton
Bill P. Fuller, Jr.
Susan K. Harmon
James C. Ingram, Jr.
Donald M. Phillips
Charles G. Reynolds, Jr.

Cherokee County

John D. Coggin
Clinton G. Eubanks
Marcie L. Foster
William M. Hawkins, Jr.
Chad A. Hopper
Summer L. McWhorter
Albert L. Shumaker
Evan W. Smith
Chad L. Stallings
Rodney L. Stallings

Chilton County

Michael J. Askew
Robert L. Bowers, Sr.
Kimberly M. Henson
Elizabeth B. Hilyer
David B. Karn
Andrew T. Mayfield
Dale Rouse Waid

Choctaw County

Michael W. Armistead
E. Mark Ezell
Timothy Clark Hutchinson
J. Perry Newton

Clarke County

James E. Deshler, II
Wyman O. Gilmore, Jr.
G. Marc Keahey
Robert D. Keahey
Robert D. Keahey, Jr.
Ronnie E. Keahey
Hardie B. Kimbrough
Phillip E. Mason

By this honor roll, the Alabama State Bar recognizes the following lawyers for their participation in volunteer lawyers programs across the state. Their generous assistance, cooperation and dedication enable these programs to provide legal representation to hundreds of disadvantaged Alabamians.

J. Charles McCorquodale, IV
Joseph C. McCorquodale, III
Lee B. Williams

Clay County

Joseph D. Ficquette
Justin C. Sellers

Cleburne County

Allison J. Miller

Coffee County

Shannon R. Clark
Harry L. Gilder, Jr.
Debbie L. Jared
M. Dale Marsh
William J. Moore
Letitia L. Myers
James M. Parker
J. E. Sawyer, Jr.
J. P. Sawyer
Griffin M. Shirley
Leon Merrill Shirley
Jennifer R. Stanley
Richard Waldrop
Richard W. Whittaker

Colbert County

D. Edgar Black
Ouida Y. Brown
Andrew D. Dill
Nicole Mintree Dill
Hartwell Alan Gargis
Holli A. Gaston
Myra L. Hammond
Douglas B. Hargett
H. Thomas Heflin, Jr.
Harold V. Hughston, III
James D. Hughston
William T. Johnson, Jr.
Charles Kelley
Andrew L. McGee
John C. McKelvey
Tim W. Milam
Terry Mock
Sheila F. Morgan
Stanley Munsey
Rebecca Narmore
C. Daniel Rosser, Jr.
Nathan A. Ryan
Amy J. Scott
Jenna B. Smith
William J. Underwood

Coosa County

Vanessa Leonard

Covington County

Corey D. Bryan
Virginia W. Grimes
Michael L. Jones, Jr.
Eugenia L. Loggins
John M. Peek
Benton H. Persons, Jr.
Roy Roderick Sylvester, II
Allen G. Woodard

Crenshaw County

Wayne Carter
Brandon S. Coots
Jon M. Folmar
William R. King
Erin L. Massey
John L. Nichols
William M. Rayborn, Jr.
Arlene Richardson

Cullman County

Rhonda D. Bruner
R. Champ Crocker
J. Chad Floyd
Stephen K. Griffith
Shelbie G. Hankey
Kathryn A. King
James R. Knight
John D. Knight
Joseph T. Lowry
Emily K. Niezer
Joshua M. O'Neal
Robert A. Sapp, Jr.
Amanda L. Stansberry-Johns
Seth B. Thompson
Charles E. Warren, Jr.

Dale County

Joe W. Adams
Robert H. Brogden
J. Nicholas Bull
Donna C. Crooks
Joseph J. Gallo
Anthony R. Livingston
Charles N. Reese
J. David Robinson
Robert G. Robison
Tammy L. Stinson
Everett M. Urech
Joe Walker

Dallas County

Prince D. Chestnut
Danny W. Crenshaw
April England
B. Kincey Green, Jr.
Christmas Y. Green
James E. Loris, Jr.
Blanchard L. McLeod, Jr.
Collins Pettaway, Jr.
John E. Pilcher
Jeffrey C. Robinson
P. Vaughan Russell, Sr.
Charles H. Sims, III
Jan Garrison Thompson
Rick E. Williams, III
Brandon J. Wooten

DeKalb County

L. Suzanne Bailey
James E. Brisendine
Daniel S. Campbell
L. Jayson Carroll
Milford L. Cushen
E. Allen Dodd, Jr.
J. David Dodd
Dana J. Grimes
Gary Hartline
Robert F. Johnston, Jr.
Robert K. Jordan
Patricia C. Kellett
Roger G. Killian
Jeffery B. McCurdy
Robert T. Ray
Glenn A. Shedd
Patrick H. Tate
John H. Ufford, II
W. N. Watson
Robert G. Wilson

Elmore County

D. Jason Britt
Bonita J. Caldwell
Chrissy D. Calhoun
Carla M. Coffey
Regina B. Edwards
John E. Enslen
Patrick J. Garrett
Michael A. Griggs
Brian D. Mann
Connie J. Morrow
John D. Norris
Roderick B. Perdue
Victoria D. Relf
Spence A. Singleton
Brandon C. Stone
Susan W. Turley
Stephen S. Weldon
Glenn D. Zimmerman

Escambia County

Dana L. Aydelott
Thomas B. Brown
James E. Coale
Shirley M. Darby
Broox G. Garrett, Jr.
J. Kirk Garrett
Michael D. Godwin
Jeremy L. Hawsey
Amanda C. Hines
Edward T. Hines
John L. Jernigan, III
Heather F. Lindsay
Edward L. McMillan, IV
Sonya L. Pence
Everette A. Price, Jr.
William R. Stokes, Jr.
Earnest R. White
Jeffrey A. White

Etowah County

Myron K. Allenstein
Rose Marie Allenstein
Michael D. Beach
Charles Y. Boyd
Michele G. Bradford
Will H. Clay
H. Wayne Copeland
Brad W. Cornett
Greg S. Cusimano
Tameria S. Driskill
Christopher R. Garner
Patricia H. T. Granger
F. Michael Haney
Charles C. Hart
William D. Hudson
Daniel B. King
Thomas A. King
Christina D. Knowles
Gerald Maxwell
Donna F. McCurley
Philip E. Miles
Elizabeth Haney Mills
Jeffrey P. Montgomery
Krystal G. Padula
James D. Pruett
Emily H. Raley
Richard A. Rhea
Michael L. Roberts
John T. Robertson, IV
Stephen C. Rogers
James T. Sasser
Clark V. Stewart
David W. Trottier
A. Wilson Webb
Jonathan M. Welch
William R. Willard, Jr.
J. Curtis Wright

Fayette County

Charles A. Langley
J. Dale Lawrence, Jr.
Louis P. Moore

Franklin County

Roger H. Bedford, Jr.

Geneva County

Alfred J. Danner
Laura A. Dell
Nicole B. Dyess
Letta Dillard Gorman
David J. Harrison
Jeffery D. Hatcher
David F. Holmes
Michael P. Hughes
John L. Knowles
Michael P. Lasseter
Jeremy W. Mitchell
Rachel H. Sullivan
David T. Shaw

Hale County

Patrick S. Arrington
William A. Holmes

Henry County

Dan Blalock, Jr.
Michael R. Goodman
Samuel C. Money
James Derek Peterson

Houston County

M. Hamp Baxley
Wade H. Baxley
Bryan S. Blackwell
Steven K. Brackin
Thomas K. Brantley, Jr.
Michael B. Brown
Rebecca B. Brown
Debra Henderson Buchanan
W. Trant Bullard, Jr.
William Terry Bullard
Dustin R. Byrd
Jon Christopher Capps
Terry M. Carey
William C. Carn, III
Tracy W. Cary
Joe M. Chambers
Daniel K. Clark
H. Warren Cobb, Jr.
Bobbie Crook
Patrick H. Davenport
Eric C. Davis
Cory H. Driggers
Jonathan K. Espy
William Feagin
D. Taylor Flowers
Shana N. Gartlan
Rafael Gil, III
Elizabeth B. Glasgow
Harry P. Hall, II
Steven R. Hamner
Tilden J. Haywood
J. R. Herring
Rob I. Hinson
David K. Hogg
Gary A. Hudgins
Dow Huskey
Daniel F. Johnson
Lora Lea J. Johnson
Patrick B. Jones, III
Kristy M. Kirkland
Matthew Lamere
Joseph D. Lane
L. Jan Laney
E. Renee W Lee
Allison Y. Lumbatis
John M. Maddox
W. Davis Malone, III
Charles H. McDougle, Jr.
Steve G. McGowan
Peter A. McInish
Linda H. Meadows
Ronald C. Mendheim
Paul F. Meyers, II
Joseph Morris
William W. Nichols
Jake A. Norton
William H. Odum, Jr.
James W. Parkman, III
Russell N. Parrish
William G. Pierce
Nancy S. Pitman
H. Samuel Prim, III
Joel W. Ramsey
Shannon A. Rash
David Woodham Rousseau
Holly L. Sawyer
Tommy R. Scarborough
Jere C. Segrest
Rufus Smith, Jr.
J. Farrest Taylor
Eric M. Wade
William B. Wadsworth
J. Kevin Walding
Gregory L. Watt
Laura E. P. Wells
Freddie White

Jackson County

G. Scott Berry
Daryl R. Eustace
Stephen M. Kennamer
Patricia S. Lackey
S. Jack Livingston
Kenneth H. Looney
Pamela M. Parker
William J. Parks, III
Gerald R. Paulk

Frank B. Rice
Finis A. Royal
Patricia C. Stewart
William W. Tally
Don Word

Jefferson County

Garry W. Abbott
Cassandra W. Adams
Vincent L. Adams
Adedapo T. Agboola
Monica Y. Agee
Frank G. Alfano
David B. Allen
Leslie M. Allen
Keith S. Anderson
Ricardo Aparicio
Robert A. Arnwine, Jr.
J. H. Aughtman
Donna M. Bailer
Anderia L. Bailey
David P. Bains
John S. Baker, IV
Tammy L. Baker
Bryan O. Balogh
Mary Lynn Bates
Kimberly M. Bawgus
Charles A. J. Beavers, Jr.
Mary C. Beers
Erin C. Bell
Kathryn L. Bettis
Brandon T. Bishop
Nakita R. Blocton
Natalie R. Bolling
Charles H. Booth, Jr.
Alexia B. Borden
Bradford W. Botes
Anna-Katherine G. Bowman
Gordon J. Brady, III
Keith E. Brashier
Nicholas K. Braud
E. L. Brobston
Brian P. Brock
Katherine R. Brown
Keith A. Brown
T. Michael Brown
Whitney R. Brown
Michelle N. Butler
Michael E. Bybee
Donna K. Byrd
Gregory A. Cade
Matthew M. Cahill
Leslie A. Caldwell
Angela C. Cameron
Robert Joseph Camp
Thomas F. Campbell
Michael L. Capleone
David A. Carn
Jack Carney
Dawn S. Carre
Hnter C. Carroll
Michael W. Carroll
Monica L. Carroll
Kevin E. Clark
William N. Clark
Holly J. Clemente
Brian M. Cloud
John D. Collins
Gregory C. Cook
Benjamin H. Cooper
Robert E. Cooper
Robert D. Cornelius
E. Ashley Cranford
Melissa B. Croxton
Richard A. Cusick
John G. Dana
Jeffrey S. Daniel
Alyssa N. Daniels
Dow A. Davidson
Kelvin L. Davis
Peter J. Davis
Stephen D. Davis, II
Tracy R. Davis
Jonna Miller Denson
Shawanna R. Dobson
David D. Dowd, III
Carl K. Dowdey, III
Kristi A. Dowdy
Jessica K. Drennan
Khristi D. Driver
Matthew A. Dunaway
Hallman B. Eady
Mark C. Eagan
W. Lee Elebash
Rufus E. Elliott, III
Lauren J. Ellison
Barbara E. Estep
Barton B. Evans
Maston A. Evans, Jr.
Jesse Evens, III
Steven D. Eversole
Michael B. Fargarson
Joseph A. Fawal
Carmen S. Ferguson
Daniel J. Ferretti
Sean L. Finan
Monica N. Fischer
Shayla R. Fletcher
Elizabeth R. Floyd
Alan L. Foster
Robert P. Fowler
Patrick W. Franklin
V. Edward Freeman, II
Peter S. Fruin
A. Brantley Fry
Robert S. Gargis, II
Tena M. George
Kristel N. Gibbons
James W. Gibson
Leatha Kay Gilbert
William P. Glass, Jr.
Robert L. Gorham
Irene M. Graves
Bryan A. Grayson
Larry L. Halcomb
Peter H. Harralson
Elizabeth Davis Harris
Wallis S. Haynes
Margaret J. Head
Julian M. Hendrix
R. Abbey M. Herrin
Jamin W. Hogan
Rhonda S. Hood
Joshua L. Hornady
Kaye K. Houser
T. Brian Hoven
Calvin Howard
David L. Hubbard
John C. Hubbard
Miles M. Huffstutler
Sidney J. Hughes
Elizabeth H. Huntley
Thomas J. Huseman
Kearney D. Hutsler, III
Paul A. Irwin, Jr.
Wyndall A. Ivey
Perry G. Jackson
Derry D. Johnson
Chadwick L. Jones
Kristofor W. Kavanaugh
Robert C. Keller
Robert J. Kelly
Robert E. Kirby
Kelly R. Knight
Robert R. Kracke
Kristen A. Larremore
Linda Sanford Lehe
Rocco J. Leo
Jon E. Lewis
Yue Li
Christopher S. Linton
Thomas M. Little
Jack B. Long
William J. Long, IV
Bobby Lott, Jr.
Champ Lyons, III
Thomas J. Mahoney, Jr.
B. Saxon Main
J. Brannon Maner
T. Sheree Martin
Fred B. Matthews
Bradley Curtis Mayhew
Phillip W. McCallum
Terrence W. McCarthy
John P. McClusky
Reginald D. McDaniel
John H. McElheny
Mary C. McGowan
M. Elizabeth McIntyre
Jodi L. McKelvin
Stephen P. McMunn
Douglas L. McWhorter
Veronica L. Merritt
Davis Middlemas
Dana Tara Middleton
Cellie W. Miller
Rodney E. Miller
Shannon L. Miller
Zachary D. Miller
Joy J. Minner
Anne W. Mitchell
Christopher A. Mixon
Randall G. Moffett
Deborah B. Montgomery
Carolynn H. Moore
Glen C. Moore
Patricia N. Moore
Shannon Y. Moore
Robert E. Moorer
James E. Morgan, Jr.
Brenton K. Morris
Mari Morrison
Anne R. Moses
J. Leland Murphree
Drayton Nabers, Jr.
John T. Natter
George M. Neal, Jr.
Laura C. Nettles
David T. Newton
S. Hughston Nichols
Chris J. Nicholson
Andrew S. Nix
William G. Nolan
Robert M. Norris, Jr.
Robert E. Norton
Tabor R. Novak, Jr.
Horace V. O'Neal, Jr.
J. Edmund Odum, Jr.
Shane M. Oncale
J. Bentley Owens, III
Robert L. Palmer
Angela D. Parker
Carnesa T. Parker-Kynard
Alexandria Parrish
Jon H. Patterson
E. Bryan Paul
Theodore R. Pearson
Thomas B. Pearson
Ashley R. Peinhardt
Eric G. Peterson
Raymond L. Pharo, Jr.
Matthew Z. Phelan
Staci M. Pierce
Michelle K. Pieroni
J. Randall Pitts, Jr.
Denise B. Poe
Andrew James Potts
Lorraine W. Pringle
William F. Prosch, Jr.
Eric L. Pruitt
LaShaun R. Pryor
Randall D. Quarles
William A. Ratliff
Gregory J. Reid
Jennifer H. Reid
Richard A. Rice
Myra C. Roberts
Brandon N. Robinson
Lisa C. Robinson
April S. Rogers
Robert M. Rosenberg
Edward Kenneth Rosser
Kathryn H. Rowan
Samantha B. Rush
Russell J. Rutherford
Terrie A. Sadberry
Vincent J. Schillieci, III
David L. Scott
Rita H. Scott
Romaine S. Scott, III
James V. Seal
Melinda E. Sellers
Ahmad M. Shabani
Heather R. Sharp
C. Winston Sheehan, Jr.
Amy J. Shields
Joan B. Singleton
Byron B. Slawson
Melissa E. Smiley
Austin E. Smith
David Smith
Marshall E. Smith, III
William E. Smith
William F. Smith, II
Anthony D. Snable
Joshua C. Snable
Joseph C. Somma
Brian D. Spellen
A. Jackson Sperling
Stephen F. Springfield
Gregory C. Starkey
Amelia K. Steindorff
Jeremy P. Summers
James M. Terrell
Thomas E. Thrash
Tyrone Townsend
Ayn Traylor-Sadberry
Michael D. Tucker
Douglas B. Turnbull
Tyler C. Vail
Nathan C. VanDerVeer
Michael A. Vercher
Jonathan K. Vickers
Hallie B. Wagner
Susan S. Wagner
Marion F. Walker
Twala G. Wallace
William B. Ware
Katrina Washington
Ashley E. Watkins
Damon T. Watson
Jordan D. Watson
Joseph E. Watson
Latanisha Watters
John G. Watts
Kenneth E. Watts
Gary L. Weaver
Andrea L. Weed
Pamela B. Weed
Martin E. Weinberg
Amber M. Whillock
J. Bennett White
Derry Olive Wilcox
Christopher J. Williams
Ronald D. Williams
Jenny R. Wilson
Debra Bennett Winston
Chereka L. Witherspoon
Robert W. Wolfe
Edward K. Wood
Fredrick M. Wright
Richard A. Wright
Tamula R. Yelling
Christy L. Young
Larry Young, Jr.
Tiara S. Young-Hudson
Edward I. Zwilling
Mike C. Bradley
Joan M. Budd
Kay L.M. Cason
James V. Doyle
David Jason Hodge
Karen G. Knowlton
Deborah A. Mattison
Spencer M. Taylor
Sam E. Wiggins

