The background of the cover is a photograph of a large concrete bridge spanning a body of water. A white motorboat is moving across the water in the foreground, leaving a wake. The sky is a clear, deep blue. The bridge's structure is visible on the left side of the frame.

The Alabama Lawyer

Vol. 61, No. 3

May 2000

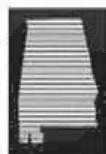
ASB 2000 Annual Meeting —
“The Big Picture: Images of the Law”
(registration form inside)



Having trouble
communicating
with your
commercial
malpractice
insurer?

Call AIM: We're willing to talk!

*NEW
ADDRESS!*



**Attorneys Insurance Mutual
of Alabama, Inc.**

200 Inverness Parkway
Birmingham, Alabama 35242-4813

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

"A Mutual Insurance Company Organized By And For Alabama Attorneys"

www.attysinsmut.com



Forging tools to help you build your
practice is part of our heritage.

**Presenting totally integrated legal research for
Alabama attorneys from West Group**

With West Group, you can count on getting the legal
research tools you need to build a solid practice.

You can choose the content you need, in the formats
you prefer, from reliable, authoritative sources that
have been around about as long as the steel industry
in Alabama.

- ▶ *Alabama Reporter and Code of Alabama 1975*
- ▶ *Alabama LawDesk*
- ▶ *West's Alabama Digest*

**For more information, call your local
Alabama representative at 1-800-762-5272.**



Westlaw.

KeyCite.

Alabama Bar Institute for Continuing Legal Education

Advancing the Legal Profession
through Education and Service

Never has there been a more important time for a lawyer to be a student of the law. Professional growth is indispensable for competence and success. Continuing legal education represents the best means for attaining this growth and transforming a twentieth century lawyer into a lawyer for the twenty-first century.

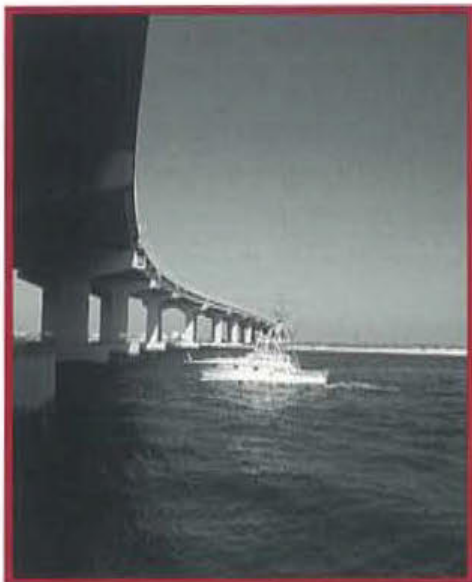
W. Stansil Starnes
Starnes & Atchison LLP
Birmingham, Alabama

THE UNIVERSITY OF
ALABAMA
SCHOOL OF LAW



Call ABICLE at 1-800-627-6514
or 205-348-6230
for program information.





The Alabama Lawyer

Vol. 61, No. 3 May 2000

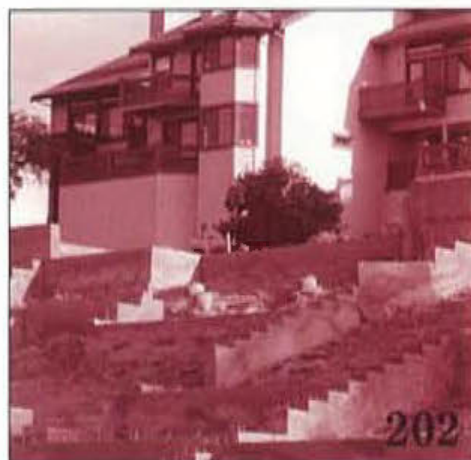
On the Cover

Cruising into Perdido Bay from the Gulf of Mexico, near the site of the Alabama State Bar's annual meeting. The ASB is going back to the Perdido Beach Resort in Orange Beach for this year's meeting, July 14-16. (See the insert in this issue of the *Lawyer* for more information!)

—Photograph by Paul Crawford, JD

IN THIS ISSUE

PROFILE: LARRY WADE MORRIS	154
PROPOSED AMENDMENT OF RULE VI, RULES GOVERNING ADMISSION TO THE ALABAMA STATE BAR	185
SOLICITATION BY ANY OTHER NAME IS STILL SOLICITATION By J. Anthony McLain	190
THE TOP TEN WAYS OF AVOIDING SEXUAL HARASSMENT LIABILITY By Christopher Lyle McIlwain	194
A GUIDE TO MECHANICS' LIENS IN ALABAMA By Keith C. Kantack	202
FEDERAL TAX RELIEF FOR INNOCENT SPOUSES: NEW OPPORTUNITIES UNDER THE IRS RESTRUCTURING AND REFORM ACT By John B. Harper	204



ALABAMA STATE BAR

ONLINE

Check us out at . . .

www.alabar.org

The Alabama State Bar on the World Wide Web

What's New • Publications • On-Line Community •
OGC Opinions • CLE Calendar

DEPARTMENTS

President's Page

150

Executive Director's Report

156

Memorials

162

Bar Briefs

166

About Members, Among Firms

167

Legislative Wrap-Up

170

Building Alabama's Courthouses

174

Disciplinary Notices

209

Young Lawyers' Section

211

Classified Notices

214

Published seven times a year (the June issue is a bar directory edition) by the Alabama State Bar,

P.O. Box 4156, Montgomery, Alabama 36101-4156. Phone (334) 269-1515 • www.alabar.org

Robert A. Huffaker.....Chair & Editor
Susan Shirock DePaola.....Vice-Chair & Associate Editor
David B. Champlin.....Vice-Chair, Finance
Susan H. Andres.....Staff Liaison & Communications Director
Margaret L. Murphy.....Staff Liaison & Managing Editor
Shannon Elliott.....Communications & Publications Assistant

Board of Editors

Robert R. Baugh, Birmingham • Wendell J. Chambliss, Birmingham • David B. Champlin, Birmingham • Glenda G. Cochran, Birmingham • M. Donald Davis, Jr., Mobile • Linda G. Filppo, Birmingham • Victoria J. Franklin-Sison, Birmingham • William G. Gant, Birmingham • Gerri V. Grant, Montgomery • Norman Jelmundsen, Jr., Birmingham • Michael A. Kirtland, Montgomery • Margaret S. Kubiszyn, Birmingham • Deborah S. Manasco, Montgomery • Joyce E. May, Mobile • Hon. Venzetta P. McPherson, Montgomery • Gloria J. McPherson, Montgomery • Alan T. Rogers, Birmingham • Matthew A. Vega, Birmingham • Kevin Walding, Dothan • Robert M. Weinberg, Montgomery

Officers

Wade H. Baxley, Dothan.....President
Samuel A. Rumore, Jr., Birmingham.....President-Elect
Samuel H. Franklin, Birmingham.....Vice-President
Keith B. Norman, Montgomery.....Secretary

Board of Commissioners

1st Circuit, E. Mark Ezell, Butler. 2nd Circuit, Frank A. Hickman, Greenville. 3rd Circuit, William I. Grubb, II, Eufaula. 4th Circuit, Ralph N. Hobbs, Selma. 5th Circuit, Ernestine S. Sapp, Tuskegee. 6th Circuit, Place No. 1, W. Scott Donaldson, Tuscaloosa. 8th Circuit, Place No. 2, J. Douglas McElvy, Tuscaloosa. 7th Circuit, William H. Broome, Anniston. 8th Circuit, William E. Shinn, Jr., Decatur. 9th Circuit, W.N. Watson, Ft. Payne. 10th Circuit, Place No. 1, Samuel H. Franklin, Birmingham. 10th Circuit, Place No. 2, James W. Gwin, Birmingham. 10th Circuit, Place No. 3, J. Mark White, Birmingham. 10th Circuit, Place No. 4, Charles R. Johanson, III, Birmingham. 10th Circuit, Place No. 5, Edward P. Meyerson, Birmingham. 10th Circuit, Place No. 6, Mac B. Greaves, Birmingham. 10th Circuit, Place No. 7, Stephen A. Rowe, Birmingham. 10th Circuit, Place No. 8, Max C. Pope, Jr., Birmingham. 10th Circuit, Place No. 9, Carol H. Stewart, Birmingham. Bessemer Cut-off, George M. Higginbotham, Bessemer. 11th Circuit, Robert L. Gonce, Florence. 12th Circuit, Joseph E. Faulk, Troy. 13th Circuit, Place No. 1, Wesley Pipes, Mobile. 13th Circuit, Place No. 2, Billy C. Bedsole, Mobile. 13th Circuit, Place No. 3, Caine O'Rear, III, Mobile. 13th Circuit, Place No. 4, Celia J. Collins, Mobile. 14th Circuit, Phillip P. Nelson, Jasper. 15th Circuit, Place No. 1, Robert D. Segall, Montgomery. 15th Circuit, Place No. 2, Wanda D. Devereaux, Montgomery. 15th Circuit, Place No. 3, James E. Williams, Montgomery. 15th Circuit, Place No. 4, Thomas J. Methvin, Montgomery. 15th Circuit, Place No. 5, David R. Boyd, Montgomery. 16th Circuit, George P. Ford, Gadsden. 17th Circuit, Taylor T. Perry, Jr., Demopolis. 18th Circuit, John E. Medaris, Pelham. 19th Circuit, John E. Enslin, Wetumpka. 20th Circuit, Rufus R. Smith, Jr., Dothan. 21st Circuit, Everett A. Price, Jr., Brewton. 22nd Circuit, Earl V. Johnson, Andalusia. 23rd Circuit, Place No. 1, Donna S. Pate, Huntsville. 23rd Circuit, Place No. 2, Patrick H. Graves, Jr., Huntsville. 24th Circuit, Charles A. Langley, Fayette. 25th Circuit, Oliver Frederick Wood, Hamilton. 26th Circuit, Homer W. Cornett, Jr., Phenix City. 27th Circuit, John C. Gullahorn, Albertville. 28th Circuit, E.E. Ball, Bay Minette. 29th Circuit, R. Blake Lazenby, Talladega. 30th Circuit, William J. Trussell, Pell City. 31st Circuit, William K. Hewlett, Tuscumbia. 32nd Circuit, Roy W. Williams, Jr., Cullman. 33rd Circuit, Henry F. Lee, III, Geneva. 34th Circuit, Luke E. Alexander, Russellville. 35th Circuit, John B. Barnett, III, Monroeville. 36th Circuit, Timothy D. Littrell, Moulton. 37th Circuit, J. Tuff Barnett, Opelika. 38th Circuit, Stephen M. Kennamer, Scottsboro. 39th Circuit, James M. Corder, Jr., Athens. 40th Circuit, John K. Johnson, Rockford

The *Alabama Lawyer* is published seven times a year for \$20 per year in the United States and \$25 per year outside the United States by the Alabama State Bar, 415 Dexter Avenue, Montgomery, Alabama 36104. Single issues are \$5.00 for the journal and \$25/\$60 for the directory. Periodicals postage paid at Montgomery, Alabama, and additional mailing offices.