Lamar County

Glenn Carlyle Noe
Audrey O. Strawbridge

Lauderdale County

Elizabeth E. Berry
Ian M. Berry
Kerrian S. J. Berryhill
Ernest N. Blasingame, Jr.
Daniel E. Boone
Ryan G. Brake
Greg K. Burdine
Christopher G. Childers
Debra H. Coble
Edward W. Doggett
Kristi Driskill
James R. Engelthaler
Michael Fraser Ford
Nicholas H. Gajewski
Robert L. Gonce
Benjamin R. Graves
James E. Hall, II
Sara N. Holmes
R. Willson Jenkins, Jr.
Gary L. Jester
Cory T. King
Katy B. Lewey
David L. McAlister
Mollie H. McCutchen
Elizabeth G. Messer
Daryl Wayne W. Moon
Kim A. Norris
A. Stewart O'Bannon, III
C. David Odem
Dennis N. Odem
Tina M. Parker
Joe M. Patterson, Jr.
Harold G. Peck
Sean C. Pierce
Conrad Pitts
Jamy B. Poss
Frank Potts
Cindy S. Schuessler
Henry F. Sherrod, III
Curtis M. Simpson
Troy A. Skipworth
Temberly T. Sledge
Hilda Trapp Smith
Robert F. Smith
Ricky V. South

Jeremy P. Taylor
Donald G. Tipper
Albert J. Trousdale, II
Heath F. Trousdale
Randy D. Whitten
Douglas Wright
Joe H. Yates

Lawrence County

Rod M. Alexander
Mark A. Dutton
Christy W. Graham
John D. Kimbrough
Sean Masterson
Harold Speake
Mike F. Terry
H. Jerome Thompson

Lee County

Lance E. Abbott
John T. Alley, Jr.
Billy B. Amason
Brian Ashley
Russell C. Balch
James Tutt Barrett
J. Gary Black
Elizabeth M. Borg
Beverlye N. Brady
Margaret Y. Brown
Samantha L. Burt
Rebecca P. W. Buxton
M. Joanne Camp
John E. Cochran
Robert H. Cochran, Jr.
William D. Coleman
Andrew D. Cooper
Larry G. Cooper, Jr.
Paul R. Cooper
William T. Crutchfield
Patrick C. Davidson
Nancy Jones Davis
William David Dawson
Joseph C. Denison
W. Don Eddins
Thomas M. Eden, III
Ewell H. Elliott, Jr.
Jason A. Forbus
Van C. Gholston
James K. Haygood, Jr.
Patrick Hays, Jr.
Joshua J. Jackson
Tom E. Jones
C. Robin Kelley
Glen D. King
Katherine M. Klos
Margaret Ann Mayfield
John W. McCollum, Jr.
James D. McLaughlin
Marrell McNeal
Robert T. Meadows, III
Gail Smith Meek
Kimberly A. Moody
Brian T. Mosholder

J. Alex Muncie, III
Courtney C. Murchison
Roben Nutter
Blake L. Oliver
Phyllis F. Parker
Robert H. Pettey, Jr.
Roger W. Pierce
Stephanie Pollard
Wanda M. Rabren
W. Larry Ray
Mitzi L. Sears
James B. Sprayberry
M. Elaine A. Thomaston
Philip A. Thompson
Cecil Tipton, Jr.
Edward F. Tracy
Robert A. Tufts
Philip O. Tyler
Arnold Umbach, Jr.
Kimberly D. White
Clinton L. Wilson

Limestone County

Henry W. Blizzard, Jr.
Zachary L. Burgreen
Stephen G. Campbell
R. Garry Clem
James M. Corder, Jr.
Aaron N. Ezell
Dihanne Perez Guilbert
Byrd R. Latham
Harlan D. Mitchell
James D. Moffatt
Laura M. Nichols
Mitchell K. Shelly
John M. Totten
Jere C. Trent
Brandon C. Wise

Lowndes County

Jerry L. Thornton

Macon County

Deborah H. Biggers
George B. Bulls, II
Katy Smith Campbell
Christopher A. Ford
Bridgett V. Gray
Fred D. Gray, Jr.
Linda W. H. Henderson
C. Chuck James, II
Tiffany N. Johnson-Cole
Ernestine S. Sapp
Brian P. Strength
R. Keith Thomas

Madison County

Elizabeth W. Abel
James R. Accardi
Joseph D. Aiello
Allison B. Akins
Eric J. Artrip
Angela S. Ary

The Alabama State Bar and the three organized pro bono programs (Birmingham Bar Association VLP, Executive Director Kelli Hogue Mauro, *www.vlpbirmingham.org*; Madison County Bar Association VLP, Executive Director Angela Rawls, *vlpmadisoncounty.com*; and Mobile Bar Association VLP, Executive Director Shannon M. Shelley-Tremblay, *www.vlpmobile.org*) salute all private attorneys across the state who gave their time to providing free legal assistance to low-income persons.

John Baggette, Jr.
Walter A. Baker
Page A. Banks
Rebekah P. Beal
Anna Blair
Justin M. Bledsoe
Alisha D. Bond
James K. Brabston
Larry W. Brantley
Pamela E. Brown-Briggs
William G. Burgess
Clint W. Butler
Cheri D. Campbell
Frank M. Caprio
Richard C. Carter, Jr.
Shannon M. Cazzavillan
Richard E. Chesnut
Donald L. Christian, Jr.
P. Michael Cole
Meteasa L. Collins
Rochelle A. Conley
Maureen K. Cooper
Edmund A. Crackel, III
Timothy P. Cummins
Suzette E. Daniels
John M. Debro
Patricia D. Demos
Suzanne C. Dorsett
Bennett R. Driggers, Sr.
Matt T. Dukes
Robert C. Gammons
Mickey J. Gentle
Samuel H. Givhan
L. Ann Grace
Rebekah L. Graham
Patrick H. Graves, Jr.
Kevin C. Gray
Jonathan Grayson
Lisa F. Grumbles

Richard L. Guido
Andrea M. Hamlett
David A. Hatfield
Kevin D. Heard
Gabrielle Helix
Tara L. Helms
Danny D. Henderson
Mary R. Hill
Steven M. Howie
Michael P. Huff
Claude E. Hundley, III
Benjamin W. Hutton
Jeffrey B. Irby
Laura D. Jacobs
Amber Y. James
Corey W. Jenkins
Jerrery A. Johnson
Michael P. Johnson
Sharon A. Johnston
George P. Kobler
Winston V. Legge
Lee S. Leggett, Jr.
Robert C. Lockwood
Christopher W. Long
Johann R. Manning, Jr.
Kimberly B. Martin
M. Clay Martin
Ben L. McArthur
John B. McDaniel
Tina R. McDonald
Reta A. McKannan
Christopher M. Messervy
David E. Mixon
George Allen Moore
Yancey A. Moore, III
Chad A. Morgan
Grady L. Morgan
Rachel Murphy Morgan
Patrick G. Nelson

Christopher A. Pankey
Sandra D. Parker
J. Clark Pendergrass
JoAnn M. Perez
Charles G. Pittman
Timothy P. Pittman
Valerie H. Plante
Emily B. Prater
Richard R. J. Raleigh, Jr.
Sreekanth B. Ravi
Gregory H. Revera
James H. Richardson
Michael F. Robertson
Aaron C. Ryan
L. Thomas Ryan, Jr.
Brad P. Ryder
Sandra R. D. Segal
Leslie C. Sharpe
Kristy D. Shelton
Kay G. Siniard
Ronald W. Smith
Mark D. Swanson
Shelly Thornton
H. Carey Walker, III
Frank S. Ward
C. Rena Webb
Bobbi J. Weeks-Wilson
Ashley G. White
Gayle N. Williams

Marengo County

Thomas H. Boggs, Jr.
Russell Burdett
William Coplin, Jr.
Woodford Dinning, Jr.
John M. Gibbs
Gregory Griggers
William S. Poole, Jr.
Sebie G. Sellers
K. Scott Stapp
William A. Ward

Marion County

William H. Atkinson
J. Tony Glenn
C. Harry Green
Diane H. Henderson
R. Wyatt Howell, Jr.
J. O. Isom
A. Wade Leathers
Matthew B. LeDuke
John V. Martine
Lonnie D. Spann
Jeremy L. Streetman
O. Fred Wood

Marshall County

Jerry W. Baker, Jr.
George M. Barnett
E. Will Beard
Randy Beard
James R. Berry
R. Claud Burke

John P. Burson
Jimmy F. Carnes
Diana L. Charlton
Norma M. Chaviers
Rodney L. Edmondson
Richard Fricks
John C. Gullahorn
Lisa Milner Hancock
Charles Hare, Jr.
Deborah K. King
Jamie P. Logan
Jonathan M. Lusk
Louis B. Lusk
Emery D. Massey
John M. Mastin
Clint L. Maze
Norma A. McCord
Jeff R. McLaughlin
J. Shannon Mitchell
Lea L. Mosley
E. Charles Ogden, III
Gregory K. Price
Kenneth L. Scheinert
Danny Smith
Stephen B. Smith
Steven V. Smith
Michael T. Tewalt
Byron Waldrop
James D. Walker
Dan T. Warnes
Bradley J. Watson
Stephen W. Williams
Wade K. Wright

Mobile County

Christina M. Adcock
Gary P. Alidor, Sr.
Matthew J. Bauer
Kimberly L. Bell
Britten L. Britt
Harwell E. Coale, III
Lisa Cooper
Andrew J. Crane
Eric B. Cromwell, II
Aurelius E. Crowe
Craig D. Dahle
Kristin L. Daniels
Margaret F. Demeranville
Timothy W. Fleming
Carl E. Freman
Barry A. Friedman
Richard M. Gaal
Ronald R. Goleman, Jr.
Timothy M. Grogan
Brandy B. Hambright
Katie L. Hammett
N. Stewart Hanley
Roy Wallace Harrell, III
Jeffery J. Hartley
Christine C. Hernandez
R. Scott Hetrick
C. Gary Hicks
Charles A. Hicks
Jennifer Holifield
D. Chuck Holtz

Herndon Inge, III
William B. Jackson, II
Ishmael Jaffree
Clifford W. Jarrett
Candace L. Johnson
Gregory R. Jones
Kyla G. Kelim
Christopher Kern
Clay A. Lanham
Byron Lassiter
Tracie B. Lee-Roberson
James E. Loris, Jr.
Yancey Davis Lott, Jr.
Darlett Lucy-Dawson
Melinda L. Maddox
Edward R. March, III
James H. McDonald, Jr.
Jeffrey Garrett Miller
Jennifer S. Morgan
Kenneth A. Nixon
Louis C. Norvell
Sonya A. Ogletree-Bailey
Terrie S. Owens
Melinda J. Parks
J. Day Peake
Dottie B. Perry
Mary E. Pilcher
Austin S. Prestwood
Wanda B. Rahman
David L. Ratcliffe
Jennifer L. Roselius
Troy T. Schwant
Mary Kathleen W. Steele
K. Brandon Strickland
Charles E. Tait
Chad M. Tatum
Bryan A. Thames
Scott L. Tindle
Michael J. Tonder
James R. Turnipseed
Deena R. Tyler
P. Dean Waite, Jr.
Leslie Gail Weeks
Shuntavia W. Woods
Jim W. Zeigler
David B. Zimmerman

Monroe County

Lynn B. Byrd
Tonja B. Carter
John M. Coxwell, Jr.
Katharine A. W. Coxwell
William J. Coxwell
Jeff D. Dyess
Laura R. Grantham
Nicholas S. Hare, Jr.
Donna L. Silcox
Lori L. Stokes
Mickey Womble

Montgomery County

William K. Abell
Russell T. Abney
Samuel Adams
Alyce R. Addison
Mary M. Alexander-Oliver
Kelli G. Alfreds
Matthew B. Alfreds
Deanie C. Allen
J. Greg Allen
David E. Allred
Charles L. Anderson
James H. Anderson
Jesse K. Anderson
D. Mike Andrews
J. Knox Argo
Shapard D. Ashley
Zack M. Azar
Gary A. C. Backus
J. Evans Bailey
Angela T. Baker
Ben E. Baker, Jr.
Charles W. Barfoot
Judy H. Barganier
Constance S. Barker
Noel S. Barnes
R. Lee Barnes
H. Clay Barnett, III
Jere L. Beasley
Julia A. Beasley
James E. Beck, III
Luther D. Bentley, IV
Terrie S. Biggs
Andy D. Birchfield
William R. Blanchard, Jr.
Donna A. Bland
J. Rodney Bledsoe
James G. Bodin, Jr.
Bethany L. Bolger
LaBarron N. Boone
Britt S. Booth
Chris D. Boutwell
David R. Boyd
Andrew E. Brashier
Gerald C. Brooks
Richard E. Broughton
Bowdy J. Brown
E. T. Brown
Ben E. Bruner
Chad W. Bryan
Judkins M. Bryan
Michael D. Brymer
Paul E. Burkett
Dayna R. Burnett
Anthony B. Bush
James A. Byram, Jr.
David B. Byrne, III
Valerie M. Cain
Richard F. Calhoun, Jr.
Louis M. Calligas
Laura A. Calloway
Boyd F. Campbell
Joseph R. Campbell, II
Marvin H. Campbell
Malcolm N. Carmichael
Gregory A. Carr
Clint C. Carter
Elizabeth B. Carter
Gordon T. Carter
Kristin A. Carter
Mark N. Chambless
William R. Chandler
John W. Charles, III
Marion D. Chartoff
Paul A. Clark
Laura L. Clemons
Kimberly M. Clenney
William P. Cobb, II
Michael J. Cohan
Shawn J. Cole
G. Baron Coleman
Zachary T. Collins
Sabrina L. Comer
Joel D. Connally
Roianne H. Conner
Pamela Gooden Cook
W. Chad Cook
Lee H. Copeland
John C. Craft
C. McDowell Crook, Jr.
Michael J. Crow
George B. Crum
Laura L. Crum
Geraldine R. Daniels
Stephanie O. Daniels
Beau F. B. Darley, III
Greg L. Davis
J. Ladd Davis
James E. Davis, Jr.
Mark T. Davis
William Richard Davis
Richard C. Dean, Jr.
Jim L. DeBardelaben
Stephen P. Dees
Kimberly S. DeShazo
James R. Dickens, Jr.
Craig S. Dillard
Mitchell D. Dobbs
Gail H. Donaldson
Alison L. Douillard
Jeffery C. Duffey
Roy C. Dumas
Priscilla B. Duncan
Kendall C. Dunson
Russell T. Duraski
Charles W. Edmondson
James M. Edwards
Thomas R. Edwards
Joana S. Ellis
Matthew T. Ellis
Frederick T. Enslen, Jr.
Paul D. Esco
R. Graham Esdale, Jr.
Quindal C. Evans
Greg B. Everett
Hamilton N. Farmer
Ben H. Farrow
E. Peyton Faulk
Winn S. Faulk
Clark D. Fine
Richard M. Freeman, Jr.
Kayla W. Frisby
Michael A. Fritz, Sr.
Bill H. Fuller, Jr.
Jacob A. Fuller
Cleophus J. R. Gaines, Jr.
Tim J. F. Gallagher
R. Brett Garrett
Richard B. Garrett
C. Nelson Gill
Richard H. Gill
H. Lewis Gillis
Carla C. Gilmore
Chris D. Glover
Michael O. Godwin
Larry A. Golston, Jr.
William Gordon
C. Lance Gould
Virginia C. Green
Yong U. Gregg
Bradford J. Griffin
Matthew R. Griffith
Archie I. Grubb, II
Norman O. Grubbs
John Hagood
Timothy C. Halstrom
James D. Hamlett
Deborah Q. Harding
D. Brent Hargett
Alan T. Hargrove, Jr.
Gerald W. Hartley
Frank H. Hawthorne, Jr.
James G. Hawthorne, Jr.
William S. Haynes
Thomas R. Head, III
J. Cliff Heard
David W. Henderson
D. Mitch Henry
Charles R. Hill, Jr.
J. C. Rudy Hill
Jamie K. Hill
Thomas B. Hill, III
Edward C. Hixon
M. Guy Holton
Ronald A. Holtsford
Rosemari C. Hopson
Vania L. Hosea
Edward A. Hosp
Beverly J. Howard
John Allen Howard, Jr.
S. Scott Hoyem
J. Lister Hubbard
Joseph L. Hubbard, Jr.
R. Austin Huffaker, Jr.
Norman Hurst, Jr.
Henry H. Hutchinson, III
Melissa L. Isaak
Branson T. Isleib
Michael S. Jackson
Jimmy D. Jacobs
Marci S. Johns
Adrian D. Johnson
D. Kyle Johnson
L. Scott Johnson, Jr.
James E. Johnston
Jamie A. Johnston
Sarah S. Johnston
Donald R. Jones, Jr.
Nick A. Jones
Rhon E. Jones
Jarred E. Kaplan
Richard K. Keith
Susan E. Kennedy
T. Cowin Knowles
Thomas E. Kondrak
Nathan F. Kuykendall
Christine D. Lankey
Robin G. Laurie
Barry C. Leavell
W. Don Letford
Joseph B. Lewis
Sandra H. Lewis
Daniel L. Lindsey, Jr.
Donald B. Little
John A. Little
Ben L. Locklar
J. Heath Loftin
Jada Sarah Kate Loftin
Charlene W. Long
Felicia A. Long
Virginia R. Lucci
Aaron J. Luck
Terry W. Luck, III
Thomas G. Mancuso
Joshua F. Mandell
Jennifer E. Marcato
Emily C. Marks
John W. Marsh
Danielle W. Mason
W. Troy Massey
Karen L. Materna
R. F. Matt Matthews, Jr.
Mitch McBeal
Richard L. McBride, Jr.
Megan K. McCarthy
Tiffany B. McCord
W. Joseph McCorkle, Jr.
Mickey G. J. McDermott
J. Douglas McElvy
Mahaley P. McInnes
April W. McKay
Richardson B. McKenzie, III
Samuel J. McLure
Gloria J. McPherson
Julian L. McPhillips, Jr.
Kelly F. McTear
Benjamin H. Meade
LaTasha A. Meadows
Ted G. Meadows
Tyrone C. Means
William Z. Messer
Thomas J. Methvin
W. Dee Miles, III
J. Parker Miller
Keith S. Miller
Tamika R. Miller
Neah L. Mitchell
Brian W. Moore
Joseph S. Moore
Stanley A. Moorhouse
Fernando A. Morgan
Rick D. Morrison
F. Chadwick Morriss
J. Flynn Mozingo
Robert F. Nelson
Stephen M. NeSmith
Deborah M. Nickson
Robert F. Northcutt
Dorothy F. Norwood
P. Leigh O'Dell
Christy L. Olinger
Kim B. Oliver
Patricia R. Osuch
Jobe T. Ott
Mark A. Overall
Jack C. C. Owen, Jr.
Debora E. Palmer
J. Ed Parish, Jr.
George R. Parker
Hilary Yother Parks
Jo K. Parr
Kelly F. Pate
Charles Paterson
Simeon F. Penton, II
Michael J. Petersen
A. Wesley Pitters
Robert Pittman
Jessica S. Pitts
Ben E. Pool
Gregory M. Pool
Debra Haynes Poole
J. Cole Portis
R. E. Poundstone, IV
Tonya D. Powell
Brandy F. Price
Charles Price, II
Jeffrey D. Price
Melissa A. Prickett
Brittany R. Ramey
Brooke E. Reid
Brooke E. Reid
Robert D. Reynolds
Robert M. Ritchey
Jim A. Rives
Robert D. Rives
William P. Roberts, II
Bill H. Robertson, V
Riley W. Roby
Karen S. Rodgers
Lindsay C. Ronilo
Alan E. Rothfeder
A. Rothschild
Robert J. Russell, Jr.
J. Lenn Ryals
Allen H. Ryu
M. Wayne Sabel, Sr.
Mark W. Sabel, Jr.
Joseph M. Saloom
Robert E. Sasser
William P. Sawyer
Yvonne A. H. Saxon
Ben E. Schoettker
John E. Searcy, Jr.
Patrick L. W. Sefton
Bobby Segall
Joshua S. Segall
Mary B. Sellers
Will B. Sellers

L. Landis Sexton
T. Grant Sexton, Jr.
LaKesha B. Shahid
Roman A. Shaul
William A. Sheehan
Kenneth J. Shinbaum
Kyle C. Shirley
J. Carlton Sims
Clifton E. Slaten
Valerie M. Smedley
A. Bradley Smelser
Ashley N. Smith
Jeffrey W. Smith
Mark E. Smith
Sylvester S. Smith
W. Roger Smith, III
Stanley R. Snyder
Scott M. Speagle
Sidney B. Spear
Charles A. Stakely, Jr.
Patsy F. Standerfer
Angela C. Starr
Chad E. Stewart
Chuck A. Stewart, III
Joseph G. Stewart, Jr.
Micki Beth Stiller
Michael G. Strickland
William R. Sutton
Pamela Swan
Scott R. Talkington
Thomas C. Tankersley
Dana G. Taunton
Anwar Taylor
J. Carlton Taylor
Jessica F. Taylor
Matthew P. Teague
William C. Teague
R. Brian Tipton
Vicky U. Toles
Jacquelyn D. Tomlinson
John E. Tomlinson
Jennifer J. Tompkins
C. Clay Torbert, III
Jay S. Tuley
Scarlette M. Tuley
Gina M. Tur South
Wayne P. Turner
Charles T. Turnipseed, Jr.
Fred W. Tyson
C. Gibson Vance
Stewart E. Vance
Robert J. Varley
Chenoa S. B. Vick
J. E. Vickers, III
Royce G. Wadsworth
George H. Wakefield, Jr.
J. Dorman Walker, Jr.
W. Christopher Waller, Jr.
James N. Walter, Jr.
Navan Ward, Jr.
Robert C. Ward, Jr.
Joseph W. Warren
Kyle D. Weidman
Helen C. Wells
Milton J. Westry
Barry A. White
Michael L. White
David J. Wilder
J. Reed Williams
James E. Williams
Trina Sanders Williams
Ben C. Wilson
E. Ham Wilson, Jr.
I. Mike M. Winter
April D. Wise
E. Frank Woodson, Jr.
James L. Wright

Morgan County

James G. Adams, Jr.
Roy S. Anderson
Douglas R. Bachuss, Jr.
Howard M. Belser, III
Jeffrey S. Brown
Stephen F. Brown
Robert L. Burrell
Kelly D. Butler
Thomas A. Caddell
David B. Cauthen, Jr.
Carl A. Cole, III
Carl M. Cowart, Jr.
Tina R. Dawes
Thomas M. Di Giulian
Bingham D. Edwards
Arthur Groover
Stephen V. Hammond
Thomas J. House
Jerry R. Knight
Kevin R. Kusta
Mary Ellen Lamar
David W. Langston
Robert E. Long, Jr.
Barnes F. Lovelace, Jr.
R. T. McWhorter, Jr.
William L. Middleton, III
Phil D. Mitchell, II
H. M. Nowlin, III
Tina R. Ogle
Gary A. Phillips
Joseph B. Powell
Joseph W. Propst, II
Christy W. Richardson
Julia S. Roth
Nicholas B. Roth
Steven Sasser
Kenneth Schuppert, Jr.
Timothy L. Shelton
William E. Shinn, Jr.
Cynthia Slate-Cook
Michael E. Sparkman
Robert Straub
R. Eric Summerford
Kevin D. Teague
J. Glynn Tubb
Brian M. White
James D. Whitmire
Kenneth R. Widner
Ellen C. Wingenter

Organized pro bono programs make us keenly aware of the contribution and concern of many of our colleagues and remind us of our own need to serve our community through our profession. We hope that all lawyers will someday participate in organized pro bono programs so that we can recognize their contributions too.

Perry County

James M. Barnes, Jr.
Kirtley W. Brown
Robert D. Bryant
Robert H. Turner, Jr.

Pickens County

William D. King, IV
John A. Russell, III

Pike County

Richard D. Cervera
Robert C. Faircloth
Joseph E. Faulk
B. Trey F. Green, III
William Burl Key, III
Ruth L. Pawlik

Randolph County

Melvin L. Bailey
Mary W. Craig
Scott Hewitt
Michael S. Jazwinski
Kesa M. Johnston
S. Chad Lee
Steven R. Morris
J. Clay Tinney

Russell County

Monchai Chuaychoo
L. Joel Collins
Jennifer B. Cooley
America A. Cross
Peter A. Dumbuya
Lindsay B. Erwin
James M. Ivins
Allen C. Jones
John David Jones
Thomas W. Lakes
Sam E. Loftin, Jr.
Dana M. May
Don M. Riddick
Yvonne R. Rush
Sirena L. Saunders
Thomas F. Worthy

Saint Clair County

Annette T. Butler
Candace B. Crenshaw
Michael A. Dillard, Jr.
James E. Finley
Erskine Funderburg, Jr.
Alan C. Furr
Luther S. Gartrell, III
William T. Hamlin
R. Lyle Harmon
Peggy C. Hooker
Guy C. McCombs, III
Maxine Crawford Moses
Elizabeth Parsons
Randall K. Richardson
Anderson D. Robinson
Charles E. Robinson, Jr.
Jennifer A. Sellers
Fred W. Teague
William J. Trussell
Tommie Jean Wilson
Edwin Van Dall, Jr.