ALABAMA STATE BAR HEADQUARTERS STAFF

415 Dexter Avenue, Montgomery, AL 36104 (334) 269-1515 • FAX (334) 261-6310 • E-mail facts@alabar.org
Web site: www.alabar.org

Executive Director.....Keith B. Norman
Executive Assistant.....Margaret Boone
Director of Programs.....Edward M. Patterson
Administrative Assistant for Programs.....Rita Gray
Lawyer Referral Secretary.....Carol Thornton
Mandatory Continuing Legal
Education Director.....Kim Oliver Ward
CLE Administrative Assistant.....Angie Crowe
CLE Secretary.....Valerie Ross
Director of Communications &
Public Information.....Susan H. Andres
Publications Director.....Margaret L. Murphy
Communications & Publications
Administrative Assistant.....Shannon Elliott
Membership Services Director.....Diane Locke
Membership Administrative Assistant.....Myrna McHenry
Pro Hac Vice Administrative Assistant.....Mary Corbitt
Volunteer Lawyers Program Director.....Linda Lund

VLP Administrative Assistant.....Katherine L. Church
Director of Admissions.....Dorothy D. Johnson
Admissions Administrative Assistants.....Heidi Alves
Sonia Douglas
Alabama Law Foundation, Inc. Director.....Tracy Daniel
ALF Administrative Assistant.....Jennifer Bacchus
Bookkeeper.....Gale Skinner
ASB Foundation Assistant.....Ann Rittenour
Graphics Arts Director.....Maggie Stuller
Graphics Arts Assistant.....Roderick Palmer
Receptionist.....Stephanie Oglesby
Alabama Center for Dispute
Resolution Director.....Judith M. Keegan (269-0409)
ADR Administrative Assistant.....Jackie Heartsill
Law Office Management Assistance
Program Director.....Laura A. Calloway
Alabama Lawyer Assistance Program
Director.....Jeanne Marie Leslie (834-7576)
LOMAP and ALAP
Administrative Assistant.....Sandra Clements

ALABAMA STATE BAR CENTER FOR PROFESSIONAL RESPONSIBILITY STAFF

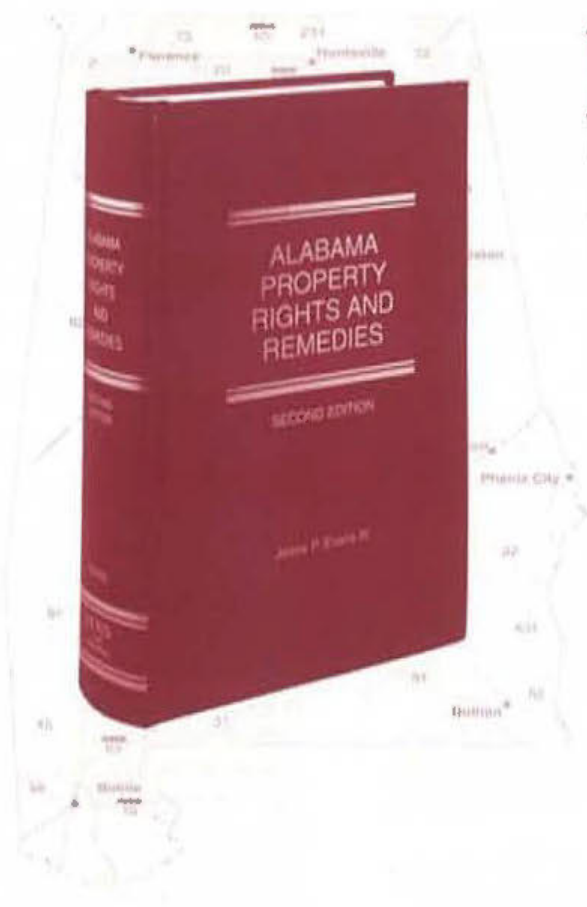
415 Dexter Avenue, Montgomery, AL 36104 (334) 269-1515 • FAX (334) 261-6311 • E-mail cpr@alabar.org

General Counsel.....J. Anthony McLain
Secretary to General Counsel.....Vivian Freeman
Assistant General Counsel.....L. Gilbert Kendrick
Assistant General Counsel.....Milton L. Moss
Assistant General Counsel.....Robert E. Lusk, Jr.

Complaints Intake Coordinator.....Kim Ellis
Client Security Fund Coordinator.....Bonnie Mainor
Paralegals/Investigators.....Cheryl L. Rankin
Carol Wright
Receptionist.....Melissa Burgess

The *Alabama Lawyer*, (ISSN 0002-4287), the official publication of the Alabama State Bar, is published seven times a year in the months of January, March, May, June (bar directory edition), July, September, November. Views and conclusions expressed in articles herein are those of the authors, not necessarily those of the board of editors, officers or board of commissioners of the Alabama State Bar. Subscriptions: Alabama State Bar members receive *The Alabama Lawyer* as part of their annual dues payment; \$15 of this goes toward subscriptions for *The Alabama Lawyer*. Other subscribers do not receive the directory edition of the *Lawyer* as part of their subscription. Advertising rates will be furnished upon request. Advertising copy is carefully reviewed and must receive approval from the Office of General Counsel, but publication herein does not necessarily imply endorsement of any product or service offered. *The Alabama Lawyer* reserves the right to reject any advertisement. Copyright 2000. The Alabama State Bar. All rights reserved.

A comprehensive review of real property rights and remedies...



If your practice deals with real estate and property rights, you need *Alabama Property Rights and Remedies* by Jesse P. Evans.

Find the appropriate right or remedy and build a powerful case in support of your argument. Get the expert guidance you need for every phase from commencement through trial with this definitive work.

Chapters contain forms that can be easily adapted to your specific situation, plus benefit from:

- Checklists
- Analysis of statutory rights and remedies
- Answers to questions unique to the statutory underpinnings of property law.

\$105*

1153 pages, hardbound, with current supplement item #61851-11 © 1998

Examine for 45 days without risk or obligation. Updates issued within 90 days of purchase will be free of charge.

ORDER TODAY! 800/562-1215

or visit our web site and order online at

www.lexis.com/bookstore

Please use code 39N when ordering.

LEXIS Publishing™

LEXIS® NEXIS® • MARTINDALE-HUBBELL®
MATTHEW BENDER® • MICHIE® • SHEPARD'S®

LEXIS, NEXIS and Martindale-Hubbell are registered trademarks, LEXIS Publishing and MICHIE are trademarks and lexis.com is a service mark of Reed Elsevier Properties Inc., used under license. SHEPARD'S is a registered trademark of SHEPARD'S Company. Matthew Bender is a registered trademark of Matthew Bender Properties, Inc. ©2000 Matthew Bender & Company, Inc. All rights reserved.

* Plus sales tax, shipping and handling where applicable. Prices subject to change without notice.



PRESIDENT'S PAGE

Southern Comfort and Northern Exposure



Wade Baxley

One of the bonuses of being a state bar president is meeting and getting to know the presidents of bars in other states and metropolitan areas. As president-elect and president, I have attended three meetings of the National Conference of Bar Presidents, held in conjunction with the annual and mid-year meetings of the American Bar Association. Our state bar is also a member in the Southern Conference of Bar Presidents, a regional organization comprised of all of the southern states with Kansas, Missouri, Oklahoma, West Virginia, and Maryland electing to join with us. Three states (North Carolina, Virginia and West Virginia) in the Southern Conference have two organized bar associations (unified and voluntary) as members of the Southern Conference. In addition to caucuses and social events during the National Conference meetings, the Southern Conference holds an annual meeting in October of each year with one of the member states serving as host in alternating years. Missouri hosted the 1998 meeting in Branson and Tennessee hosted the 2000 meeting in Memphis. I have really enjoyed attending these events and becoming good friends with bar leaders in other states. My predecessors in office have all told me that I would really enjoy attending the Southern Conference functions and that has certainly proved to be the case.

In August of last year, I received a letter from W. Gregory King of the Louisville (KY) Bar Association, proposing the formation of a group of fellow bar presidents randomly selected, spread out geographically across the United States, who would be willing to share their president's page ideas with one another. I agreed to be a participant in this sharing arrangement. It has been interesting for me to note that the problems and issues of the organized bar in Alabama are not unique from those in larger and smaller organized bars around the country, both voluntary and unified. I thought that I would share

some of these articles with you.

The president of the Mississippi State Bar, James O. Dukes of Gulfport, writes about *professionalism and collegiality* in his October 1999 message:

"I am a firm believer that respect is not something which one demands, it is something which must be earned. And, generally speaking, it must be earned individually, lawyer by lawyer, until we gradually change the public's perception of us. There is a saying in politics that political campaigns are not won wholesale, they are won retail. In other words, advertising is great, but person-to-person contact wins campaigns. The same principle applies to the public's perception of lawyers. The public's perception will not be improved wholesale; it must be improved retail, one to one.

"Unfortunately, the converse of that is not necessarily true. Very often the public's perception of us as a profession can be severely damaged wholesale. It only takes one or two bad apples to give us all a black eye. One lawyer who misappropriates the funds of a client or who fails to diligently and properly represent a client can tarnish the entire profession in the eyes of the public. One lawyer using unfair tactics or failing to keep his word can vastly diminish the joy of law practice for all of the other lawyers with whom he deals. We must jealously protect our profession against those who would steal the honor and satisfaction that it should bring to all of us, whether those persons be *outside* of or *within* our profession—our detractors or our own transgressors."

In his March 2000 article, "Just Because You're Paranoid Doesn't Mean They Are Not Out to Get You," Joe Crosthwait of the Oklahoma State Bar talks about *changes and heritage*. He writes:

"While certainly the law itself has changed dramatically over the past 250 years, the institution we call 'the law' has changed very little. Until relatively recently, lawyers have been the unique provider of legal services, in and out of court, and have been the few to possess the 'mystery' of the law through law books and the like and to have, if you will, the key to the courthouse.

"But, like the rest of the world, the legal profession and the administration of justice are in the eye of a strategic inflection point. **Heritage is no longer destiny. We are in an age of revolution from which we will emerge distinctly, and perhaps unrecognizably, different.** But will we be the ones to lead and define that change? Or are we going down the same road as the medical profession?

"If the law were just another company, or just another industry about to become obsolete, it would matter little in the overall order of things what, if anything, we do. But the law is not just another business or industry. It is the foundation upon which our entire society and our system of justice and enlightened self-government are founded. Indeed, without us this change would likely never have occurred! The risk of which I speak is not about our livelihoods and our businesses, though they are clearly in jeopardy. **The great peril is that if we cannot survive as an 'industry' and as a profession, then the underlying core values and the Rule of Law are themselves at stake.**"

Greg King of the Louisville Bar writes about *mentoring* in his February 2000 column:

"The value derived from the purest of mentoring relationships is also not limited to sharpened professional skills or increased financial gain. The highest and best of such relationships, rather, have their own intrinsic value. One's professional success, especially early on, is so much more meaningful and enjoyable when shared with another. Not just with a spouse or best friend, but with a respected mentor. Someone who has invested his or her own time and talents in both the participant and the result. Someone who has been down the same road before, who can personally appreciate the challenges and difficulties you have faced, and who takes sincere pride in your accomplishment. Someone you can mark professional time with, whose respect and acceptance you value, and whose support and companionship make the journey not only tolerable, but enjoyable.

"While the role of mentor is not to be confused with that of family member or clergy, the relationship can, at times, naturally and appropriately involve personal, life issues as well. Most attorneys face similar demands and bear like burdens. More often than not we are paid to handle, indeed live with, other people's problems. At the same time, we must balance the time-consuming demands of law practice with home and personal responsibilities. In doing so, from whom better to learn than a trusted mentor who has already spent years struggling with those same challenges?"

The president of the Delaware State Bar, Donald F. Parsons, Jr., addresses the issues of *specialization and pro bono services* in his January 2000 article:

"A byproduct of our burgeoning legal system is increased specialization. As a bar association, we have responded to that by creating 23 different sections which focus on everything from corporate law to environmental law to workers' compensation. Within a few years, most of you will feel the effects of specialization. Your practices will narrow to two or three specific areas and you will find yourself interacting almost exclusively with a relatively small group of the same attorneys and courts. For me, like many other Delaware attorneys, however, participation in various sections and committees of the Delaware State Bar Association has provided opportunities to work closely with numerous lawyers and judges on issues of importance to all Delawareans. The same opportunities are open to you. I therefore encourage each of you to join one or more sections and let the bar association help you avoid becoming pigeon-holed in some small corner of the legal profession.

"There is one area where we need your help immediately, i.e., in meeting the legal service needs of indigent clients. The provision of such hands-on, pro bono legal service is a professional obligation of every lawyer in this State. Regrettably, less than 50 percent of Delaware attorneys are enrolled as pro bono volunteers with Delaware Volunteer Legal Services. The excuses are numerous, and often relate in some way to specialization. The areas of greatest need for pro bono legal services do not coincide with the normal practice areas of most Delaware attorneys."

For an Expert Business Appraisal, Knowledge and Experience Make the Difference . . .



Deirdre (Dee) Y. Russell,
CIA, JD

Russell Financial Consulting, Inc. is an independent certified professional firm specializing in business appraisals. Deirdre Russell, owner, has the experience and recognized industry credentials that provide the highest quality, expert valuations for businesses and professional practices. Her affiliation with the American Business Appraisers Network, a national coalition of independent business appraisers, expands her resources to offer a wide range of business appraisal needs.

VALUATION SERVICE USES:

- LITIGATION SUPPORT SERVICES
- ESTATE PLANNING
- MERGERS & ACQUISITIONS
- EMPLOYEE STOCK OWNERSHIP PLANS
- INVESTMENT AND FINANCING DECISIONS

RUSSELL FINANCIAL CONSULTING, INC.

BUSINESS VALUATION SERVICES

Post Office Box 241672 • Montgomery, Alabama 36124-1672

Telephone 334.613.6044 • Fax 334.613.6029

Member American Business Appraisers National Network

Andrew S. Hanen, president of the Houston Bar Association, makes some interesting observations in his year-end article for 1999, "The More Some Things Change, The More Some Things Remain the Same." He observes:

"The facts are clear and they are fairly undisputed.

Despite e-mail, faxes, cellular phones, video-conferencing and all the wonderful technology that is leading our society into the 21st century, some lawyers seem determined to fall into the same traps and mistakes that have plagued our profession for the last fifty years. As a profession we all get labeled as 'ambulance chasers' and stereotyped by the unethical conduct of a very small minority. Every year Bar leaders call for new initiatives to improve the image of the legal profession, and the results of such campaigns are never quantifiable. I have no iron-clad solutions, but I do have a strong feeling that if each of us puts into our own practices the effort that is put forth on these larger campaigns, the impact would be greater.

"As this century comes to a close, let us all add a couple of professional resolutions in addition to those to eat less and exercise more. Let us promise to do what we can as individuals to raise the image of the profession and remember that the easiest place to do that is in our own office. Put that technology to work. Return those phone calls to clients. Return those e-mails. Make time to help out that less fortunate person who has asked for help at the Houston Volunteer Lawyers Program or at your church or synagogue. If each of us does his or her share, we can make the 21st century one in which the public may realize the good that lawyers do in our communities, regardless of the profession of our partners. We may or may not be able to affect the big picture and determine who gets to set the rules for the legal profession in the 21st century, but we can surely deal with those issues we face on a daily basis."

This was also the theme of John Brady of the Kansas City Metropolitan Bar in his January 2000 message entitled "A New Millennium, An Old Profession." John makes the following comments:

"I have only been practicing for 20 years. Yet, I have witnessed significant changes in almost every facet of the profession of law. Twenty years ago a new lawyer who entered the private practice of law was not immediately concerned with his or her potential for eventually producing business. When starting a career, a new lawyer just wanted to learn how to be the best lawyer he or she possibly could. Today, because of competition, advertising and other changes, you must be a good lawyer and a lawyer who can produce and maintain profitable business. Twenty years ago it was unusual for lawyers to change firms, or for firms to dissolve or for so many new firms to start up. Today, I look forward to receiving the new Bar Directory each year so that I can find out where many of my colleagues now practice. Twenty years ago, we did not have e-mail, faxes, personal computers at our desk, detail scheduling orders and pretrial conferences or Rule 26, but we did have all of the regional reporters in hard copy as opposed to on-line form.

"The changes that have occurred in the practice of law in the past two decades were mostly inevitable. They were mainly brought about by societal changes. Furthermore, to

a large extent the changes have been good. Undoubtedly, even more changes to the legal profession and the practice of law will occur in the near future. The debate over multidisciplinary practice is raging. It is already here in Kansas City. It has the potential to change the practice of law dramatically. It will be interesting to see where we are as a profession in the year 2010."

Finally, I had a rather unique experience with a fellow Southern bar president. Edith Osman, president of The Florida Bar, lives and practices in Miami which I seriously question as being a Southern city. Edith is a native New Yorker who has maintained her Yankee accent. We first met at the Southern Conference of Bar Presidents in Branson, Missouri, when she sat next to my wife and me at dinner. I'm not sure if it was the noise, the cocktail hour that preceded the dinner or our respective distinctive regional language barriers, but we had a rather difficult time communicating with each other that evening. Edith notes our initial meeting in the president's article as follows:

"For years I've heard stories from my predecessors about the Southern Conference of Bar Presidents. I was intrigued. I looked forward to joining this group when I became president of The Florida Bar. Last year, I finally received my first invitation to the conference. I was invited to spend four days in Branson, Missouri. Branson, Missouri? My big city instincts went into high gear: I anticipated a relaxing—make that boring—four days. Like most people who stereotype, I was flat wrong.

"I sat down to dinner that first evening beside the President of the Alabama Bar. As we began our conversation, I was struck by the fact that I was having great difficulty understanding what he was saying—an unusual predicament for a person who prides herself on the ability to speak five languages. I was struck by the juxtaposition of me, a native New Yorker amidst this predominantly male group of bar presidents from Louisiana, Georgia, Texas, Tennessee, Alabama, West Virginia...! It reminded me of my early Florida Bar work, when I began meeting and working with attorneys from all around the state. Back then, I was introduced to people with names like Rut, Ham, Skip and Major, many nicknames that were at first foreign to me. . . until I grew to love and respect them.

"Just as they had in Florida, the geographical and accent boundaries that I found in Branson came tumbling down. I met men with Southern drawls who fought for integration and women from antebellum homes who persuaded neighbors to hire African-Americans, house immigrants and learned to appreciate people from all religions. I discovered that Southern manners often masked Southern courage. Unlike my 'politically correct' friends from Miami, when these folks fought for civil rights, they were ostracized by neighbors, not honored at black tie dinners. I loved the conference in Branson and couldn't wait to be invited back."

Edith is a great person and we have had a lot of fun kidding each other about our communication skills or lack thereof. Do schools offer "Brooklynese" as a foreign language? If so, I need to sign up.

Space does not permit me to share other fine articles with you from the other members of our "consortium." ■

Sometimes when we send our attorneys to a client, they never return.



It happens all the time. Clients are so pleased with our attorneys that they offer them full-hire employment. As much as we hate to lose our best people, we are gratified to know that we have served our clients so well.

That's why we offer a Temp-To-Hire program. It's a "try before you buy" arrangement that lets you decide if a candidate's skills and personality match your style before you commit to full-hire employment.

So if you'd like a short term solution to your legal staffing needs, call us at (205)870-3330. It may be the most permanent decision you'll ever make.

Special Counsel[®]

The Global Leader in Legal Services

One Independence Plaza • Suite 400 • Birmingham, AL 35209
Telephone: (205)870-3330 • Fax: (205)870-3337

Offices Nationally & Internationally
(800) 737-3436
www.specialcounsel.com

The GLOBAL LEADER In Legal Services



A Modis Professional Services Company

Make a **QUICKCASE**
with

Uncontested Divorce In Alabama

software designed by lawyers for lawyers

Now you can easily complete all of the required paperwork for uncontested divorces in just minutes. Then just print and file at court!

Quick Case's Uncontested Divorce software has everything you need to work smarter not harder and save time and money!

Create:

Complaint
Answer & Waivers
Statement of Non-Represented Party
Testimony of Petitioner
Separation Agreement
Final Decree of Divorce
Child Support Information
CS-41
CS-42
CS-43
Custody Affidavit
Wage Withholding Order

PLUS:

Calculates child support using Rule 32 of the Alabama Rules of Judicial Administration to the nearest dollar in seconds!

Order YOUR copy TODAY!

1-800-752-1140

secure online ordering!

www.quickcase.net

Available Now!

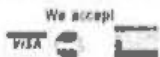
\$695⁰⁰

WINDOW 95/98NT & 2000 Compatible

Call for a **FREE** demo!



Performance Support, Inc.
The trusted name in
software since 1985!



A CaR Software, LLC Product

Performance Support, Incorporated
5950 Carmichael Place, Suite 100
Montgomery, AL 36117
Phone 334-244-9797 • Fax 334-244-9787
Toll Free 1-800-752-1140

PROFILE

Larry Wade Morris

Pursuant to the Alabama State Bar's rules governing the election of president-elect, the following biographical sketch is provided of Larry Wade Morris. Morris was the sole qualifying candidate for the position of president-elect of the Alabama State Bar for the 2000-2001 term, and will assume the presidency in July 2001.

Larry Wade Morris has been a member of the Alabama State Bar since 1968. He was born in Alexander City, Alabama and attended the public schools in the city of Montgomery, where he graduated from Robert E. Lee High School. He is a graduate of Auburn University and the University of Alabama School of Law. While at the University of Alabama, Larry Morris served as president of the student bar.

In 1973, he served as the president of the Young Lawyers' Section of the Alabama State Bar. In 1974, he was elected to the Alabama legislature, where he served until 1978. While in the legislature, Morris was named the outstanding freshman legislator by the Alabama Press Association.

Morris is a member of the University of Alabama Law School Foundation and the Leadership Committee for the College of Arts and Sciences at the University of Alabama. He is also a member of the American Board of Trial Advocates and a past president of the Alabama Trial Lawyers Association.

He formerly served on the Task Force for Judicial Elections for the ASB and is



Larry Wade Morris

currently serving on the Task Force for Multidisciplinary Practice.

Larry Morris is the senior partner in the firm of Morris, Haynes & Hornsby in Alexander City. He is married to the former Beverly Turner of Alexander City, and they have four children: Mark, Anna Clark, Larry Benjamin and Kevin Russell. ■

Bankruptcy Attorney Position Available

Attorney with experience in bankruptcy practice. Salary range: \$33,454 to \$56,362, depending on qualifications and experience. Letter of application, resume and salary history may be submitted until May 19, 2000 to: U.S. Bankruptcy Administrator, Attn: Personnel, One Court Square, Suite 221, Montgomery 36104. Detailed position announcement available at above address or www.almba.uscourts.gov.