Shelby County

Joshua D. Arnold
Alicia F. Bennett
Kimberly M. Brannon
Jeffrey M. Chapman
Frank C. Ellis, Jr.
Russell L. England
E. Dianne Gamble
Tracy L. Griffin
Sanford D. Hatton, Jr.
J. Frank Head
Jeffrey G. Hester
Jennifer R. James
Sandy F. Johnson
Jennifer L. Jones
Rachel A. King
Erin L. Kline
Donald D. Knowlton, II
Meredith W. Markham
Darrin R. Marlow
Daniel E. Massey, IV
W. Randy May
John A. McBrayer
John E. Medaris
Amanda M. Minor
E. Farley Moody, II
Karin I. Park
Tyrone Quarles
Edward A. Robinson
P. Shawn Rumsey
Steven R. Sears
Candice J. Shockley
Carl Wayne Simmons
J. Timothy Smith
Jonathan A. Spann
Gerald A. Templeton
Josh E. Torres
Harold E. Woodman
Alex A. Yarbrough
Alex Andrew Yarbrough

Sumter County

William C. Brewer, III
Richard G. Cross
I. Drayton Pruitt
Nathan G. Watkins

Talladega County

Laurie S. Andrijeski
Cheryl D. Barnett
Shelly L. Barnhart
Sarah Clark Bowers
L. Shaw Gaines
Gregory S. Graham
Trina W. Hammonds
Will W. Lawrence
James N. Montgomery, Jr.
Lucas C. Montgomery
Michael Anthony O'Brien
J. Bradley Ponder
Stacey D. Price
Jeanne D. Rasco
William K. Rogers, Jr.
Erica L. Sheffield
Barry D. Vaughn
Davis A. Williamson
Chad E. Woodruff

Tallapoosa County

Faye H. Edmondson
Randall S. Haynes
Angela J. Hill
Jason M. Jackson
John Oliver, II
Robin F. Reynolds
Mark Allen Treadwell, III
Kenneth E. Wright, Jr.

Tuscaloosa County

Antonina M. Abate
James Abernathy, II
Joseph R. Abrams
Charlye S. Adams
Stuart D. Albea
Cynthia Lee Almond
M. Bradley Almond
David M. Andres
Patrick D. Andres
Caroline Armstrong
L. Foster C. Arnold
E. Kenneth Aycock, Jr.
A. Colin Barrett
C. Park Barton, Jr.
Ariel S. Blocker
Nettie C. Blume
Gaines B. Brake
Bryan S. Brinyark
H. E. Browder
Sarah J. Brown
Pam H. Bucy
Jason E. Burgett
Patrick S. Burnham
Anna F. Burns
Jane L. Calamusa
Michael J. Cartee
Susie T. Carver
Frank M. Cauthen, Jr.
Mary Beth W. Cavert
Randall M. Cheshire
D. Wayne Childress
Ginger D. Cockrell
J. Michael Comer
Jaime Webb Conger
John M. Conger
J. Sydney Cook, III
Rebecca A. Cook
Michael C. Cornwell
Donnis Cowart
Annette B. Crain
Silas G. Cross, Jr.
Kenneth D. Davis
Randal K. Davis
Ron L. Davis
Nicole S. Diaz
Karen N. Dice
John E. Dill
Cindy L. Dunn
Linda C. Dunn
Nora E. Elder
Robin M. Elliott
Ashley M. Emerson
Marshall A. Entelisano
Isaac Espy
Mary L. Falkner
Katie Seals Ferguson
John T. Fisher, Jr.
Randal S. Ford
Gregory S. Frazier
Chris L. Frederick
W. Ivey Gilmore, II
Mark S. Gober
Elizabeth S. Gordon
Robbyn A. Gourdouze
Wilson F. Green
Junius F. Guin, III
Anne W. Guthrie
Bert M. Guy

Leif R. Hampton
R. Bernard Harwood, Jr.
J. Mitchell Hastings
J. Marland Hayes
Josh P. Hayes
Walt S. Hayes
S. Scott Hickman
Chinita H. Hinton
Chad L. Hobbs
Joseph N. Hocutt, II
E. Anne Sikes Hornsby
Byron E. House
David A. Hughes
John D. Humber
Thomas W. Ikard
Kim D. Ingram
James J. Jenkins
Albert Jones
Christopher H. Jones
T. Matthew Jones
T. R. Tommy Jones, Jr.
William A. Jones
Hattie E. Kaufman
Kelly M. Kearney
Hannah B. Lansdon
Othni J. Lathram
Reginald O. Lavender
Shay V. Lawson
Hugh M. Lee
John J. Lloyd
Julie L. Love
David P. Martin
Allen W. May, Jr.
Emily K. McCarson
Robert L. McCurley, Jr.
Ashley L. McDavid
Ruth B. McFarland
Edwina E. Miller
Steven W. Money
Eugene T. Moore
Charles E. Morgan
Robert A. Morgan
Monica I. Moses
C. Delaine Mountain
Clinton D. Mountain, Jr.
Amanda D. Mulkey
George A. Nassaney, Jr.
Christopher R. Neff
Jason C. Neff
Thomas A. Nettles, IV
Seth A. Newton
Brooke M. NIxon
Katherine B. Nolan
J. C. Oldshue, Jr.
Paige M. Oldshue
Diane S. Oraif
John A. Owens
Edwin L. Parker
W. Cam Parsons
Robin E. Pate
Kathryn O. Pope
Joe E. Powell
Laurie Pratt-Johns
Jennifer S. Precise
David E. Rains
Ann L. Reardon
Harry M. Renfroe, Jr.
W. Bradford Roane, Jr.
Jim H. Roberts, Jr.
P. Monica E. Rodgers
Barbara Rogers
Archer R. Rose, Jr.
Gordon Rosen
Jenny R. Ryan
W. David Ryan, II
Mark A. Scogin
David W. Scott
Thomas W. Scroggins
Laura K. Segers
Patrick O. Sims
James J. Sledge
James C. Smith
James D. Smith
Jeffery C. Smith
Kris D. Sodergren
Robert M. Spence
LuAnn B. Springer
Alyce Manley Spruell
Shelly H. Standridge
Dennis Steverson
Leon R. Storie
Laura C. Strachan
B. Jay Stuck
E. Clark Summerford
Allison S. Taylor
Christopher Thigpen
Katie B. Thompson
Matthew Q. Tompkins
Terri O. Tompkins
Jessica V. Tubbs
Brian D. Turner
James D. Turner
Mary A. Turner
Tyler D. Vann
William W. Walker, Jr.
Raymond E. Ward
Paula W. Watkins
R. Hays Webb
Rachel L. Webber
G. Stephen Wiggins
Raley L. Wiggins
Justin Williams
Wayne L. Williams
Duane A. Wilson
Bryan Winter
Tom B. Woodard, IV
Emily M. Yancey
Neal A. Yancey

Walker County

James R. Beaird
James C. Brakefield
Herbie W. Brewer, Jr.
Robert Bryan
Tina Burgett
Patricia L. Easley
Richard E. Fikes
Patricia A. Frederick
Patrick I. Gustin
E. Nathan Harris
Joshua B. Key
James C. King
Horace H. Nation, III
Philip Nelson
Robert F. Richardson
Tanisia N. Roye
Brian S. Royster
Jonathan C. Sapp
Donna W. Smalley
Charles Tatum, Jr.
Steven A. Thomas
Mark B. Turner
Gerald J. Vick, Jr.
Brett L. Wadsworth
Greg M. Williams
Robert Wilson, Jr.

Washington County

Harold L. Odom
William A. Odom
A. Michael Onderdonk
Stacey L. Thomas
E. Tatum Turner
Halron W. Turner

Wilcox County

F. Les Lambert
Donald M. McLeod
Brenda M. Pompey
William Pompey

Winston County

D. Russell Eason
Darlene U. Eason
Betsy M. Harrison
Cassandra T. Hearn
Jerry W. Jackson
Hobson Manasco, Jr.
Michelle D. W. Mauldin
B. Grant McNutt
Jeff A. Mobley
Scott A. Slatton

Birmingham Volunteer Lawyers Program

John M. Aaron
Kathy-Ann M. Alexis
R. David Allen, Jr.
Stephen S. Allums
Steven D. Altmann
Jeremy M. Applebaum
Adrienne Aldridge Bain
LaVeeda Morgan Battle
Robert E. Battle
Robin Beardsley Mark
Lois R. Beasley-Carlisle
Heather M. Bellew
Kathryn L. Bettis
William G. Biddle
Tyria W. Biggers
Brandon L. Blankenship
Charles H. Booth, Jr.
Lisa W. Borden
Bradford W. Botes
Rebecca S. Bozeman
Jessica A. Brooks
Audrey E. Brown
Whitney R. Brown
Thomas W. H. Buck
Russell K. Burnette
Robin L. Burrell
Heather M. Bussey
Michelle N. Bulter
Julie K. Callaway
Angela C. Cameron
Jennifer B. Caraway
Richard P. Carmody
John T. (Jack) Carney, Jr.
Monica L. Carroll
Margaret M. Casey
Rhonda R. Caviedes
Pooja Chawla
John W. Clark, IV
Holly J. Clemente
Brian M. Cloud
Katherine A. Collier
Adam R. Colvin
Gregory C. Cook
Benjamin H. Cooper
Kathryn S. Crawford
Stephanie M. Crenshaw
Wendy B. Crew
C. Taylor Crockett
Jonathan S. Cross
Judson E. Crump
Brent W. Davis
Shayana B. Davis
Shawanna R. Dobson
Melissa L. Doggett
Gayle L. Douglas
Minerva C. Dowben
Christie L. Dowling
Jessica Kirk Drennan
Khristi Doss Driver
C. Burton Dunn
Anne Lamkin Durward
Tiffany J. deGruy
John A. Earnhardt
Joel S. Erdberg
Mark D. Erdberg
Michael D. Ermert
Rebecca C. Eubanks
James E. Ferguson, III
Linda A. M. Fiveash
W. M. Bains Fleming, III
Kira Y. Founteneau
Michael D. Freeman
Jessica M. Friedman
Tenley E. Garvich
Patricia A. Gill
James R. Gillis
Benjamin S. Goldman
Maura R. Goodwyn
Mark E. Gualano
John W. Haley
Ginger W. Hamilton
Lindsay B. Hamilton
Daniel E. Harell
Danita T. Haskins
Gregory H. Hawley
Hugh C. Henderson
Cameron L. Hogan
Daisy M. Holder
Timothy Holderfer
Brett H. Hollett
Francoise A. H. Horn
Kelvin W. Howard
David L. Hubbard
Miles M. Huffstutler
Yolanda L. Hunter
Janna L. Ifshin
Frank S. James, II
Carthenia W. Jefferson
Brenda M. Johnson
Margaret R. Johnson
Jessica L. Jones
Marcus A. Jones, III
Pamela T. Jones
Robert C. Keller
Stewart A. Kelly
Rachel A. King
Kelly R. Knight
Debra J. Krotzer
Rachel D. LaFleur
Nicholas C. Laster
John R. Lavette
Linda S. Lehe
Jon E. Lewis
James F. Liddon, III
Catherine C. Long
M. Todd Lowther
Angela L. Luckett
Thomas J. Mahoney, Jr.
Brooke G. Malcom
John R. Martin
Pamela C. Massey
John A. McBrayer
Charles A. McCallum, III
Regina H. McDonald
Robert G. Methvin, Jr.
Jennifer M. Miller
James R. Moncus, III
Laura E. Montgomery
Scott T. Morro
Anne R. Moses
David H. Murphree
Francis R. Nolan
Hon. Julie A. Palmer
Beverly D. Paris
Candace B. Peeples
Jennifer C. Pendergraft
Kimberly M. Perkins
Rachel H. Pinson
Denise J. Pomeroy
Maibeth J. Porter
James A. Potts
Honza J. F. Prchal
Robert D. Reese
Gregory J. Reid
Ferris S. Ritchey, III
LaWanda D. Ross
Freddy Rubio
Alyson L. Saad
Micah E. Salsman
Gary S. Schiff
Romaine S. Scott, III
Sara J. Senesac
Carolyn R. Shields
Lauren H. Shine
J. Houston Smith, III
James T. Smith
Thomas S. Smith
J. Matt Stephens
Patricia R. Stephens
Sandra H. Storm
Garrick L. Stotser
Jason A. Stoves
J. T. Stuckenschneider
Christy M. Taul
Katherine L. Taylor
Brian D. Turner, Jr.
Rachel E. VanNortwick
Traci O. Vella
Brian A. Wahl
Valeria Frye Walker
Katrina Washington
Nathan C. Weinert
Anita B. Westberry
James C. Whitfield
Denise P. Wiginton
Christopher J. Williams
Jeffrey N. Windham
Lisa L. Woods
Leslie A. Wright
L. Stephen Wright, Jr.
Tiara S. Young Hudson

Madison County Volunteer Lawyers Program

Barry Abston
Eric Adams
Joey Aiello
Daniel Aldridge
Amy Alexander
Jennifer Allen
John Allen
Angela Ary
John Atkinson
William Avant
Chad Ayres
Douglass Bachuss
John Baggette
Robert Bailey
Margaret Day Baker
Walter Baker
Caleb Ballew
Page Banks
Travis Bartee
Tom Baxter
Brent Beal
Rebekah Beal
Lula Bell
Vicki Bell
Betsy Berman

Chad Black
David Block
James Brabston
Norman Bradley
Larry Brantley
Charles Brasher
Pamela Briggs
Allen Brinkley
Charles Brinkley
John Brinkley
Heath Brooks
Taylor Brooks
Nancy Brower
Kimberly Brown
Robert Buck
John Burbach
Graham Burgess
Justin Burney
Clint Butler
David Canupp
Clement Cartron
Patrick Caver
Allison Chandler
Richard Chesnut
Amanda Chrisley
Donald Christian
Brian Clark
Joseph Cloud
Linda Coats
Casey Cogburn
Corrie Collins
Chris Comer
Rochelle Conley
Susan Conlon
Joseph Conwell
Maureen Cooper
Amy Creech
Russell Crumbley
Elizabeth Cvetetic
Andrew Dalins
Anita Damian
Larry Daniel
Adam Dauro
Kathryn Davis
Joan Marie Dean
Sydney Dean
Mark Debro
Patricia Demos
Christina Dixon
Suzanne Dorsett
Sharon Doviet
Bennett Driggers
Matthew Dukes
Rachel Eidson
Jay Emerson
Melissa Endsley
Scott Faulkner
Earl Forbes
Brannon Ford
Kimberly Ford
Christine Frieder
Robert Gammons
Mickey Gentle
Dale Gipson
Connie Glass
Rebekah Graham
Katie Granlund
Kevin Gray
Jonathan Grayson
Leah Green
Dihanne Guilbert
James Gunther
Ta'Kisha Guster
S. Revelle Gwyn
Jo Layne Hall
Stephen Hall
Kenneth Hampton
William Hancock
Joan Harris
James Harrison
Matthew Harrison
David Hatfield
Thomas Hayes
Kevin Heard
Mary Ena Heath
Nicholas Heatherly
Gabrielle Helix
Tara Helms
Danny Henderson
James Hess
William Hewlett
Jerry Hicks
Laura Hiller
Jeremiah Hodges
Tandice Hogan
Angela Holt
David Holt
Charles Hooper
Larry House
Mitchell Howie
Marc Huff
Mike Huff
Sandra Hughes
Claude Hundley, III
Nakia Hundley
Ida Tyree Hyche
Kourtney Ikard
Jeff Irby
Mari Irwin
Travis Jackson
Laura Jacobs
Amber James
Joel Jaqubino
Ben Jarrell
Corey Jenkins
Carolyn Johnson
Deirdre Johnson
Michael Johnson
Sharon Johnston
Emily Jones
Alan Judge
Daniel Kaufmann
Kimberly Kelley
Walter Kelley
Laurie Kellogg
Josh Kelly
Kathy Kelly
Paul Killian
Joe King
Chris Kuffner

We also thank the dedicated lawyers of Legal Services Alabama. Their assistance and cooperation have enabled these programs to operate efficiently without a duplication of services.