The U.S. Bankruptcy Administrator is an Equal Opportunity Employer.



Comprehensive Legal Research At A Price You Can Afford!

Loislaw.com provides Internet access to primary law databases for all 50 states, the District of Columbia plus the 18 most important federal law libraries.

Loislaw.com provides cost-effective, flat-rate legal research pricing, FREE citation services, copying, printing, downloading, and 24/7 tech support.

Put The Power Of Loislaw.com To Work For You.

Try Loislaw.com FREE for 10-days. Visit our website at www.loislaw.com to sign up for your free trial.

www.loislaw.com 877-LOISLAW (877-564-7529)





EXECUTIVE DIRECTOR'S REPORT

By Keith B. Norman

Looking Back at 60 Years of Alabama's Legal Profession, Part IV: The 1980s-1990s



Keith B. Norman

The 1980s began with future bar President William D. Scruggs, Jr. of Fort Payne and future federal judge Lynwood Smith of Huntsville co-chairing a special bar committee studying a mandatory program of continuing legal education for Alabama lawyers. In early 1980, the supreme court heard arguments from the state bar's Committee on Legal Education and Admission to the Bar that the admission rules should be amended allowing only graduates of accredited law schools to sit for the bar exam. The findings of a demographic study of Alabama lawyers, conducted in 1978, were published in *The Alabama Lawyer*. The survey, the first since 1965, revealed that the average lawyer's age was 37. The average age in the 1965 survey had been 43. The survey showed that 70 percent of the lawyers were in private practice, with 75 percent of them practicing alone or in a firm of five or less. The statewide median income for partners was \$44,000; for sole practitioners it was \$25,000. The average hourly rate was \$51.

Disciplinary notices appeared, for the first time, in the January 1980 issue of the *Lawyer*. State bar President Oakley Melton Jr. reported in his "President's Page" of the May *Lawyer* that the FTC had withdrawn its questionnaire aimed at investigating state bars across the country. Five Alabama lawyers became federal district court judges following April 1. They were E.B. Haltom, Jr. of Florence, Robert B. Propst of Anniston and U.W. Clemmon of Birmingham, for the Northern District. In the Middle District, they were Truman M. Hobbs of Montgomery and Myron H. Thompson of Dothan. In May, the Board of Bar Commissioners voted to recommend to the supreme court that continuing legal education be mandatory. Because of limited space at bar headquarters to house additional staff, the Alabama State Bar Foundation purchased a building on Perry Street in Montgomery. The Perry

Street building became the location of the Center for Professional Responsibility. "Preserving Professional Values in the Legal Services Marketplace," by Senator Howell Heflin, addressed concerns about the legal profession becoming less of a profession and more of a business. Newly installed bar President E.T. Brown highlighted several matters in his September "President's Page," including renewed efforts by the FTC to investigate state bars using a "voluntary questionnaire" which the FTC reported it might resort to, instead of a compulsory process to compel answers. He also mentioned that the bar's UPL Committee had filed a *quo warranto* action against the Coffee County Abstract Company. William B. Hairston presented his talk, "The State Bar of Alabama Enters its Second Century," at the annual meeting in July. The investiture of Oscar W. Adams, Jr. as the first black justice on the Alabama Supreme Court took place in October. The Montgomery County Bar Association received the ABA's highest award in 1980, the Award of Merit for Overall Excellence.

The article, "The Alabama Judicial College," by director Thelma Braswell, appeared in the January 1981 issue of *The Alabama Lawyer*. The article explained the mission and the work of the college. Duke Nordlinger Stern's article, "Avoiding Malpractice Claims," was the first article by a law firm consultant appearing in the *Lawyer*. Alabama became the tenth state to have MCLE with the supreme court's adoption of MCLE rules which would become effective January 1, 1982. William D. Scruggs, Jr. became the MCLE Commission's first chair. The supreme court granted Birmingham, Jones and Miles law schools a period of four years from June 1981 to become accredited. With the passage of the Administrative Procedures Act in 1981, Alabama became the 50th state to do so. Docket fees for the Fair Trial Tax fund were increased during the regular session of the 1981 so that the

hourly rate for appointed counsel could be raised. The increase was accomplished in large measure because of efforts of the Committee on Indigent Defense chaired by William N. Clark of Birmingham. Harold V. Hughston of Tusculumbia, who became state bar president in July, died in November. Vice-president Broox G. Garrett of Brewton, who was serving as vice-president, was installed as president.

Opinions of the state bar general counsel became a regular feature beginning with the January 1982 issue of the *Lawyer*. J.O. Sentell retired as clerk of the supreme court in June, and Dorothy Norwood was named acting clerk. The October issue of the *Lawyer* was the last issue edited by Mr. Sentell. Montgomery lawyer Robert A. Huffaker was named as the new editor. Changes in the format and frequency of the magazine were announced. The Eleventh Circuit Court of Appeals began operations in October 1982 as the country's newest circuit. Montgomerian John C. Godbold, who had previously served as chief judge of the old Fifth Circuit, became the new circuit's first chief judge and the only person to serve as chief judge of two circuits. Other Alabamians on the court

included judges Robert S. Vance and Frank M. Johnson, Jr.

The January 1983 issue of the *Lawyer* featured state bar President Norborne C. Stone of Bay Minette on its cover. The magazine's new format included the "President's Page," the "Secretary's Report" (which was later changed to the "Executive Director's Report"), an article by the president of the young lawyers' section (beginning with J. Thomas King of Birmingham) and "Legislative Wrap-up" by Robert L. McCurley, director of the Alabama Law Institute. The first article in the January issue was by future supreme court justice and regular contributor Champ Lyons, Jr. The state bar and the unified judicial system of Alabama were joint recipients of the ABA's prestigious Law Day Public Service Award for 1982. The bar's Law Day Committee had been chaired by Bessemer District Court Judge and future Alabama Supreme Court member Ralph D. Cook and attorney Melinda Waters of Mobile. In July of that year, Tuskegee lawyer Fred D. Gray became the first African American member of the Board of Bar Commissioners. William B. Hairston, Jr. of Birmingham was elected bar president and Edmon

McKinley of Thomasville became president of the YLS. Camille W. Cook, professor of law and director of the Alabama Bar Institute for Continuing Legal Education since 1972, received an award of special merit from the American Law Institute in recognition of her contributions and long service to CLE. Harold Herring of Huntsville was named by state bar President Bill Hairston as chair of a task force to analyze a proposed new constitution. Robert G. Esdale of Birmingham was named as the new clerk of the supreme court.

The January 1984 "President's Page" highlighted the unsuccessful efforts of the state bar to get a license fee bill through the legislature affecting the bar's ability to fund several programs, including a "hot-line" for the bar's alcohol and drug abuse program. President Hairston also noted that legislation was pending in Congress giving the FTC authority to regulate the legal profession. An article by Robert A. Martin of the Administrative Office of Courts reported that the appellate court workload had tripled in 12 years. The March issue of the *Lawyer* was devoted to alcoholism and drug abuse awareness and efforts of the bar's task

The vision to achieve your goals...our mission



Johnston Barton Law Firm



Sirote & Permutt Law Firm



Wallace Jordan Law Firm

THE GARRISON BARRETT GROUP

architecture & interior design

205-870-3090 • garrisonbarrett.com

force to help lawyers facing the disease of addiction. Mobile native Major General Hugh J. Clausen became judge advocate general of the United States Army and Birmingham native Major General Robert W. Norris became deputy judge advocate general of the United States Air Force. General Norris would later become Judge Advocate General of the Air Force. Upon retirement from the Air Force several years later, General Norris was named the bar's third general counsel. Legal secretary Olive Branford Green of Birmingham was profiled in the *Lawyer*. Her career spanned more than 75 years with the London, Yancey firm. The bar's Committee on Governance was appointed to study reapportionment of the Board of Bar Commissioners and the method of electing the bar's president-elect. The committee was chaired by Gary C. Huckaby of Huntsville. Walter R. Byars of Montgomery was elected as state bar president for the 1984-1985 bar year. Robert T. Meadows of Opelika was the YLS president. Judge Frank M. Johnson, Jr. was announced as the recipient of the 1984 Devitt Distinguished Service to Justice Award.

Former supreme court clerk and *Alabama Lawyer* editor J.O. Sentell died in January 1985. "A General Practitioner's Introduction to Patents and Trade Secret Law: A Primer on Intellectual Property," was the first of a three-part series written by University of Alabama Law School Professor and future supreme court Justice Harold See. James L. North of Birmingham was elected bar president in July and J. Bernard Brannan, Jr. became president of the YLS. Fred D. Gray of Tuskegee was installed as president of the National Bar Association. The first bar directory edition of *The Alabama Lawyer* was published in 1985.

"An Urgent Plea for Help From the Alabama State Bar," in the January 1986 *Lawyer* by Dennis N. Balske, chair of the bar's Indigent Defense Committee, highlighted the growing crisis of Alabama's increasing death row inmate population. Chief Justice Torbert and Birmingham lawyer N. Lee Cooper were both re-elected to the board of directors of the American Judicature Society. Alabama lawyer Eric Bruggink was confirmed as a judge of the United States Court of Claims in Washington, D.C. in April 1986. Lynn Robertson Jackson was elected to the Board of Bar Commissioners for the Third Judicial Circuit filing the unexpired term of Eufaula attorney Gorman Houston who was appointed to the supreme court. Jackson became the first woman to serve on the commission. The commission approved the recommendation of the bar's Task Force on IOLTA (interest on lawyers' trust accounts) to create an IOLTA program in Alabama. Paul Bornstein of Office Technology Associates in Atlanta became the bar's endorsed office automation consultant. Due to an extremely difficult professional liability market that had lasted several years, the Board of Bar Commissioners voted to fund a feasibility study of the state bar starting a captive professional liability insurance company for Alabama lawyers. The state bar purchased its first computer in 1986 and began the process of computerizing all bar records. A bar governance bill was passed by the legislature adding representatives on the Board of Bar Commissioners for urban areas and providing for the election of president-elect by mail ballot. Incoming bar President William D. Scruggs, Jr. of Ft. Payne described the major issues facing

the bar as the "four dragons at the door." They were: tort reform; developing standards for specialization; lawyer advertising; and the lack of a reliable professional liability market. Claire A. Black of Tuscaloosa became president of the YLS. In December, the Board of Bar Commissioners adopted the first rules governing election of the president-elect and commissioners.

Chief Justice Torbert was elected chair of the Board of Directors of the State Justice Institute and president of the Council of Chief Justices in 1987. "A Survey of Alabama Lawyers: 1986," conducted by the Capstone Poll, indicated that 11 percent of the bar members were female and 1 percent were African American. The median age was 38 and the median income was \$55,000. The survey also revealed that 72 percent of the bar members were in private practice and the average hourly rate was \$75. In May 1987, the supreme court adopted rules establishing mandatory contributions to a client security fund and an IOLTA program. The state bar became the 25th unified bar with mandatory contributions to a client security fund and the 40th state to establish an IOLTA program. William Morrow, longtime bar counsel, retired in 1987. Ben H. Harris, Jr. of Mobile became state bar president and his law partner, Charles Mixon, became president of the YLS. Former Governor Albert P. Brewer was appointed by President Harris to chair a task force to consider and offer recommendations about the growing problem involving the representation of persons on death row. The Board of Bar Commissioners approved a survey of bar members about the possible formation of a captive professional liability insurance company.

"Building Alabama's Courthouses," by future bar President Samuel A. Rumore of Birmingham, became a regular feature in the *Lawyer* in 1988. I was hired in May as the director of programs to follow Mary Lyn Pike who resigned to accept a position with the American Trial Lawyers Association in Washington, D.C. The Capital Representation Resource Center was created to help in the area of capital litigation. Attorneys' Insurance Mutual of Alabama was incorporated and the effort to capitalize the company commenced in July 1988. Gary C. Huckaby of Huntsville assumed the presidency of the

COLLECTIONS SOFTWARE

ONE-TIME DATA ENTRY • WORDPERFECT/WORD INTERFACE



**DEBTOR MANAGEMENT
SOFTWARE UNIQUELY
DESIGNED FOR
COLLECTIONS ATTORNEYS.**

PRICES START AT JUST \$1700.



**FREE DEMONSTRATION VIDEO
1.800.827.1457**

JS TECHNOLOGIES, INC.
1516 WILLOW LAWN DRIVE
RICHMOND, VA 23230
www.jstec.com

INTEGRATED TICKLER SYSTEM • AUTOMATIC FEE CALCULATION

"THE SIMPLE SOLUTION"

bar and N. Gunter Guy of Montgomery became president of the YLS. Judge Sam C. Pointer, Jr., chief judge of the Federal Court for the Northern District, received the Francis Rawle Award for Outstanding Achievement in Post-Admission Legal Education.

Former state bar President Sonny Hornsby of Tallasee became the 26th chief justice with his investiture in January 1989. The article, "A Survey of Alabama Law Pertaining to Closing Arguments," by Benjamin T. Rowe and future Attorney General William H. Pryor, Jr., appeared in the January *Lawyer*. By late spring 1989, AIM became capitalized with more than \$2,000,000 capital, permitting the company to break escrow and begin writing policies. Uniform Guidelines for Attorney Fee Declarations, as proposed by the Indigent Defense Committee, were approved by the Board of Bar Commissioners. Alva C. Caine of Birmingham became state bar president in July 1989 and James H. Anderson of Montgomery was the YLS president. The Task Force on Possible Restructuring of the Appellate Courts issued its final report. Chaired by Bert

Nettles, the task force recommended that the supreme court become a certiorari court with reach-down jurisdiction, sitting *en banc* without panels or divisions. The report also recommended that the distinction between the intermediate criminal and civil courts be maintained with the civil appeals court expanded from three to 12 members. The first American Inns of Court in Alabama was chartered in October 1989 in Montgomery. The Montgomery chapter became the 92nd chapter in the nation and its first president was Circuit Judge Joseph Phelps. The year ended on a sad and tragic note in December with the bombing death of Judge Robert Vance at his home in Birmingham.

The January 1990 issue of the *Lawyer* reported that in less than a year, AIM had written more than \$1,000,000 in premiums for professional liability insurance. Although the state bar's last midyear meeting had been held in 1985, a special midyear meeting was held in February 1990 in Birmingham to celebrate the Bicentennial of the Bill of Rights. U.S. Supreme Court Justice Anthony Kennedy was the principal speaker for the event. A

three-part series of articles written by members of the Committee on Access to Legal Services analyzed the recently completed legal needs survey leading to the creation of the Volunteer Lawyers Program. Lee Cooper of Birmingham was nominated to chair the ABA House of Delegates in February 1990 and presided from February 1991 through August 1992. Mollie Jordan retired in April 1990 as clerk of the court of criminal appeals. Lane W. Mann was named as the court's new clerk. The Communications Law Section became the bar's 14th section. W. Harold Albritton, III of Andalusia was elected state bar president for the 1991-1992 bar year. Walker Percy Badham, III of Birmingham became president of the YLS. Standards for Delay Reduction became effective October 1 and ground was broken on a new \$3,500,000 addition to state bar headquarters. In December 1990, the board of Bar Commissioners adopted a resolution recommending that judges be chosen by non-partisan ballot.

The Rules of Professional Conduct became effective January 1, 1991, replacing the *Code of Professional Responsibility*. The state bar's Volunteer

DIVORCE

on the

BEACH

-XIV-

July 20, 21 & 22 at The Resort at Sandestin

Name _____
Phone _____
Firm _____
Address _____
City _____ State _____ Zip _____

Registration fee includes 12 hours CLE credit, all materials, a t-shirt and lots of food and fun.

Make your check payable to: **Family Law Section**
Mail completed registration form to: **Divorce on the Beach XIV**
Family Law Section
c/o Wood & Shaw LLC
810 Park Place Tower
Birmingham, AL 35203

IMPORTANT NOTICE:

Room reservations must be made through the **Resort at Sandestin** • Phone 800-320-8115 • Group Code #146717
*Registration is on a first-come, first-served basis. Please register early.

Lawyers-Family Law Section members\$250.00
Lawyers-Family Law Section non-members\$300.00
Law Clerks & Judges\$75.00
Minor childrenFREE
Spouse\$75.00
Late Fee (after June 19)\$25.00

Total Conference Registration\$_____

Enclosed is my check in the amount of
\$_____ for seminar registration.
I know I must make my own reservation for lodging.
Size of T-shirt (please circle one) XXXL XXL XL

Lawyers Program commenced operation with the hiring of its first director, lawyer Melinda Waters. Reform of the Workers' Compensation laws was one of the issues that dominated the 1991 legislative session. The state bar opposed efforts to remove workers' compensation claims from the court system to an administrative system. Circuit Judge Leslie G. Johnson of Florence became the new director of the AOC following the departure of Allen Tapley who resigned to lead the Sentencing Institute. State bar President Harold Albritton was appointed and confirmed as a federal judge for the Middle District of Alabama. He continued to serve as bar president for the remaining portion of his term. By March 1991, more than \$1,000,000 had been raised in pledges and contributions for the state bar building campaign. Former chief justice Bo Torbert, chair of the Alabama Commission on Tax and Fiscal Policy Reform created by the legislature, authored the article, "The Need for Tax Reform in Alabama." Phillip E. Adams, Jr. of Opelika became state bar president for the 1991-1992 bar year and I became president of the YLS. Former state bar President Gary C. Huckaby joined the ABA Board of Governors.

The 1992 legislative session witnessed the passage of legislation permitting the state bar to sell annual licenses which previously had been sold by probate judges or county license commissioners and provided for a two-step increase in the license fee to \$250. Workers' compensation reforms were reviewed by the legislature and finally passed late in the session. State bar president Phil Adams testified before a house committee opposing a proposed tax on professional services. "New Rights for the Disabled," by John W. Hargrove, was the first article to appear in *The Alabama Lawyer* dealing with the Americans with Disability Act. The Civil Rights Act of 1991 was discussed in an article by R. Taylor Abbot, Jr. The supreme court approved new *pro hac vice* rules in March, effective October 1, 1991. The Task Force on Professionalism recommended professionalism training for new admittees, a Code of Professional Courtesy and a Lawyer's Creed. The Board of Bar Commissioners adopted the task force's recommendations. Montgomery lawyer Richard F. Allen, chair of the Disaster Response Task Force, outlined

the bar's disaster response plans in his July 1992 article in the *Lawyer*. Clarence M. Small, Jr. of Birmingham became state bar president and Sidney W. Jackson of Mobile became president of the YLS. The rules for civil court mediation became effective on August 1.

At the start of 1993, Oliver Gilmore was named the new director of the AOC, replacing Judge Leslie Johnson, who resigned to become director of the Mississippi Judicial College. Norma Jean Robbins, admissions secretary since 1979, retired. The May 1993 issue of the *Lawyer* was devoted to African American lawyers in Alabama. In the July issue, state bar President Clarence Small wrote an open letter to Governor James E. Folsom, Jr., encouraging him to implement meaningful education and tax reform for the betterment of Alabama. At the annual meeting in July, the first Kids' Chance Scholarships were awarded. James R. Seale of Montgomery became bar president and Les Hayes, also of Montgomery, was president of the YLS. The Alabama State Bar hosted the 25th anniversary meeting of the Southern Conference of Bar Presidents in Point Clear in September 1993. That fall, the new judicial building was ready for occupancy and the Amtrak train derailment occurred outside Saraland, allowing the state bar to utilize its disaster response plan to deal with parachute lawyers. The November issue of the *Lawyer* highlighted the careers of nine woman legal pioneers, including Maude McClure Kelly, the first woman lawyer admitted in Alabama. Also in November, Birmingham lawyer LaVeeda Morgan Battle was nominated by President Clinton and confirmed as a member of the Legal Services Board of Directors.

The Alabama State Bar Rules of Specialization became effective January 1, 1994. The supreme court abolished the "five-time" rule, thereby giving individuals an unlimited number of times to take the bar exam. The Committee on Judicial Selection released a supplemental report recommending voluntary limits on judicial campaign contributions. The state bar's Quality of Life Survey indicated that overall job satisfaction among Alabama's lawyers was very high, unlike most other bar surveys which indicated a high level of dissatisfaction. The Alabama Supreme Court Commission on Dispute Resolution

was created in July. Also, by July 1994, organizations approved as certifying agencies included the American Bankruptcy Board of Certification, Commercial Law League and the National Board of Trial Advocacy. Broox G. Holmes of Mobile was named bar president and Hal West of Birmingham became president of the YLS. Reggie Hamner retired as executive director after 25 years and I was named to succeed him on October 1, 1994. The Long-Range Planning Task Force recommended a long-range plan for the bar which was adopted by the Board of Bar Commissioners. Lawyers' Co-op was announced as the official publisher of the *Code* for the state, effective the following October (1995), replacing the Michie Company. In October, Susan Andres joined the bar staff as the first full-time communications director and Ed Patterson rejoined the bar staff as the new director of programs and activities. In December, the Board of Bar Commissioners passed a resolution calling for a Third Citizens' Conference to be headed by former Governor Albert Brewer and retired supreme court Justice Oscar Adams. For 1994, the Alabama Law Foundation awarded more than \$800,000 in grants.

Birmingham lawyer Charles A. Powell became chair of the ABA's Section of Labor and Employment Law in 1995. Mobile native Merceria Ludgood, former director of the Legal Services Corporation of Alabama, was selected as director of program services at Legal Services Corporation in Washington, D.C. The state bar's first "Road Show" visited local bars in the spring of 1995. Bar President Broox Holmes convened the first Summit on the Profession in March with representatives from all bar groups and judges' associations participating. Robert W. Norris retired as the bar's general counsel and Assistant General Counsel Tony McLain became the bar's fourth general counsel. John A. Owens of Tuscaloosa was bar president for the 1995-1996 bar year and Buddy Smith of Birmingham was the president of the YLS. Extensive revision to the Ethics Act became effective October 1. Frank W. Gregory became the new director of the AOC in the fall of 1995.