Melani LaMar
Patrick LaMar
Joe Lampley
Lee Leggett
Brenda Lewis
Teresa Lewis
Morris Lilienthal
Benjamin Little
Chris Lockwood
Robert Lockwood
Wendy Lopez
William Lunsford
William Marshall
Larry Marsili
Clay Martin
Kimberly Martin
Mac Martinson
Doug Martinson, II
Abbey Mason
Ben McArthur
Tammy McCabe
Robert McCaleb
Latasha McCrary
David McCurry
Tina McDonald
Timothy McFalls
David McGehee
Jeff McKinney
Rebekah McKinney
Reta McKannan
Tommy McMurtrie
Anna Meegan
Chris Messervy
Barbara Miller
Christy Miller
George Miller
Patrick Miller
Brian Monroe
Bert Moore
Elizabeth Moore
Harold Mooty
Chad Morgan
Kevin Morris
Richard Morris
Amy Nation
Lauren Nowak
Tina Ogle
Christopher Pankey
Sandra Parker
Dustin Paseur
Donna Pate
R. Lynn Pearson
Clark Pendergrass
Jennifer Penfield
Randall Perry
Troy Blakney Pierce
Jonathan Pippin
Charles Pitman
Valerie Plante
Rhonda Plumlee
David Points
Richard Raleigh
Sreekanth Ravi
Robert Rawlinson
Angela Rawls
Charles Ray
Holly Ray-Kirby
Matthew Reeves
Brian Richardson
Michael Robertson
Breck Robinson
Robert Rodgers
Dag Rowe
Dag Rowe, Jr.
Aaron Ryan
L. Thomas Ryan
Bradley Ryder
Teresa Ryder
Juanita Sales Lee
Dorothy Schmidt
Sandy Segal
Leslie Sharpe
Kristy Shelton
Tazewell Shepard
Andrew Sieja
Derek Simpson
Kay Siniard
Tommy Siniard
Amy Slayden
Thomas Sloan
Chris Smith
Deanna Smith
George Smith
Jeremy Smith
Ron Smith
Ronald Smith
Justin South
Richard Sparkman
Marcia St. Louis
Ty Stafford
Eliza Stefaniw
Harold Stephens
Jamie Stephens
Mark Swanson
Ron Sykstus
Sarah Taggart
Amy Tanner
John Taylor
Shelly Thornton
Kenan Timberlake
Carey Walker
June Wang
Frank Ward
Amy Wasyluka
Tim Wasyluka
Andrew Watson
C. Rena Webb
Josh White
Bree Wilbourn
Gayle Williams
Stephen Williams
Thomas Williams
Tyler Williams
John Wilmer
Daniel Wilson
Stephen Wilson
Mike Wisner
Wayne Wolfe
Tonya Woods
Christopher Wooten
David Worley
Milton Yarbrough
Lisa Young
Emily Zickefoose
Kathleen Zimmerman

Mobile Bar Association Volunteer Lawyers Program

Carvine L. Adams
Christina N. Adcock
Geoffrey D. Alexander
R. Alan Alexander
Helen J. Alford
Tonny H. Algood
Gary P. Alidor
Debra E. Almeida
Joseph Altadonna
J. Hodge Alves, III
Donna S. Ames
Ferrell S. Anders
Douglas L. Anderson
Amy B. Andrews
Tristan R. Armer
Gordon G. Armstrong, III
Katherine B. Arnold
G. Wayne Ashbee
Kristin T. Ashworth
Grover Ernst Asmus, II
Daryl A. Atchison
James E. Atchison
Bruce L. Aune
Brigg H. Austin
Joseph P. H. Babington
Mary M. Bailey
Melvin Lamar Bailey
Michael E. Ballard
J. Daniel Barlar, Jr.
Eaton G. Barnard
David L. Barnett
Joe E. Basenberg
D. A. Bass-Frazier
Joshua J. Bates
Matthew J. Bauer
John G. Baylor, Jr.
Stefany L. Bea Gant
Robert A. Beckerle
Paul T. Beckmann
Billy C. Bedsole
Kim L. Bell
John T. Bender
Thomas H. Benton, Jr.
Russell E. Bergstrom
Jaime W. Betbeze
Britt V. Bethea
Windy Cockrell Bitzer
Darryl T. Blackmon
Wesley H. Blacksher
William Blanton
Edward C. Blount, Jr.
Christina M. Bolin
Thomas R. Boller
R. Preston Bolt, Jr.
Ashley B. Bonner
C. Britton Bonner
William E. Bonner
Kate Bonnici
John Wayne Boone
Knox Boteler
Jason C. Botop
Edward G. Bowron
Marc E. Bradley
Kasie M. Braswell
Gregory B. Breedlove
Henry H. Brewster
Donald M. Briskman
S. Joshua Briskman
Britten Britt
W. Benjamin Broadwater
Carin D. Brock
G. Porter Brock, Jr.
James D. Brooks
Megan Brooks
David P. Broome
Chad R. Brown
Douglas L. Brown
Joseph Allan Brown
Paul D. Brown
Toby D. Brown
John P. Browning
Gregory P. Bru
Melvin W. Brunson
Donald E. Brutkiewicz, Jr.
John C. Brutkiewicz
Neal A. Buchman
Gregory C. Buffalow
Russell C. Buffkin
Lisa Bumpers
Peter F. Burns
Nancy J. Busey
Frederick Bussey
Carl N. Butler, Jr.

M. Warren Butler
Ella Byrd
Jennifer C. Byrd
Henry H. Caddell
David S. Cain, Jr.
Henry A. Callaway, III
Ashley E. Cameron
Craig Campbell
Robert C. Campbell, III
Kenneth Paul Carbo, Jr.
Jerome C. Carter
J. Gregory Carwie
William J. Casey
K. W. Michael Chambers
Jeanna M. Chappell
William G. Chason
Walter G. Chavers
C. S. Chiepalich
Nicholas Cillo
Jennifer P. Clark
Andrew C. Clausen
J. Calvin Clay
Lisa Clayton
William Clifford, III
James Paul Clinton
Robert E. Clute, Jr.
Harwell E. Coale, Jr.
Wanda J. Cochran
James P. Coleman
F. Luke Coley, Jr.
Danny J. Collier, Jr.
Allison L. Collins
Celia J. Collins
Stephen M. Collins, Jr.
Gregory S. Combs
Bryan Comer
L. Hunter Compton, Jr.
David S. Conrad
Christopher T. Conte
Walter M. Cook, Jr.
Angelique M. Cooper
Lisa Darnley Cooper
Richard E. Corrigan
Keri R. Coumanis
Braxton C. Counts, III
J. P. Courtney, III
Andrew J. Crane
J. Randall Crane
Robert J. Crane
Stephen G. Crawford
Carrie V. Cromey
Jason Cromey
Eric Cromwell
Benjamin E. Crooker
John T. Crowder
Aurelius Evans Crowe
Rudene B. Crowe
John J. Crowley, Jr.
Judson E. Crump
Blane H. Crutchfield
Manley L. Cummins, III
William M. Cunningham, Jr.
James G. Curenton, Jr.
Edwin J. Curran, Jr.
Dan S. Cushing
M. Stephen Dampier
Jason B. Darley
Glenn L. Davidson
Michael M. Davis
Norman H. Davis, Jr.
Ronald P. Davis
Brent T. Day
John M. Deakle
Edward A. Dean
T. Jefferson Deen, III
Mignon M. DeLashmet
Margaret F. Demeranville
Daniel A. Dennis, IV
Joseph S. Dennis
Robert P. Denniston
Scott E. Denson
James E. Deshler, II
Ross M. Diamond, III
Annie J. Dike
Charles H. Dodson, Jr.
Carolyn M. Dohn
John W. Donald, Jr.
William A. Donaldson
Sarah B. Dorger
Mark A. Dowdy
Thomas P. Doyle
William M. Doyle
Albert O. Drey
B. Vaughan Drinkard, Jr.
J. Michael Druhan, Jr.
John S. Dugan
Bryan G. Duhe'
Cullan B. Duke
John T. Dukes
Barre C. Dumas
J. Brian Duncan, Jr.
Douglas K. Dunning
Robert S. Edington
Grady R. Edmondson
Laura C. Edwards
Mark P. Eiland
William Thomas Eiland
Gregory A. Eldridge
Page S. Ellis
C. Mark Erwin
Tamela E. Esham
Michael T. Estep
Christopher B. Estes
Cheryl D. Eubanks
J. Gregory Evans
Jim H. Fernandez
Jonathan G. Festa
Gary W. Fillingim
Douglas W. Fink
George W. Finkbohner, III
Karlos Finley
Patrick Finnegan
P. Gray Finney, III
Charles J. Fleming
Erin Fleming
Timothy W. Fleming
Ben Ford
Marcus T. Foxx
Keith B. Franklin
Ross Frazer

Justice for all is more than just a cliché. It is a time-honored ideal to which all lawyers and all Americans aspire. By volunteering your time and skill to provide legal services to those who cannot normally obtain them, you are making a significant contribution toward making that ideal a reality.

Andrew Freeman
Carl E. Freman
Donald A. Friedlander
Gregory M. Friedlander
Jonathan B. Friedlander
Nathan Friedlander
Barry A. Friedman
Josh D. Friedman
Sarah S. Frierson
Richard W. Fuquay
Richard M. Gaal
Ginger P. Gaddy
P. Vincent Gaddy
Thomas O. Gaillard, III
Jeffry N. Gale
Norman J. Gale, Jr.
Robert M. Galloway
William J. Gamble, Jr.
Jonathan P. Gardberg
J. Cecil Gardner
J. Marshall Gardner
Thomas F. Garth
George C. Gaston
Ian F. Gaston
Christopher L. George
Jordan W. Gerheim
Jason C. Gerth
John D. Gibbons
Christopher M. Gill
W. Michael Gillion
Walter T. Gilmer, Jr.
Wyman O. Gilmore, Jr.
William B. Givhan
Melody C. Glenn
J. W. Goodloe, Jr.
Allen E. Graham
Duane A. Graham
Missty C. Gray
Lori Grayson
William C. Grayson
Jon A. Green
J. David Greene
Theodore L. Greenspan
Irvin Grodsky
Timothy M. Grogan
John Grow
Roger C. Guilian
Virginia W. Haas
Robert L. Hagler, Jr.
Jason K. Hagmaier
Carter R. Hale
Lee L. Hale, Sr.
Matthew B. Hall
Patricia W. Hall
Theodore L. Hall
W. Perry Hall
Lawrence J. Hallett, Jr.
Brandy B. Hambright
David A. Hamby, Jr.
Jubal Hamil
William Craig Hamilton
Mary A. Hampton
Neil L. Hanley
Daniel A. Hannan
Michael J. Harbin
Cynthia C. Harper
Tameka A. Harpole
James K. Harred
Sidney M. Harrell, Jr.
Ashley S. Harris
Deward J. Harrison
Thomas E. Harrison
Michael A. Hart
Jeffrey J. Hartley
J. Stephen Harvey
Katie H. Hassell
Peter Havas
Scott R. Hawk
Edward G. Hawkins
Wilson M. Hawkins, Jr.
Jeffry Alan Head
Robert J. Hedge
Benjamin Connel Heinz
Timothy A. Heisterhagen
Frederick G. Helmsing, Jr.
Deborah B. Hembree
Alison B. Herlihy
Warren C. Herlong, Jr.
Christine C. Hernandez
Leslie Herring
Brenda D. Hetrick
R. Scott Hetrick
Charles A. Hicks
Larry H. Hipsh
Lucian B. Hodges
Michael R. Holberg
Jennifer Holifield
John Holladay
Lyman F. Holland, Jr.
Frances H. Hollinger
Ryan P. Holloway
W. Steele Holman, II
Broox G. Holmes
Richard H. Holston
D. Charles Holtz
Richard D. Horne
David A. Horton
J. Gordon House, Jr.
Heather M. Houston
D. Kirby Howard, Jr.
Stewart L. Howard
Victor T. Hudson, II
Michael G. Huey
David Michael Huggins
W. Gregory Hughes
Brandon D. Hughey
Christopher G. Hume, III
Thomas Humphries
John Michael Hunter
Scott W. Hunter
Wesley J. Hunter
Willie J. Huntley, Jr.
Harvey A. Hutchinson, III
Herndon Inge, III
Brandon D. Jackson
J. Walton Jackson
Matthew R. Jackson
Robert G. Jackson, Jr.
Sidney W. Jackson, III
William B. Jackson, II
Alicia M. Jacob
Ishmael Jaffree
Julia C. James
Jack F. Janecky
James D. Jeffries, Jr.
Linda Collins Jensen
Candace D. Johnson
James A. Johnson
Richard B. Johnson
William D. Johnson, Jr.
James C. Johnston
Neil C. Johnston
Vivian G. Johnston, III
Vivian G. Johnston, V
Vivian G. Johnston, Jr.
Andrew M. Jones
Gregory R. Jones
Joe Carl Jordan
Shirley M. Justice
Cecily L. Kaffer
Kathleen Cobb Kaufman
G. Marc Keahey
Robert D. Keahey, Jr.
Robert D. Keahey
Ronnie E. Keahey
Kyla Kelim
Colin E. Kemmerly
David G. Kennedy
Christopher Kern
Benjamin H. Kilborn, Jr.
Fred W. Killion, III
Fred W. Killion, Jr.
James W. Killion
Sujin Kim
Hardie B. Kimbrough
James E. Kimbrough, Jr.
William A. Kimbrough, Jr.
Rick O. Kingrea
Richard M. Kirkpatrick
Stephen L. Klimjack
Michael D. Knight
Dennis J. Knizley
H. James Koch
Frank H. Kruse
Joseph O. Kulakowski
Banks C. Ladd
Leah P. Ladd
Mary Carol Ladd
S. Gaillard Ladd
Gilbert B. Laden
Paul V. Lagarde
R. Edwin Lamberth
James W. Lampkin, II
William R. Lancaster
Johnny Lane
Clay Lanham
Alex F. Lankford, III
Alex F. Lankford, IV
Oliver J. Latour, Jr.
Forrest S. Latta
John L. Lawler
John N. Leach, Jr.
Goodman G. Ledyard
Beth Lee
John V. Lee
Tracie Lee-Roberson
J. Stephen Legg
Francis E. Leon, Jr.
Mark A. Lequire
Melissa D. Lerch
Geraldine S. Lester
Michael M. Linder, Jr.
Melissa Lindquist-King
Charles Long
Thomas Loper
James Loris, Jr.
Victor H. Lott, Jr.
Y. D. Lott, Jr.
Darlett Lucy-Dawson
Merceria L. Ludgood
T. Ryan Luna
Jeffrey L. Luther
Maria Lynda Lyles
William M. Lyon, Jr.
Andrea C. Lyons
Jonathan B. Mabire
Peter S. Mackey
Arthur J. Madden, III
Melinda Lee Maddox
Todd C. Mallette
David Maloney
Jonathan R. Maples
E. Russell March, III
Chad C. Marchand
Beth Marietta-Lyons
Michael E. Mark

This honor roll reflects our efforts to gather the names of those who participate in organized pro bono programs. If we have omitted the name of any attorney who participates in such a program, please send that information to Alabama State Bar Volunteer Lawyers Program. P. O. Box 671, Montgomery, AL 36101.