Federal District Judge Seybourn Lynne was honored in February 1996 for having served more than 60 years on the bench, 50 of them as a federal judge. The federal courthouse in Decatur was named in his

honor. The Code of Ethics for Mediators became effective March 1. Fred D. Gray was named a recipient of one of the ABA's Spirit of Excellence Awards, recognizing the contributions of lawyers of color to the legal profession. The state bar went on-line in July 1996, at www.alabar.org. In the first contested race for president-elect using mail ballots, S. Dagnal Rowe defeated Lynn R. Jackson. Warren B. Lightfoot of Birmingham was bar president for the 1996-1997 bar year and Andy Birchfield of Montgomery was the YLS president. Lee Cooper became the second Alabamian to serve as president of the ABA, beginning in August 1996. *The Alabama Lawyer* continued to feature articles on a wide range of topics, including sexual harassment, co-employee liability, ERISA and punitive damages.

Law firm billing practices continued to come under increasing scrutiny as suggested by an article entitled, "The Ethics of Time-Based Billing By Attorneys," written by William G. Ross. William H. Pryor, Jr. was appointed attorney general in early 1997 to fill the unexpired term of Jeff Sessions who was elected to the United States Senate. By March of 1997, the bar's Client Security Fund had paid more than \$214,000 in claims since 1989. The bar's video, "To Serve the Public," was distributed to all local bar associations. The bar's Law Office Management Assistance Program became operational with the hiring of lawyer Laura Calloway to be the program's first director. The annual state bar meeting was held in Montgomery for the first time in 30 years. Dag Rowe of Huntsville became the bar's president and Robert Hedge of Mobile was the YLS president.

In January, 1998, the article, "Net Ethics Concerns Regarding E-Mail and World Wide Web Use by Attorneys," highlighted the increasing use of the Internet by lawyers. President Dag Rowe convened the second Summit on the Profession in April. The article, "Enjoying the 'Payoff' for All Your Hard Work—Personal Money Management for Lawyers," recognized the need for lawyers to consider their own financial well-being. Natural disasters struck Elba (flooding), Birmingham (tornadoes), and the gulf area (hurricane) in the spring and fall of 1998. The state bar cooperated with local bars and Legal Services to help with the legal problems of those affected by the disasters. The

indigent defense bill, supported by the bar to increase the hourly fees for appointed lawyers, was pocket vetoed by Governor James. Victor H. Lott of Mobile became bar president and Gordon Armstrong, also of Mobile, was president of the YLS. Bar member Earle F. Lasseter was elected treasurer of the ABA in August 1998. His term would begin in August 1999. "A Survey of Alabama Lawyers: 1998," revealed that 57 percent of Alabama lawyers were 41 years or older and that the median income was between \$70,000 and \$90,000. The survey indicated that 20 percent of the members were female and 3 percent were African American. Seventy-five percent of the lawyers had access to the Internet and 77 percent had used computerized legal research in the last year. The average hourly rate was \$129. The Alabama Lawyers Assistance Program became operational in September with the hiring of Jeanne Marie Leslie as the program director. Alabama joined 38 other states with similar programs. The legal milestone marker unveiled outside the bar building in December 1998 became the third milestone marker.

In January 1999, the state bar's membership totaled more than 12,000. The build-out of the third floor of the bar building was completed, adding needed space for bar programs and a state-of-the-art video conference facility. Lawyers from the Republic of Kazakhstan visited the state bar to learn about the functioning of a bar association in March 1999. Bar member Teresa Cannady of Albertville had been a technical advisor assisting in Kazakhstan as a part of the ABA's Central Eastern European Initiative in countries of the former Soviet Union. A second, more in-depth visit several months later resulted in the state bar and the Southern Kazakhstan Association of Lawyers becoming partners. On April 15th, the Mobile Bar Association celebrated its 130th anniversary as the 14th oldest bar association in the country. The 25th anniversary of the passage of the Judicial Article was recognized in the May 1999 *Alabama Lawyer* with a series of articles. In June, Governor Siegelman allowed House Bill 53 to become law, thereby increasing the hourly fees for attorneys appointed to represent criminal defendants and equalizing the pay among circuit and district judges by abolishing local

supplements. Wade H. Baxley of Dothan became bar president and Thomas Albritton of Andalusia was elected YLS president. Lee C. Bradley, Jr. of Birmingham died at the age of 102, after a long and remarkable legal career. Judge Frank M. Johnson, Jr. died after a distinguished and storied judicial career. The Women's Law Section became the newest section of the bar and Justice Hugh Maddox was elected to the Board of Trustees of the American Inns of Court. Alabama's 10th Judicial Circuit and the Federal Court for the Middle District of Alabama adopted Standards for Professional Conduct. The standards had been worked on jointly by the Alabama Trial Lawyers Association and the Alabama Defense Lawyers Association. Through the efforts of the state bar's Minority Participation Task Force, the first survey of Alabama's minority attorneys was conducted during 1999 and the results published in the November *Lawyer*. The survey's findings provide important insights relating to the attitudes and perceptions of Alabama's minority lawyers about the state bar and Alabama's legal profession. ■

EVERYTHING YOU NEED



to RUN YOUR PRACTICE

- Completely furnished offices and suites
- Part-time office plans with full-time services available
- Fully equipped conference rooms for meetings and depositions.
- Word Processing, transcriptions, dictation, notary public
- State-of-the-art technology
- High-speed copiers, courier and delivery services
- Access to over 200 locations worldwide

Southbridge
205.414.7000

2100 Southbridge Parkway
Suite 650
Birmingham, AL 35209

Perimeter Park
205.970.6000

One Perimeter Park South
Suite 100N
Birmingham, AL 35243



VANTAS
OFFICING SOLUTIONS WORLDWIDE



MEMORIALS

Richard C. Barineau

Richard C. Barineau, better known to us as "Dick," was called by his maker to his eternal reward on August 26, 1999. Dick was well loved by his family and friends, including his wife, Leslie, and his children and grandchildren.

He struggled valiantly against the disease which ultimately took his life, never losing his personal commitment to his family, his profession, his willingness to learn and experience new aspects of life, and his passions in life, including acting with the Canterbury Players at Canterbury Methodist Church, sailing and golf.

Dick Barineau established a reputation as a person of integrity and dignity and distinguished himself in all aspects of community and professional life, and earned the respect of his fellow lawyers and all who knew him.

In addition to the innumerable host of friends who

mourned his passing, he left behind a loyal and devoted wife, Leslie Ramsey Barineau, a son, Richard Alexander Barineau; daughters Deborah Barineau Simpson and her husband, John; Jennifer Barineau Bandy and her husband, David; Patricia Barineau May, and her husband, Patrick; a sister, Nancy Barineau Bush, and her husband, Roger; and ten grandchildren.

While we recognize that Dick was one of the few of whom it could be said the void created by his passing will never be filled, we are left with the inspiration that was created by his life here on earth. We pause and reflect on his life which was so important to our own, mindful that such reflection can do no less that contribute to a better tomorrow for each of us.

— *S. Shay Samples, president
Birmingham Bar Association*

Andrew Hendrix Knight

Andrew Hendrix Knight of Birmingham died on December 2, 1999 at the age of 95. Hank was born in Columbus, Georgia on September 18, 1904, and grew up in Columbus and Birmingham. He received an A.B. degree in 1929 from Howard College (now Samford University) and was awarded his L.L.B. in 1930 from Harvard Law School.

Hank began his distinguished career as an attorney in 1930 when he joined R. DuPont Thompson in Birmingham. He practiced law at Thompson & Knight from 1930 until March 1941, when he joined the legal department of Tennessee Coal, Iron and Railroad Company. He rose in rank to general attorney and maintained this position when TCI was purchased by United States Steel Corporation in 1953. Hank remained with United States Steel Corporation and headed its Fairfield office until he retired.

Hank was an outstanding member of the Birmingham community, taking a leadership role in almost every civic endeavor in the city. He was a member of the Jefferson County Board of

Education from 1940 until 1951, and served as its president in 1944-45. He was president of the Birmingham Junior Chamber of Commerce, and was a director and vice-president of the Birmingham Rotary Club, where he advanced the club's motto, "services before self." He was a leader in the Birmingham and Alabama chambers of commerce and was extremely active with the Boy Scouts, Red Cross, Community Chest, and the Jefferson County United Appeal. He was also a board member of the Birmingham Symphony Association, the Birmingham Civic Opera Association, the Salvation Army and Judson College.

Hank was a loving and devoted husband and father. He is survived by his wife, Julia; their children, Andrew Roy and Stephen; and four grandchildren. Hank will be remembered by his family, friends and colleagues, not only for his professional and civic accomplishments, but also for his sense of humor, compassion, selflessness and integrity.

— *S. Shay Samples, president
Birmingham Bar Association*

T. Julian Skinner, Jr.

T Julian Skinner, Jr. of Birmingham died on February 25, 1999 at the age of 87. Julian was born on January 10, 1912 and grew up in Bessemer. He received an A.B. degree from the University of Alabama and was awarded a bachelor of laws degree in 1923 from the University of Alabama School of Law. Upon graduation, Julian practiced law in both Bessemer and Jasper, Alabama, where he practiced with the firm of Bankhead, Skinner & Kilgore. After leaving Jasper, Julian returned to Birmingham to continue his practice with Alabama By-Products Corporation. He exemplified the best qualities of a member of the legal profession and was dedicated to his firm and clients.

Julian was a loving and devoted husband, father, grandfather and great-grandfather and a loyal friend. He is survived by his wife, Rubye Walker Skinner; his children, Marjorie Skinner Mullins and T. Julian Skinner, III; his grandchildren, Thomas J. Skinner, IV, Mary Mulling Penton and Joseph Reid Skinner; and his great-grandchildren, Thomas Julian Skinner, V and Katherine Hollon Skinner. Julian will be remembered by his family, friends and colleagues not only for his professional accomplishments, but also for his dedication and integrity.

— *S. Shay Samples, president
Birmingham Bar Association*



Judge Thomas E. Thrift, Sr.

Thomas E. Thrift of Birmingham died July 30, 1999 at the age of 99. He was born in Clay County, Alabama near Ashland on January 4, 1900 and grew up in there. Judge Thrift served in the United States Navy for two years; he was a member of Sigma Delta Chi fraternity. Judge Thrift received his law degree in 1927 from the Birmingham School of Law, where he later taught.

Judge Thrift practiced law in Birmingham and then with the U.S. Department of Agriculture. He returned to Birmingham where he became a judge sitting on the Jefferson County Court of Common Claims. He retired 30 years later in December 1975 at the age of 75.

Judge Thrift was a loving and devoted husband, father, son, brother, and a loyal friend. He was active in the First Christian Church where he taught the men's Sunday School class. Later, he was active in the Eastlake United Methodist Church.

He is survived by his daughter, Louise Thrift, and his son, Thomas E. Thrift, Jr. Judge Thrift will be remembered by his family, friends and colleagues not only for his professional accomplishments but also for his sense of humor, compassion, selflessness, honesty and integrity.

— **S. Shay Samples, president**
Birmingham Bar Association

Alan D. Levine

On March 2, 1999, Alan D. Levine of Birmingham died. Alan was a native of Birmingham and attended grammar school and high school in Mountain Brook and Jefferson County, Alabama. He received his undergraduate and law degrees from the University of Alabama. After graduation from the University of Alabama School of Law in 1967, Alan began his legal career as an associate with the firm composed of his father, Manuel Levine, the late Honorable Clifford Fulford, Lewis Gwaltney and Max C. Pope, Sr. Shortly thereafter, Alan interrupted his practice for further education at New York University School of Law where he was awarded his LL.M. in taxation. He then returned to the firm of Levine, Fulford and Pope to continue his practice of law.

After the death of his father, Alan spent the balance of his career as a sole practitioner in the field of creditor representation

and collection. Because of this, he became a fixture in the bankruptcy courts for the Northern District of Alabama, as was his father. Alan developed a great expertise in the representation of secured and unsecured creditors in bankruptcy cases of all kinds.

He was a long-time member of the Birmingham Bar Association and an acknowledged leader in the field of creditor representation both in the civil courts of this state and in the bankruptcy court.

He leaves as survivors his wife, Susan Roth Levine of Birmingham; his daughter, Eve Levine Borkenhagen, of Atlanta, Georgia; his son, Brett Levine, residing in Auckland, New Zealand; his mother, Julia S. Levine; and his brother, Richard L. Levine, D.D.S. of Birmingham.

— **S. Shay Samples, president**
Birmingham Bar Association

John F. Mandt

John F. Mandt of Birmingham died on January 12, 2000 at the age of 43. John was born in Kingston, New York on January 2, 1957 and grew up in Huntsville, Alabama. He received a bachelor's degree in 1979 from the University of Alabama and was awarded his Juris Doctorate in 1982 from the University of Alabama School of Law. While in law school he served as editor-in-chief of the *Alabama Law Review*, was an M. Lee Harrison Scholar and earned membership in the Order of the Coif.

John joined Balch & Bingham LLP as an associate upon his graduation from law school and became a partner in the firm in 1989. He practiced with Balch & Bingham throughout his entire career in the areas of corporate and project finance, mergers and acquisitions, and securities regulation and was

recognized nationally as an authority in the area of antitrust counseling, compliance, and appellate litigation. He exemplified the best qualities of a member of the legal professional and was dedicated to his firm and its clients.

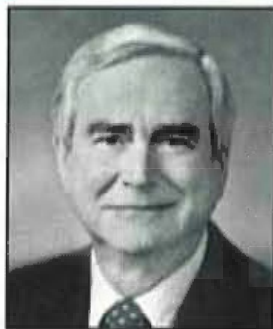
John was also a loving and devoted husband, father, son and brother and a loyal friend. He is survived by his wife, Patricia Trott Mandt; their children, Jennifer, David and Maggie Mandt; his parents, Richard and Jeanne Mandt; and his brothers, Richard and David Mandt. John will be remembered by his family, friends and colleagues not only for his professional accomplishments, but also for his sense of humor, compassion, selflessness and integrity.

— **S. Shay Samples, president**
Birmingham Bar Association



Henry Bascom Steagall II

Henry B. Steagall II was born in Abbeville, Henry County, Alabama on September 4, 1922. He was the youngest child of Orlando Marvin Steagall and Susan Koonce Steagall. He attended the public schools of Henry County and after his graduation from high school, he attended Auburn University. During his tenure in college he enlisted in the United States Navy and spent over three years serving his country in World War II.



After his military service, he returned to Auburn and finished his undergraduate degree. Upon his return to Auburn, he met and married Frances Harvey Rector and they began their journey of 52 years together. In the fall of 1948, he began the study of law at the University of Alabama School of Law and graduated in 1951. After graduating from law school, they moved to Ozark to begin the practice of law.

In 1954 he ran for and won a seat in the Alabama legislature and served the people of Dale County in that capacity until 1970, when he decided not to seek re-election and to return to the full-time practice of law. His friend, George C. Wallace, was re-elected as Governor of Alabama in 1974 and persuaded Henry to join his administration as executive secretary. He served the people of Alabama during that administration and again in a later Wallace administration as finance director. In 1986, he was appointed to the Alabama Supreme Court and remained on the court until his retirement in 1995.

One of his most cherished opportunities was his appoint-

ment to the Auburn University Board of Trustees in 1970. From his position as president *pro tempore* of the board, he was able to accomplish many things for his alma mater. One of his highest priorities while on the board was to ensure that the university's tuition remained as low as possible in order that families from all walks of life could afford to send their children to Auburn to be educated. He was awarded an honorary doctor of laws degree in August 1996.

Putting his long and successful legal, political and judicial career in perspective, it is important to recognize the uniqueness of that career, in that few people have ever served in all three branches of government. There can be few public careers that approach Justice Steagall's: officer in the U.S. Navy during World War II; 16 years on the board of trustees of one of the flagship universities in the state; 16 years in the Alabama legislature; eight years in the highest levels of the executive branch; 27 years practicing law; and nine years on the highest appellate court in the state of Alabama.

The high honors, accomplishments and honorable career do not completely capture the true character of the man. He was a man of impeccable integrity, character and wisdom. Many sought his advice and counsel and few left without some greater understanding of the correct path to follow.

There are some among our fellow Alabamians who do not know the extent of Justice Steagall's influence and accomplishments but the passing of this quiet, unassuming and modest man on November 20, 1999 was a great loss to the legal profession, his friends, his family and this state.

— **Henry B. Steagall, III**
Ozark

Thomas D. McDonald

Thomas D. McDonald, a member of the Huntsville-Madison County Bar Association, was born May 16, 1916 and died September 4, 1999. Tom graduated from Huntsville High School in 1936, obtained a bachelor's of science degree from George Peabody College in 1940 and graduated from the University of Alabama School of Law in 1948.

He served his country by volunteering for military service in June 1941, serving in the United States Infantry.

In 1948, Tom began a 50-year period of service to the legal community, which culminated with the presentation to him of the Alabama State Bar's award recognizing 50 years of legal service, during which he served as a judge in the General Sessions Court of Madison County, as city attorney for the cities of Madison and New Hope and as president of the Madison County Bar Association.

Tom was an active member of his church, serving as a trustee, elder and Sunday School teacher at Central Presbyterian Church, and an active contributor to his com-

munity, devoting time to numerous civic and charitable organizations, including the advisory board of the Salvation Army, the Lions Club, the American Legion and the Huntsville Civic Club Council.

In addition to his professional and community participation, Tom contributed to the cultural life of the community through the exhibition of his artwork and through his active participation in and support of the Huntsville Art League and other organizations across north Alabama that promoted and supported the arts. After many years of professional, public and community service, Tom McDonald still maintained a courteous, friendly and respectful demeanor with all who knew him.

The Huntsville-Madison County Bar Association suffered the loss of a valued member who contributed unselfishly to the association, the profession and his community.

— **Charles G. Robinson, president**
Huntsville-Madison County Bar Association



Judge B. G. Robison, Jr.

Judge B. G. Robison, Jr., retired Pickens County district judge, passed away on January 1, 1999 at the age of 87. Judge Robison had a long and interesting career, both in the practice of law and in public service. The son of Judge B. G. Robison, Sr., an attorney and probate judge of Pickens County from 1917 to 1953, and Virginia Hill Robison, Judge Robison was born April 15, 1911.

A graduate of Marion Institute and the University of Alabama, he began the study of law at the University before World War II, but left to serve his country during the war in the United States Navy. He served with the Seabees in Alaska, then in troop convoy escort duty in the Atlantic and Mediterranean, being discharged with the rank of lieutenant, NSNR, in 1945.

After the war, he finished law school at the University of Alabama and went into private practice, first with his father in the firm of Patton, Patton & Robison, and then with Dare Patton, in Carrollton, Alabama, where he lived his entire life. After Mr. Patton's retirement, Judge Robison continued in solo practice. During this time he served one term in the Alabama State Senate, from 1963 to 1967. He also served on the initial Tenn-Tom Waterway Development Authority board.

In 1972, he was elected judge of the newly created Court of General Sessions, a court of general jurisdiction, and served in that position until the establishment of the Unified Judicial System, whereupon, in 1977, he became Pickens County's first district judge. He was re-elected to the later office in 1980 and served in that capacity until his retirement in January 1987.

Judge Robison was a Yellow Dog Democrat, and a man who doggedly stuck to his convictions. Mrs. Lois Robison, the judge's widow, described him thusly: "A family man, devoted to family, country and church, and to the Democratic Party. He studied over serious matters at length, but when he made up his mind he stood his ground." Fiercely independent, he had a great capacity for recall, and was a wonderful storyteller. He was a member of Carrollton Presbyterian Church.

He leaves surviving him, in addition to Mrs. Lois, three stepchildren, Ronnie, Iris and Ira, and many relatives and friends. Memories of Judge Robison will be cherished for years to come by those who knew him, among them the members of the Pickens County Bar Association, by whom this tribute is respectfully submitted.

— Judge Tom Woodard
Pickens County District Court

Campbell, Woodley Clark, Jr.

Montgomery

Admitted: 1977

Died: February 17, 2000

Hare, William Crumpton

Alexander City

Admitted: 1931

Died: August 25, 1999

Harwood, Victor C., III

Hackensack, New Jersey

Admitted: 1960

Died: February 13, 1999

McDonnell, Floyd T.

Mobile

Admitted: 1939

Died: July 8, 1999

Moore, George Joseph

Mobile

Admitted: 1948

Died: July 8, 1999



Mysinger, Jim Lee

Montgomery

Admitted: 1987

Died: December 24, 1999

Oliver, John Percival

Dadeville

Admitted: 1948

Died: July 27, 1999

Osborne, Richard Lewis

Eutaw

Admitted: 1975

Died: October 30, 1999

Salmon, Michael Joseph

Gulf Shores

Admitted: September 8, 1955

Died: August 29, 1999

Teel, Harry R.

Birmingham

Admitted: 1947

Died: November 15, 1999

Teks, J. Arnold

Florence

Admitted: 1938

Died: September 28, 1999

Wilkinson, Joseph David

Birmingham

Admitted: 1949

Died: August 1999



BAR BRIEFS



Lawyer-artist Fred Simpson and his wife, Peggy, with his painting "Precedent," given to the ASB

• Huntsville lawyer and artist **Fred B. Simpson** recently presented the Alabama State Bar with copies of two of his paintings. Fred, who was admitted to the state bar in 1965, is well-known in the Huntsville area for his artwork featuring local lawyers.

He and his wife have three children. Their son and daughter-in-law, Derek and Shannon Simpson, are also lawyers. Derek practices with his father in the firm of Simpson, Simpson & Williston. Shannon practices with the firm of Wilmer, Cates, Fohrell & Kelley.

In addition to painting, Fred has researched and written several historical articles.

• **J. Paul Compton, Jr.**, a partner with the firm of Bradley Arant Rose & White LLP, has been named chair of the American Bar Association Forum on Affordable Housing and Community Development Law.

• In February, **Cumberland School of Law, Samford University**, held its first annual Women in Law Reunion. Over a two-day period, Cumberland's women graduates had the opportunity to renew friendships, share ideas and strategies for professional development, and meet and mentor the next generation of Cumberland lawyers. Three female graduates were recognized for their contributions, including Alabama State Bar member **Martha Jane Patton**, who is head of the Legal Aid Society of Birmingham. Patton was a founding member of the women's sections of the Birmingham Bar Association and the ASB. ■

\$299.00

Early Bird
Special

Child **CS²**
Support
COMPLIANCE
SYSTEM

**The Right Software
at the Right Price!**

CS² makes processing child support easier! Capture all general case information, create actual "what if" income scenarios, view/print forms CS-41, 42 and 43 and calculate missed payment and back interest. CS² is windows 9X and up compatible and requires no other software applications. Order your copy Today!



To purchase your copy of CS² call (334) 202-4646. You can download a demo-presentation of CS² at www.squareroot-inc.com or call and request a demo-presentation disk!