L. A. Marsal
Linda J. Marston-Crawford
Andrew W. Martin, Jr.
Craig D. Martin
Steven A. Martino
Phillip E. Mason
R. Edward Massey, Jr.
R. Edward Massey, III
Kevin F. Masterson
Joseph M. Matranga
Robert C. Matthews
Thomas R. McAlpine
Gregory B. McAtee
Brian P. McCarthy
Daniel L. McCleave
Samuel P. McClurkin, IV
Jacqueline M. McConaha
Lynn McConnell
Jason S. McCormick
J. Charles McCorquodale, IV
Joseph C. McCorquodale, III
Douglas L. McCoy
Marcus E. McCrory
Kristine McCulloch
Shannon R. McClure
James H. McDonald, Jr.
Jennifer E. McDonald
Matthew C. McDonald
Edward B. McDonough, Jr.
Marcus E. McDowell
Michael H. McDuffie
Stova F. McFadden
William S. McFadden
Robert B. McGinley, Jr.
W. Chris McGough
Deborah D. McGowin
William T. McGowin, IV
Sherrie V. McKenzie
Robert B. McLaughlin
Michael S. McNair
Jacob B. McNiel
Kent Dyer McPhail
Coleman F. Meador
Augustine Meaher, III
Thomas J. Mercado
Bill C. Messick
S. C. Middlebrooks
Adam M. Milam
Christopher R. Miller
Edward A. Miller
Jason D. Miller
Jeffrey G. Miller
Lynn C. Miller
M. Kathleen Miller
Margaret Miller
Ronald B. Miller
Brooks P. Milling
Pamela K. Millsaps
L. Daniel Mims
Jonathan Minchin
Joseph J. Minus, Jr.
Robert L. Mitchell
Michael A. Montgomery
William D. Montgomery
J. Richard Moore
Pamela A. Moore
Stephen C. Moore
Larry C. Moorer
Jack W. Morgan
Jennifer S. Morgan
Nicholas F. Morisani
Jake L. Morrison
Henry T. Morrissette
W. Alexander Moseley
T. Julian Motes
Robert H. Mudd, Jr.
D. Brian Murphy
Michael T. Murphy
Jennifer Murray
Paul Bradley Murray
P. Russell Myles
Paul D. Myrick
Meegan Nelson
Narissa Nelson
Mark A. Newell
Blair Newman, Jr.
James B. Newman
Frances R. Niccolai
Steven L. Nicholas
Michael C. Niemeyer
David A. Nihart
Peggy R. Nikolakis
Jason B. Nimmer
John R. Nix
Faith A. Nixon
Ken A. Nixon
Ryan T. Northrup
Thomas Michael O'Hara
Caine O'Rear, III
Harold L. Odom
William A. Odom
Sonya Ogletree
Thomas P. Ollinger, Jr.
Mary Elizabeth Olsen
A. Michael Onderdonk
James H. Oppenheimer
Juan Ortega
Guy C. Oswalt, III
Brian R. Overstreet
Terrie Owens
Peter J. Palughi, Jr.
Frank L. Parker, Jr.
Jason C. Parker
John R. Parker
Harold D. Parkman
Melinda J. Parks
James Donnie Patterson
James T. Patterson
J. Day Peake, III
Charlie R. Pearman
Sonya Pence
Patrick K. Pendleton
R. Jeffrey Perloff
Dorothy Perry
R. John Perry
Christopher E. Peters
Larkin H. Peters
Abram L. Philips, Jr.
Matthew T. Phillips
Will G. Phillips
Brenda J. Pierce
Jeffrey G. Pierce
Wendy A. Pierce
Melissa G. Pigg
Virginia Pike
Mary E. Pilcher
J. Jerry Pilgrim
J. Casey Pipes
S. Wesley Pipes, V
Wesley Pipes
William E. Pipkin, Jr.
Patricia J. Ponder
William C. Poole
Charles J. Potts
Susan L. Potts
Arthur T. Powell, III
Jacqueline R. Powell
Lakelia P. Powell
Glen P. Powers, II
Jean M. Powers
Barry C. Prine
Caroline T. Pryor
Brian T. Pugh
Marion A. Quina, Jr.
David R. Quittmeyer
Thomas J. Radcliff
L. Bratton Rainey, III
Robert S. Ramsey
A. Clay Rankin, III
David L. Ratcliffe
James Rebarchak
F. Grey Redditt, Jr.
Mark L. Redditt
William H. Reece
Gabrielle Reeves
W. Boyd Reeves
Elizabeth D. Rehm
Kirkland E. Reid
Eric B. Reuss
John D. Rhames
Latisha Rhodes
Robert Riccio
Mathew B. Richardson
Kenneth J. Riemer
J. Burruss Riis
James V. Roberts, Jr.
Mark B. Roberts
Edward Luckett Robinson, II
Jay N. Robinson
Thomas M. Rockwell
William C. Roedder, Jr.
Jannea S. Rogers
Ruth M. Rogers
Derek S. C. Rose
Jennifer Roselius
Ian Rosenthal
Jay M. Ross
James B. Rossler
Beth M. Rouse
Robert H. Rouse
Edward P. Rowan
Benjamen T. Rowe
Andrew J. Rutens
Sarah Rutledge
Elias J. Saad
William H. Saliba
Harry V. Satterwhite
Steven P. Savarese, Jr.
Richard S. Sawyer
Troy T. Schwant
Steven Sciple
Anna L. Scully
Matthew T. Scully
James D. Sears
Henry R. Seawell, IV
John W. Sharbrough, III
Thomas E. Sharp, III
Clifford C. Sharpe
Kirk C. Shaw
Jason M. Shelby
Michael D. Sherman
Richard E. Shields
Jonathan E. Sholtis
Vanessa Arnold Shoots
Lewis R. Shreve
William E. Shreve, Jr.
Franklin L. Shuford, Jr.
Patrick H. Sims
William H. Sisson
Pennelope Slawkowski
Jack Smalley, III
April D. Smith
Bryan D. Smith
E. Glenn Smith, Jr.
Edward L. D. Smith
Fran Jones Smith
Frankie Fields Smith
Jason D. Smith
Lacey Smith
Selma D. L. Smith
Susan Gunnells Smith
William B. Smith
Hendrik Snow
Mary Elizabeth Snow
Domingo Soto
Scott W. Soutullo
Mark E. Spear
Jon M. Spechalske
Jerome E. Speegle
John Ronald Spencer
Tara Sprague
D. Trice Stabler
Leon F. Stamp, Jr.
Joseph D. Steadman
Jason K. Steele
Mary Steele
Kenneth S. Steely
Gregory B. Stein
T. Jeff Stein
Scott D. Stevens
Donald J. Stewart
Louisa L. Stockman
Norman M. Stockman
Samuel L. Stockman
Dragan Stojanovic
William D. Stokes
Bruce B. Stone, Sr.
Margaret A. Stone
Sheila V. Stone
Michael D. Strasavich
David A. Strassburg, Jr.
Brandon Strickland
Todd S. Strohmeyer
Carroll H. Sullivan
Joseph R. Sullivan
Molly M. Sullivan
Charles E. Tait
James W. Tarlton, III
Chad Tatum
Jeremy P. Taylor
Richard H. Taylor
Shane A. Taylor
Stacie F. Taylor
R. Stevens Terry
Steven L. Terry
Bryan A. Thames
Joseph D. Thetford
Renee E. Thiry
Richard L. Thiry
Carla M. Thomas
Robert A. Thomas
Stacey L. Thomas
Barry L. Thompson
Linton B. Thompson
Ray M. Thompson
Cooper C. Thurber
Edward R. Tibbetts
William C. Tidwell, III
Desmond V. Tobias
Desmond B. Toler
Michael J. Tonder
David C. Tufts
Lucy E. Tufts
E. Tatum Turner
Halron Turner
J. Robert Turnipseed
Deena R. Tyler
John M. Tyson, Sr.
Michael Upchurch
Hamp Uzzelle
Pete J. Vallas
James VanCleave
Gregory Vaughan
David P. Vaughn
Lawrence B. Voit
James B. Vollmer
Richard W. Vollmer, III
George M. Walker
Kimberly C. Walker
Thomas B. Walsh
Patrick J. Ward
Ernest Eugene Warhurst, Jr.
Harold William Wasden
LeBreon S. Washington
William W. Watts, III
Zachary Weaver
Leslie G. Weeks
Lawrence M Wettermark
A. Holmes Whiddon, Jr.
Allison E. White
Jarrod J. White
John L. White
J. George Whitfield, Jr.
David J. Wible
C. Richard Wilkins
Anna M. Williams
Arthur G. Williams, IV
Lee B. Williams
Margaret Y. Williams
Nichelle Williams
Richard R. Williams
Ronnie L. Williams
Adam T. Williamson
Theresa N. Williamson
Charles S. Willoughby
J. Elizabeth Wilson
Michael P. Windom
Michael A. Wing
Mark C. Wolfe
Thomas M. Wood
Ricardo Woods
Shuntavia Woods
James A. Yance
Randolph T. Yance
Habib Yazdi
Richard D. Yelverton
Jay A. York
James William Zeigler
Thomas T. Zieman, Jr.
David B. Zimmerman
Alex W. Zoghby
George M. Zoghby | AL

J. Anthony McLain

Representation of multiple plaintiffs against the same defendant—is it ethically permissible?

QUESTION:

"This letter constitutes a request for an expedited opinion with respect to the question of whether or not I and other lawyers have a conflict of interest arising out of our participation in two separate lawsuits. In the Circuit Court of Any County, Alabama, in a case styled *Doe v. Roe, et al.,* civil action number CV-1212, we represent a class of pharmacy owners in a lawsuit filed pursuant to Alabama's antitrust statute, §6-5-60 *Alabama Code* 1975, against numerous pharmaceutical manufacturers. In *Doe* we allege that the pharmaceutical manufacturers have conspired in a price discrimination scheme to charge favored purchasers of pharmaceuticals lower than market rates while the same defendants charge the owners of independent pharmacies artificially and agreed upon high rates.

"Other lawyers and I have also recently filed a petition to intervene and a complaint in intervention in *Smith v. Acme Laboratories, et al.,* civil action number CV-3434 pending in the Circuit Court of Some County, Alabama.

In the *Smith* case a class of indirect purchasers or consumers has been certified as a class composed of Alabama residents as well as residents of the District of Columbia and the States of Kansas, Maine, Michigan, Minnesota, Mississippi, New Mexico and Wisconsin. In *Doe* no class certification has yet been entered.

"In the *Smith* case the lawyers for the original plaintiff and plaintiff class oppose our intervention on the grounds that we have a conflict of interest. We believe that no conflict exists for the following reasons: 1. The defendants are the largest pharmaceutical manufacturers in the world. Between them they have more assets and a greater wealth than most of the countries of Europe combined. This is not a situation where there is a limited fund for recovery. The two classes may be competing for the same funds but the funds are unlimited. As you can see from the attached complaint and motion for class certification and order in the *Smith* case, individual claims of $50,000 or more are excluded by definition from the class. There is simply no possibility that these two classes, that is the class in *Doe* and *Smith*, will ever be competing for a limited pool of money. 2. Under Alabama's antitrust statutory scheme the damages sought in both cases are statutory and therefore are defined or fixed by statute. It is not a situation where unlimited damages would be sought by competing classes. 3. The wrongful conduct complained of in both actions is the concerted effort by the defendants to fix the prices of drugs charged to retail pharmacies and to the customers of those pharmacies. There is no allegation in either case that the retail pharmacies have violated Alabama law. The wrongful conduct complained of in both cases is that of the defendants. This wrongful conduct has affected both classes of plaintiffs. The fact that the pharmacies may in some instances have passed on the artificially inflated prices to the indirect purchasers or the consumers is not a violation of Alabama law and is not the subject of either complaint. With respect to the liability of the defendants, then, the necessary proof is identical in these cases. Accordingly we could have no conflict if that is the complaint of the plaintiffs' lawyers in *Smith*.

"Any claim by the plaintiffs' lawyers in the *Smith* case that we have a conflict of interest due to our representation of the plaintiffs' class in *Doe* could only be raised after there had been a certification of the plaintiffs' class in *Doe*. No certification has been made by Judge Goodnite. Even if we admitted the possibility of such a conflict, it could not conceivably arise until there was a certification in *Doe*. * * * We do not believe that we have a conflict of interest between these two plaintiff classes. Judge Jones, the judge in the *Smith* case, will be deciding sometime in the near future whether we have a conflict or not. We would like as prompt a ruling as we possibly can get from your office as to whether or not any conflict exists."

* * *

ANSWER:

You do not presently have a conflict of interest under the circumstances described in your letter.

DISCUSSION:

This situation is covered by Rule 1.7{b), which states:

> **"Rule 1.7 Conflict of Interest: General Rule**
>
> * * *
>
> (b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless: (1) The lawyer reasonably believes the representation will not be adversely affected; and (2) The client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved."

Ordinarily a lawyer may not represent two plaintiffs in separate actions against the same defendant if the lawyer knows or has reason to believe there will be insufficient insurance or assets to satisfy both potential claims. However, if both plaintiffs consent to the representation after full disclosure then the conflict is obviated.

In the circumstances you have described, there do not appear to be any issue conflicts between the two plaintiff classes you seek to represent. In *Doe*, you represent Alabama pharmacy owners and in *Smith*, you will be representing consumers who have purchased drugs in the past. Both groups contend that the defendant took illegal steps and measures to inflate the prices of their products to those in the distribution and end-user positions. As for whether both plaintiff classes will be competing for the same assets to satisfy their claims, there is no indication, at this point, that the defendants' resources are so limited as to generate that type of conflict for you. If future discovery reveals that situation, then the conflict issue would have to be addressed again. Rule 1.7(b), of course, gives you the option of seeking consent from your class clients. In that case the risk of any adverse effect created by the multiple representations is eliminated. [RO-1996-03] | AL

Robert L. McCurley, Jr.

Othni J. Lathram

For more information about the Institute, visit www.ali.state.al.us.

Goodbye and Hello

After serving as director of the Alabama Law Institute for the past 37 years, I retired December 31, but will continue to assist the Constitutional Revision Commission during their four-year, article-by-article study of the 1901 Constitution. **Othni Lathram** was selected as the new director and began earlier this month.

Elected were the following officers and members of the Executive Committee:

Officers

President: Senator Cam Ward
Vice President: Representative Marcel Black

Executive Committee

LaVeeda Battle
David Boyd
Senator Ben Brooks
James M. Campbell
William N. Clark
Representative Paul DeMarco
Peck Fox
Representative Demetrius C. Newton
Senator Arthur Orr
Representative Bill Poole
Senator Rodger Smitherman

Emeritus Members

Senator Roger Bedford
Fred Gray
Oakley W. Melton, Jr.
Yetta Samford

Constitutional Revision

In 1974, when I was being recruited to be director of the Alabama Law Institute, I was told that the two biggest items the Institute would be working on were the newly-drafted revision of the 1901 Alabama Constitution and a new criminal code for Alabama. Thirty-seven years later, we are working on a new revision to the 1901 Constitution and a review of the now 32-year old *Criminal Code*.

Alabama has had six constitutions: 1819–statehood; 1861–succession; 1865–reorganization after the Civil War; 1868–reconstruction or radical constitution; 1875–conservatives abandoned the objectives of the radical constitution; and the current 1901 Constitution.

For more than 40 years, constitutional reform as been a "hot" item.

In the 2011 regular session, the legislature again made it a priority item. Senate Pro Tem Del Marsh introduced and passed a Senate Joint Resolution (SJR-82) calling for a commission to revise the constitution article by article. The resolution also requested the Alabama Law Institute to staff the commission and prepare proposed revisions.

In 1969, with Albert Brewer as governor, the "Alabama Constitutional Commission" was created by Act No. 753 of the legislature. This commission was continued by Act No. 95 in 1971. Conrad Fowler, then probate judge of Shelby County, chaired the committee. Dean Leigh Harrison, with the University of Alabama School of Law, was the research director.

This commission produced a proposed seventh constitution for the State of Alabama, dated May 1, 1973. The recommendations that were made and adopted were:

1. Annual sessions of the legislature beginning in 1976
2. Article VI, The Judicial Article adopted in 1973
3. Classification of cities into eight classes, eliminating general laws of local application in 1979
4. Code of Ethics in 1973
5. Article VIII–Suffrage and Elections in 1992

In 1978, Governor Fob James campaigned on the need for a new constitution. Senator Ryan DeGraffenried spent over half of the 1983 legislative session at the microphone reviewing the constitution. It passed both houses and was submitted to the electorate for vote on November 8, 1983. This revision never reached the voters when the Alabama Supreme Court case of *State of Alabama and Don Siegelman v. Richard S. Manley*, 441 So.2d 864 (Ala. 1983) removed the constitution from the ballot, holding the proposed constitution violated Section 284 of the constitution by proposing an entirely new constitution rather than an amendment to it.

In 2001, the legislature asked the institute to analyze the 703 amendments to the constitution and identify those voided by the courts, those antiquated and those unnecessary duplications of other provisions, as well as how to revise the constitution. In response, the Alabama Law Institute submitted a report in January 2002 to the Alabama House of Representatives that outlines the four approaches to a revision of the constitution:

1. Article-by-article approach;
2. Re-codification, as an intermediate step;
3. Comprehensive revision by the legislature after first approving a constitutional amendment overturning *State v. Manley*; and
4. Constitutional Convention

The institute followed up their report in April 2002 with a proposed recompilation of the Alabama Constitution of 1901 in which all amendments were incorporated into the main body of the constitution. In response, in 2003, the legislature passed *Ala. Code* § 29-7-11 which directed the *Code* commissioner (director of Legislative Reference Service) to prepare an official recompilation of the constitution. This now appears in the 2005 replacement volume of the *Code of Alabama*.

Continued from page 23

In response to the institute's report, various plans of constitution reform were initialed. The house of representatives' plan was to adopt a new constitution, "article by article." The senate plan was to revise the entire constitution after first passing a constitutional amendment allowing the adoption of a comprehensive constitution. The governor's plan was to call a constitutional convention. The secretary of state had a plan which created a constitutional revision commission. Cumberland School of Law, Auburn University and other colleges and universities had projects and studies. Private groups, such as the Alabama Citizens for Constitutional Reform and the Alabama Appleseed Foundation, held forums and rallies in supported of a new constitution.

Governor Riley used his first executive order after taking office January 20, 2003 to form the "Alabama Citizens' Constitution Commission." This commission was to address five issues:

(1) Home rule;

(2) Voter approval of local taxes;

(3) Strengthening governor's veto powers;

(4) Addressing tax structure; and

(5) Requiring the governor and lt. governor to run as a team.

The one success was limited home rule, known as "The Alabama Limited Self-Governance Act," *Ala. Code* § 11-3A-1.

Every year since 2003, bills have been introduced for a Constitutional Convention. Revisions of two articles of the constitution have been introduced and have passed one house of the legislature.

The 2011 Senate Joint Resolution delineates the following article-by-article plan:

Year 2011

Article XII	Private Corporations
Article XIII	Banking

Passed 2011 Session: Remove unconstitutional racist language throughout

Year 2012

Article III	Distribution of Powers
Article IV	Legislative Department
Article IX	Representation

Year 2013

Article 1	Declaration of Rights
Article V	Executive Department
Article XIV	Education

Year 2014

Article VII	Impeachments
Article X	Exemptions
Article XVII	Miscellaneous

Taxation has been specifically excluded.

Commission members were appointed by Governor Bentley, Senate Pro Tem Marsh and Speaker Hubbard with the chairs of the House and Senate Judiciaries and Constitution committees as ex officio members.

Members of the commission include:

Governor Robert Bentley	John Anzalone
Governor Albert Brewer	Greg Butrus
Becky Gerritson	President Pro-Tem Del Marsh
Vicki Drummond	Carolyn McKinstry
Speaker Mike Hubbard	Matt Lembke
Representative Patricia Todd	Jim Pratt

Ex-officio members: chairs of house and senate Judiciaries and Constitution and Election committees: Representatives Randy Davis and Paul DeMarco, Senators Bryan Taylor and Ben Brooks

Governor Albert Brewer was chosen chair of the committee, with Representative Paul DeMarco as vice chair.

The commission's duties and responsibilities are:

- Create a public awareness of and educate the public on the recommended changes;
- Provide the legislature with recommendations for changes to the articles under consideration; and
- Report its recommendations in each house of the legislature by the third legislative day each year.

The Law Institute is staffing the commission with Bob McCurley, Professor Howard Walthall of Cumberland Law School and Mike Waters, of Jones Walker. Waters has been involved with constitutional revision since 1978 when he was Governor James's legal advisor. Since 1983, Professor Walthall has been a part of every constitution effort.

The commission held meetings last year in August, September, October (twice), November, and December.

Article XII "Private Corporations" and Article XIII " Banks and Banking," which were scheduled for review in 2011, have been reviewed and approved by the commission and should be introduced in the 2012 Session that will begin next month.

For future meeting days of the commission and its agenda, go to *www.open.alabama.ma.gov.*

Thank you to the hundreds of great Alabama lawyers who have given thousands of hours and millions of dollars of their billable time over the past 37 years to make Alabama's laws among the most up to date in America. It has been a joy working with you.

I could never have anticipated that in 1974, when I accepted this job for a year, it would last for 37. I look forward to continuing to be a part of the Alabama bar. | AL

Notice

- **Daryl Patrick Harris,** whose whereabouts are unknown, must answer the Alabama State Bar's formal disciplinary charges within 28 days of January 31, 2012, or, thereafter, the charges contained therein shall be deemed admitted and appropriate discipline shall be imposed against him in ASB No. 09-2834(A) before the Disciplinary Board of the Alabama State Bar.

Reinstatement

- Mobile attorney **Frank Dreaper Cunningham** was reinstated to the practice of law in Alabama by order of the supreme court, effective September 1, 2011. The supreme court's order was based upon the decision of Disciplinary Board, Panel II, granting the reinstatement with conditions. Cunningham was reinstated on a probationary basis for a period of four years. Among the conditions of his probation, the board ordered that (1) Cunningham serve only as in-house counsel to his employer and not engage in the private practice of law; (2) Cunningham may provide legal advice to his employer in-house, but may not appear on behalf of his employer as counsel in external matters; (3) Cunningham must attend a total of 60 hours of remedial CLE, in addition to the 12 hours annually required of members of the bar; (4) during the four-year probationary period, Cunningham must sit for and pass the Alabama bar examination for admission to practice; (5) Cunningham must certify to the Office of General Counsel that he has completed the remedial CLE and has successfully completed the bar examination, and failure to do so within the four-year probationary period will result in revocation of the order readmitting Cunningham to active status, including the limited in-house practice authorized by the order; and (6) upon certification of the successful completion of the bar examination and the CLE requirements prior to the expiration of the four-year probationary period, the limitations on Cunningham's practice will terminate and Cunningham shall then be restored to full active status and the probation lifted. [Rule 28, Pet. No.11-737]

Transfer to Disability Inactive Status

- Bessemer attorney **Eric James Copeland** was transferred to disability inactive status, pursuant to Rule 27(b), *Alabama Rules of Disciplinary Procedure*, effective August 8, 2011, by order of the Disciplinary Board of the Alabama State Bar. [Rule 27(b), Pet. No. 2011-1316]

Suspensions

- On September 16, 2011, Huntsville attorney **Cheryl Ann Baswell-Guthrie** was interimly suspended from the practice of law in Alabama pursuant to Rule 20(a), *Alabama Rules of Disciplinary Procedure*, by order of the Disciplinary Commission of the Alabama State Bar. The Disciplinary Commission found that Baswell-Guthrie's continued practice of law is causing or is likely to cause immediate and serious injury to her clients or to the public. [Rule 20(a), Pet. No. 2011-1510]

- Effective September 1, 2011, attorney **Jennifer Gregory Cannon** of Semmes has been suspended from the practice of law in Alabama for noncompliance with the 2010 Mandatory Continuing Legal Education requirements of the Alabama State Bar. [CLE No. 11-721]

- Huntsville attorney **Annary Aytch Cheatham** was interimly suspended from the practice of law in Alabama, effective August 30, 2011, by order of the Disciplinary Commission of the Alabama State Bar in response to a petition filed by the Office of General Counsel evidencing that Cheatham's conduct is causing, or is likely to cause, immediate and serious injury to a client or to the public. [Rule 20(a), Pet. No. 2011-1435]

- On October 6, 2011, Phenix City attorney **Dana Posey Gentry** was interimly suspended from the practice of law in Alabama pursuant to Rule 20(a), *Alabama Rules of Disciplinary Procedure*, by order of the Disciplinary Commission of the Alabama State Bar. The Disciplinary Commission found that Gentry's continued practice of law is causing or is likely to cause immediate and serious injury to his clients or to the public. [Rule 20(a), Pet. No. 2011-1654]

- Tuscaloosa attorney **Steven Wesley Money** was suspended from the practice of law in Alabama for 91 days by order of the Disciplinary Commission of the Alabama State Bar. The suspension was then held in abeyance and Money was placed on probation for one year. In addition, Money was ordered to enroll in and complete the Alabama Practice Management Assistance Program. The order of the Disciplinary Commission was based upon Money's conditional guilty plea to multiple violations of the *Alabama Rules of Professional Conduct*. Specifically, in ASB nos. 2010-591, 2010-606, 2010-613, 2010-712, and 2010-1801, Money failed to adequately communicate with his clients during the course of representation and failed to adequately update the clients on the current status of their matters. [ASB nos. 2010-591, 2010-606, 2010-613, 2010-712, and 2010-1801]

- Daphne attorney **John William Parker** was interimly suspended from the practice of law in Alabama as ordered by the Disciplinary Commission of the Alabama State Bar on October 17, 2011. After a hearing, the interim suspension was stayed by the Disciplinary Commission, effective October 27, 2011, pending further proceedings.

Continued from page 23

Therefore, John William Parker's license to practice law in Alabama was reinstated effective October 27, 2011. [Rule 20(a), Pet. No. 11-1563]

Public Reprimands

- On September 16, 2011, Birmingham attorney **Henry Lee Penick** received a public reprimand without general publication for violations of rules 1.3 and 1.4(a), *Alabama Rules of Professional Conduct*. In or about November 2003, the complainant was involved in an automobile accident in Atlanta. Thereafter, the complainant retained Penick to file claims for compensation for medical expenses, lost wages and pain and suffering. The complainant provided Penick with the police report, photographs of the damaged vehicle and medical records. Penick did not communicate again with the complainant until in or about March 2005. Penick informed the complainant that the insurance company had not responded to his demand letters and that it would be necessary to file a lawsuit. The complainant paid Penick a $316 filing fee. Thereafter, Penick was again non-responsive to the complainant's requests for information regarding the status of his case. Eventually, in or about February 2006, the complainant learned that nothing had been filed on his behalf and that the two-year statute of limitations had expired. [ASB No. 2006-107(A)]

- Phenix City attorney **Larry Joel Collins** was ordered to receive a public reprimand with general publication for violations of rules 1.3, 1.4(a), 8.4(a) and 8.4(g), *Alabama Rules of Professional Conduct*. In January 2010, Collins was retained by a client to assist in probating her stepfather's estate and in having the client's brother ejected from her mother's home. On or about January 22, 2010, Collins was paid a flat fee of $2,500. Thereafter, Collins failed to take any substantive action with regard to the estate or having the client's brother removed from her mother's house. Throughout the representation, Collins's client called and left numerous messages with Collins's office and on his cell phone seeking an update on her case; however, Collins failed to adequately communicate with his client. Collins admitted that he did not file anything on behalf of the client. [ASB No. 2010-798]

- Phenix City attorney **Larry Joel Collins** was ordered to receive a public reprimand with general publication for violations of rules 1.3, 1.4(a), 8.4(a) and 8.4(g), *Ala. R. Prof. C.* In addition, Collins was placed on probation for a period of one year pursuant to Rule 8(h), *Ala. R. Disc. P.* In September 2009, Collins was retained by a client to assist in modifying the terms of the client's divorce decree and to assist in obtaining custody of his infant daughter. Collins was paid a flat fee of $1,500 to undertake the representation. Collins subsequently filed a motion for a new trial and the matter was set for hearing on November 12, 2009. Collins's motion for new trial was denied by the court. After the hearing, Collins informed his client that he had filed the wrong motion and that he would need to file a motion to modify the divorce decree. Thereafter, Collins took no further action in the matter and failed to respond to his client's requests for information concerning the status of the case. [ASB No. 2010-1693]

- Mobile attorney **Johnny Mack Lane** received a public reprimand with general publication on September 16, 2011, for violations of rules 1.15(a), 1.15(b), 5.3, 8.4(a), and 8.4(g), *Alabama Rules of Professional Conduct*.

  Lane represented a client in collection matters for several years. The client filed a complaint alleging that he had loaned Lane's secretary $80,000, which she placed in Lane's trust account. Thereafter, the client sued Lane and his secretary to recover the funds. There was some dispute regarding whether or not the money given to the secretary was a loan, but there was no dispute that the money was placed in Lane's trust account by his secretary without Lane's knowledge and then subsequently withdrawn without Lane's knowledge.

  The client also alleged that Lane did not provide a full accounting of collection matters handled for the client's company. Although Lane provided the client with all of the files and information available to him, he admitted that his secretary handled all of the client's collection accounts

and that he had no knowledge of the whereabouts of some of the files.

Lane reported the matter to law enforcement and his secretary was subsequently indicted for theft of property in connection with numerous unauthorized withdrawals from Lane's trust account and the unauthorized use of his debit card all totaling $180,000.

Lane failed to make reasonable efforts to ensure that he had measures in place to ensure that his employee's conduct was compatible with his professional obligations. Lane's failure to properly supervise his employee resulted in the mismanagement and misappropriation of his trust account for which he was responsible. Further, Lane's conduct adversely reflected on his fitness to practice law. [ASB No. 10-1172]

- Tuscaloosa attorney **Donnis Cowart** received a public reprimand with general publication on September 16, 2011, for violations of rules 1.3, 1.4 and 3.2, *Alabama Rules of Professional Conduct*. Cowart was retained to represent a client to obtain a guardianship and conservatorship over her first cousin in June 2007. He was paid a $1,500 fee plus filing fees. The client signed the petition in June 2007. Thereafter, Cowart sought to obtain additional medical information, which he received in September 2007. However, Cowart took no further action in the matter and did not file the petition until April 2008. After the petition was filed, the initial hearing was continued due to lack of service on the ward, but Cowart failed to timely notify the client who was traveling from Texas to attend the hearing. Cowart also failed to respond to the client's requests for information regarding the status of the matter and failed to expedite the case consistent with the interests of his client. It is noted that, as mitigation, Cowart refunded the entire fee to the client and eventually completed the matter for which he had been retained, but only after the bar complaint was filed against him. [ASB No. 09-1313(A)] | AL

Please e-mail announcements to Marcia Daniel
marcia.daniel@alabar.org

Due to space constraints, *The Alabama Lawyer* no longer publishes address changes, additional addresses for firms or positions for attorneys that do not affect their employment, such as committee or board affiliations or government appointments. We do **not** print information on attorneys who are not members of the Alabama State Bar.

About Members
This section announces the opening of new solo firms.

Among Firms
This section announces the opening of a new firm, a firm's name change, the new employment of an attorney or the promotion of an attorney within that firm.

About Members

William H. Caughran announces the opening of **Caughran Mediation LLC** at 705 New Hope Mountain Rd., Pelham. Phone (205) 470-6640.

Christopher S. Hamer announces the opening of **Hamer Law Group LLC** at 1400 52nd St. N., Birmingham 35212. Phone (205) 218-4436.

Rukeya L. McAdory announces the opening of **The McAdory Firm LLC** at 200 88th St., S., Birmingham 35206. Phone (205) 370-9094.

Peter A. McIntosh announces the opening of **Peter A. McIntosh LLC** at 153 S. Oates St., Dothan 36301. Phone (334) 671-2555.

P. Mark Petro announces the formation of **Petro Law Firm PC** at 2323 2nd Ave., N., Birmingham 35203. Phone (205) 327-8311.

Among Firms

In the November 2011 issue, N. John Rudd, a member of Johnson & Freedman LLC for eight years, was incorrectly listed as having recently joined the firm.

Adair Law Firm LLC announces that **Matthew R. Hill** has joined as an associate.

The Alabama League of Municipalities announces that **Ken Smith** has been named executive director, **Lorelei (Lori) Lein** has been named general counsel and **Tracy L. Roberts** has been named deputy general counsel.

Armbrecht Jackson announces that **J. Robert Turnipseed** has joined as a partner.

Baker, Donelson, Bearman, Caldwell & Berkowitz PC announces that **Kristopher Anderson** and **Joshua F. Reif** are now associated with the firm.

Burke, Harvey & Frankowski LLC announces that **Allen Schreiber** and **Micah Adkins** have joined the firm.

Butler, Snow, O'Mara, Stevens & Cannada PLLC announces that **Michael B. Beers, A. David Fawal** and **Angela T. Baker** have joined the firm.

Capell & Howard PC announces that **Barbara J. Wells** returned as a shareholder.

The Cochran Firm announces that **Cassie Fleming, J. McDavid Flowers, Jr., E. Leanne Richardson** and **John J. Givens** have joined as associates.

Ralph D. Gaines, III, Ronald J. Gault, Tracy N. Hendrix and **Brandon T. Bishop** announce the formation of **Gaines, Gault, Hendrix & Bishop PC** with offices in Birmingham and Huntsville. **Julie D. Pearce, Shelley D. Lewis** and **Travis G. McKay** have joined as partners, and **Michael P. Barratt, Edward E. Blair, Rebecca C. Donnellan, T. Brian Hoven, Travis I. Keith, Patrick G. Montgomery, Thomas C. Phelps, III, James A. Potts, II,** and **Chad M. Vacarella** have joined as associates.

Gamble, Gamble & Calame LLC announces that **Woodruff R. Jones** joined as an associate.

The **Gardner Firm PC** announces that **Reggie Copeland, Jr.** has joined as a partner.

Cliff Hill, Brent Jordan and **Joseph Greer** announce the opening of **Hill, Jordan & Greer PC** at 929 Merchants Walk, Huntsville 35801. Phone (256) 534-4502.

Kaufman Gilpin McKenzie Thomas Weiss PC announces that **Carla Cole Gilmore; Robert E. L. Gilpin; Clinton D. Graves; John A. Howard Jr.; Sarah S. Johnston; Richardson B. McKenzie, III; Simeon F. Penton; Leslie Pitman; Robert M. Ritchey; Davis H. Smith; George W. Thomas; John Ward Weiss; Brent Wills; Mitchel Hampton Boles; Joseph W. Carlisle; Jonathan S. Harbuck; Jeffrey E. Holmes; David M. Hunt; Kenny Williamson Keith; Spencer A. Kinderman;** and **Lynlee Wells Palmer** are associated with the firm and **Gregg Brantley Everett** and **Samuel Kaufman** are of counsel. The firm will be known as **Gilpin Givhan PC**.

David Hogg and **Aaron Gartlan** announce the formation of **The Hogg & Gartlan Law Firm LLC** at 408 S. Foster St., Dothan 36301. Phone (334) 699-4625.

Huie, Fernambucq & Stewart LLP announces that **Gardner Miller Jett, Jr.** has joined as an associate.

Johnston Barton Proctor & Rose LLP announces that **William Horton** has joined the firm.

Lee & McInish PC announces that **Benjamin H. Barron** has joined as an associate.

Lightfoot Franklin White LLC announces that **Alysia Harris, Erik Harris, Brian Kappel** and **Christopher Yearout** have joined as associates.

Daryl L. Masters, Robbie A. Hyde and **Gary L. Willford, Jr.** announce the formation of **Masters, Hyde & Willford LLC** in Auburn and Muscle Shoals. Phone (334) 246-2333 and (256) 320-2135.

Maynard, Cooper & Gale PC announces that **Lois S. Woodward** has joined the firm.

Milam & Milam LLC announces that **Matthew Brown** has joined as an associate.

Miller & Christie PC announces that **Kyle L. Kinney** has joined as a shareholder and the firm's name is now **Miller, Christie & Kinney PC**.

Bernard Nomberg and **David Nomberg** announce the opening of the **Nomberg Law Firm** at 115 Richard Arrington Jr. Blvd. N., Birmingham 35203. Phone (205) 930-6900. **Joel Nomberg** is of counsel.

Ogletree, Deakins, Nash, Smoak & Stewart PC announces that **Lisa Karen Atkins** has joined the firm.

Phelps Dunbar LLP announces that **Meaghan Erin Hill** has joined the firm.

Robinson Law Firm PC announces that **Charles E. Robinson, Sr.** is of counsel.

Sirote & Permutt announces that **Adam J. Sigman** has joined the firm.

Smith, Spires & Peddy PC announces that **Angel A. Darmer** has joined as an associate.

Starnes Davis Florie LLP announces that **R. Larry Fantroy, Jr.** has joined as an associate.

Stone, Granade & Crosby PC announces that **J. Bradford Boyd Hicks** has become a member.

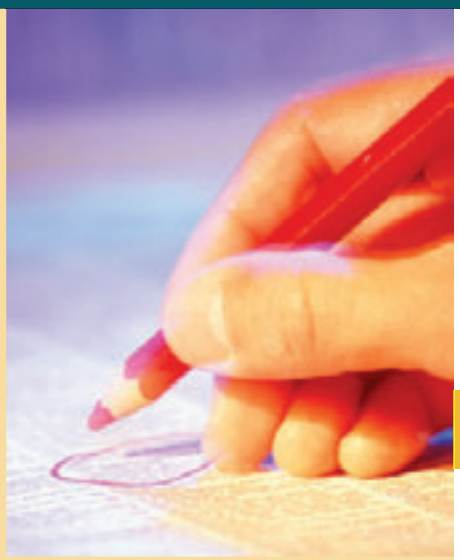
Desi V. Tobias and **Bryan E. Comer** announce the formation of **Tobias & Comer LLC** at 1203 Dauphin St., Mobile 36604. Phone (251) 802-1263.

D. Benjamin Traylor and **Matthew S. Davis** announce the opening of **Traylor & Davis LLC** at 2001 Park Place N., Ste. 875, Birmingham 35203. Phone (205) 322-8558.

M. Brandon Walker and **James M. McMullan** announce the opening of **Walker McMullan LLC** at 242 W. Valley Ave., Ste. 312, Birmingham 35209. Phone (205) 471-2541.

Wettermark Holland & Keith announces that **Jessica Brooks** has joined as an associate.

Wayne L. Williams & Associates LLC announces that **Jessica L. Champion** has joined as an associate. | AL



Positions Wanted

Associate Position

Self-motivated recent bar admittee seeking associate position. Interested in either plaintiff or defense work. Immediately available. May be contacted at *hunt939@aol.com*.

Korean-Speaking Alabama Lawyer

I am interested in immigration law (visa problems), maritime law and corporate law. Many Koreans have recently moved to Alabama due to the numerous Korean factories that have settled in the state. If you are interested in a Korean-speaking attorney, please contact me at *sentlove00@naver.com.*

Positions Offered

Associate Position

Small insurance defense firm seeking qualified, hard-working lawyer with superior writing skills for Birmingham office. Initially will be hired on contract basis with potential for long-term employment. Law review or similar activity required as well as top 15 percent of class. All responses will be confidential. Send resume to *r-lewis@maplaw.com.*

For Lease

Office Space

Office space in historic Southside—2153 14th Avenue S., Birmingham 35205
400 to approximately 2,000 square feet available
$375/$1,750 per month, excluding gas, electrical, janitorial
Newly painted
Newly carpeted
Ample free parking
Convenient to Red Mountain Expressway
Handicap accessible
Call in regards to our rent special!
For further information, call (205) 939-1327 | AL

Looking for a job or to fill a job?

Time is money and we've saved you both!

Announcing ASB Job/Source

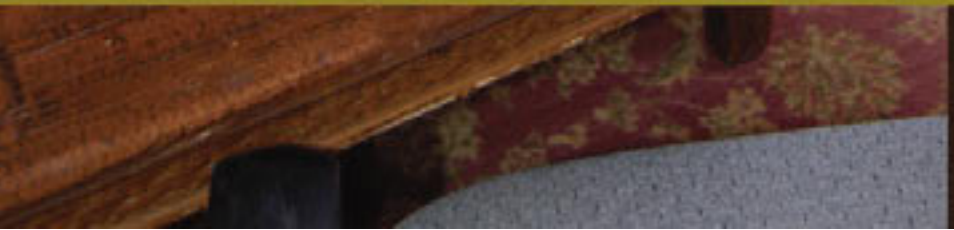
The place for all your advertising needs

Job/Source allows you to pay once and have a classified ad posted directly online as well as appear in the print issue of *The Alabama Lawyer* magazine. It's two for the price of one! And, if you are an ASB member looking for a job, your posting is free, otherwise the cost is $50 for 50 words for 60 days.

Does your law firm have a position available for a lawyer or support staff? Want to get rid of some office furniture or have space available for lease or rent? Are you an expert witness? Here are the classified ad categories:

- Lawyer Position Available
- Office Space (Available or Wanted)
- Goods or Services Wanted
- Support Staff Position Available
- Items for Sale
- Services Offered

Using Job/Source allows you to target your message quickly and easily. With a click of the mouse you reach more than 16,000 lawyers via *The Alabama Lawyer* magazine and then, the same ad is seen by thousands of legal professionals who log-on to alabar.org daily.



If you can use one of these, then you can place an ad on the ASB website and in *The Alabama Lawyer* magazine for $50.

To get all the details, go to www.alabar.org/jobs

Why spend a fortune advertising for qualified candidates or job hunting when you can use Job/Source?

Periodical Postage
Paid
Montgomery, AL