Square Root Solutions is committed to providing quality products and services at competitive prices.



ABOUT MEMBERS, AMONG FIRMS

Due to the huge increase in notices for "About Members, Among Firms," *The Alabama Lawyer* will no longer publish addresses and telephone numbers unless the announcement relates to the opening or address change of a firm or solo practice. Please continue to send in name and/or address changes to the Alabama State Bar Membership Department, at (334) 261-6310 (fax) or P.O. Box 671, Montgomery 36101.

About Members

Joel S. Rogers, III announces the opening of his office at 1622 7th Street, North, Suite 130, Clanton, 35045. Phone (205) 755-7880.

June Wang announces the opening of her office at 200 Clinton Avenue, Suite 608, Huntsville, 35801. Phone (256) 534-7788.

Dana Grimes announces the opening of her office at 505 Alabama Avenue, Southwest, Fort Payne, 35968. Phone (256) 997-9729.

Jerry W. Schoel announces the opening of his office, **The Schoel Law Firm**, at Mountain Brook Center, Suite 160, East, 2700 Highway 280, South, Birmingham, 35223. Phone (205) 278-6644.

A.W. Bolt announces the opening of an additional office at 214 16th Street, North, Bessemer. Phone (205) 428-0668.

Among Firms

Robert P. Reynolds, P.C. announces that **Robert D. Reynolds** has joined the firm as a partner and that **Jackson E. Duncan, III**, has become a partner. The firm name has changed to **Reynolds, Reynolds & Duncan, P.C.**

Helmsing, Sims & Leach announces that the firm name has been changed to

Helmsing, Leach, Herlong, Newman & Rouse. **John T. Dukes** has become a member of the firm and **Russell C. Buffkin** has become associated with the firm.

Hand Arendall, L.L.C. announces that **Brannon D. Anthony** has become a member of the firm and that **William H. Reece, Heather H. Crumpton, Ginger P. Gaddy, W. Craig Hamilton, Aaron L. Dettling, Geoffrey K. Gavin, and Norman M. Stockman** have become associates of the firm.

Owens & Almond, L.L.P. announces that **Anna Northington Hutcheson** has become a partner of the firm.

Maddox, Austill, Parmer & Lewis, P.C. announces that **K. Donald Simms** has joined the firm as a shareholder.

W. Gregory Biddle announces the formation of **The Biddle Law Firm, L.L.C.** Offices are located at 2015 First Avenue, North, Suite 405, Birmingham, 35203. Phone (205) 458-1100.

Hall, Conerly, Mudd & Bolvig, P.C. announces that **K. Phillip Luke** has become a shareholder and **Brett J. Thompson** has become an associate of the firm.

Gregory K. Morgan announces the formation of **Morgan & Associates** and that **Jere Colley, Jr.** has become associated with the firm. Offices are located at 2108 Executive Park Drive, Opelika, 36801. Phone (334) 749-5570.

Olen & Nicholas P.C. announces that the firm name has been changed to **Nicholas & Copeland P.C.** and that **S. Russell Copeland** has joined the firm. Offices are now located at 166 Government Street, Suite 200, Mobile, 36602.

Allison, May, Alvis, Fuhrmeister & Kimbrough, L.L.C. announces that **Laurie Boston Sharp** has become a partner in the firm and that **Janine M. Burrell** has become associated with the

firm. The firm name has been changed to **Allison, May, Alvis, Fuhrmeister, Kimbrough & Sharp, L.L.C.**

Hatcher, Stubbs, Land, Hollis & Rothschild announces that **Gregory S. Ellington** has become a partner of the firm.

John Gregory Carwie and Richard W. Fuquay announce the formation of **Carwie & Fuquay, P.C.** Offices are located at 1111 Dauphin Street, Mobile, 36604. Phone (334) 433-8383.

Lloyd, Schreiber & Gray, P.C. announces that the firm name has changed to **Lloyd, Gray & Whitehead, P.C.** and that **Laura C. Nettles** has become a shareholder with the firm.

"Best Case...has improved my efficiency, allowing me to file petitions faster and with greater accuracy...I highly recommend it."
—Richard Strassman, Attorney, Irving, DeBakei & Cummings, L.L.P., New London, CT

BEST CASE BANKRUPTCY

NEW! VERSION 8.0

FASTER, SMARTER, EASIER TO USE.

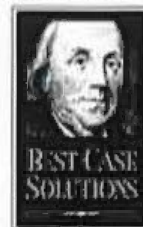
Best Case Bankruptcy for Windows is the friendliest, most powerful software available for preparing debtors' forms.

Several packages available including a Multi-User Network Version. Our prices include toll-free support and free updates for one full year.

1.800.492.8037

Call us today for your
FREE evaluation version,
brochure and price list,
or reach us on the web at
www.bestcase.com

Best Case Solutions, Inc.
P.O. Box 32
Evanston, IL 60204



VISA • MASTERCARD • AMERICAN EXPRESS • DISCOVER
60 DAY MONEY-BACK GUARANTEE!

Patton, Latham, Legge & Cole announces that **B. Chadwick Wise** has become associated with the firm.

Watson, deGraffenried, Hardin & Tyra, L.L.P. announces that **John Foster Tyra** has joined the firm as partner.

First American Title Insurance Company announces that **Donna J. Snider** has been appointed state counsel and that **Daniel P. Rosser** has been appointed as associate state counsel.

Hare, Hair & White, P.C. announces that **Stephanie White Schmidt** has become of counsel and the firm name has been changed to **Hare, Hair & Clement, P.C.**

Corley, Moncus & Ward, P.C. announces that **Kenneth Joe Wilson, Jr.** has joined the firm as an associate.

Holt, Cooper & Upshaw announces that **Kelli Hogue-Mauro** has joined the firm as a partner.

Brackin & McGriff, P.C. announces that **Stephen P. Johnson** has joined the firm as an associate.

Tracy C. Wooden announces the formation of **Wooden, Ray, Fulton & Scarborough, P.C.** Offices are located at 737 Market Street, Suite 620, Chattanooga, Tennessee, 37402. Phone (423) 756-9972.

Bradley Arant Rose & White LLP announces that **Russell M. Cunningham, Brian R. Hinton, Joel M. Kuehnert, T. Gregory Peterson, Gregory H. Revera, James V. Stewart, Stacey A. Thurman, and Chad C. Walters** have become associated with the firm and that **Ben Erdreich** has joined the firm.

Guilford Capital Corporation announces that **John S. Bowman, Jr.** is now serving as vice-president of acquisitions.

Johnston, Barton, Proctor & Powell, L.L.P. announces that **M. Jefferson Starling, III, Randall D. McClanahan** and **Helen Kathryn Downs** have become partners of the firm.

Holliday & Associates announces that **M. Brian Slaughter** and **Celeste Patton Armstrong** have joined the firm.

Leitman, Siegal & Payne, P.C. announces that **W. Hal Parrish, Jr.** has become associated with the firm.

Ables, Baxter, Parker & Hall, P.C. announces that **D. Milburn Gross, Jr.** has become associated with the firm.

McKoon, Billings, Gold & Presley, P.C. announces that **Kevin L. Featherston** has become a member and shareholder of the firm.

Edwards & Edwards announces that the firm name has been changed to **Edwards & Edwards, P.C.**

Evans, Jones & Reynolds, P.C. announces that **William Lee Horn** has joined the firm.

Adams, Spivey & Adams, L.L.C. announces that **Lynn Robertson Jackson** and **G. Thomas Jackson** will be of counsel to the firm. ■



J. Forrester DeBuys, III
J. Forrester DeBuys, III CLU

You establish goals for creating wealth. We help you meet your goals, while protecting your family and estate through insurance and financial products.

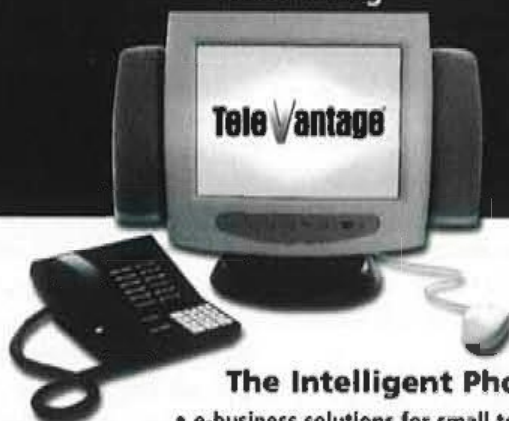


The Company You Keep.®

2311 Highland Avenue South
Suite 100
Birmingham, AL 35205
205/933-0302

the vital information you **DID NOT** find.
the essential customer you **COULD NOT** satisfy.
the phone system you **WISH YOU HAD** replaced.

Introducing



The Intelligent Phone System

- e-business solutions for small to mid-sized companies
- combining the convenience of your telephone with the intelligence of your computer

MITCHELL
The WAYNE
CORPORATION

www.mwsys.com • e-mail: tvinfo@mitchellwayne.com
BIRMINGHAM • 205-879-3936 • FAX 205-879-3934

Artisoft®

*Legal matters should
be left to the experts...
document handling should be, too!*

*Does your law firm need
quick cataloging and Bates
stamping of case
documents?*

*Do you need accurate,
reliable and quick
retrieval of your
documents?*

*Would you like to have access to
every document in your case
whether you are in the office, at home, or
traveling?*

*Would you like to make sure you never lose or misplace
another document or file?*

*Would your time and that of your paralegal be better
spent on case work rather than filing and searching for
documents?*

If you answered "yes" to any of these questions, our document storage and retrieval is for you. Century Document Imaging has an impeccable reputation. For 25 years we have specialized in document management. We are fast, accurate, reliable and confidential. Our past has been built on these qualities, and our future depends on them.

Century can scan all your case documents and put them on a CD, enabling you to retrieve them on your laptop computer anywhere you go. Carry the entire case documents, up to 15,000 pages on a single CD. You never lose or misplace a document or file because each one is instantly retrievable from the CD. You can

even have duplicate CD's made for others working on the case. When you have to produce documents to the "other side", you can give them a duplicate CD, without privileged documents.

No matter where you are located, you may send your documents to Century for imaging, or we can arrange for pickup. If you prefer, we will even do the document imaging on site without ever removing a file from the premises.

Paper handling is a necessary part of any business, especially the legal profession. Let us save you and your staff time and headaches. *Legal matters should be left to the experts; document handling should be, too!* Call Century.

CENTURY DOCUMENT IMAGING

Call today and ask for "Litigation Support."

Atlanta, GA
404-262-2300

Birmingham, AL
205-591-7755

Montgomery, AL
334-270-1755



LEGISLATIVE WRAP-UP

By Robert L. McCurley, Jr.

The Alabama legislature, at its halfway mark, is operating very peacefully and in a professional manner. The Senate had before it approximately 500 bills, while the House had approximately 700 under consideration.

The Law Institute's legal counsel to the Senate Judiciary is attorney **LaVeeda Morgan Battle**, from Birmingham. For more than 20 years the Institute has provided legal counsel to the House and Senate Judiciary.

For the first time, in the history of our state, each committee of the House of Representatives is staffed with legal counsel who are as follows:

House Judiciary.....	Pam Higgins, Montgomery
Boards and Commissions	Pam Higgins
Local Government.....	Flynn Mozingo, Montgomery
State Government	Flynn Mozingo
Commerce	Steve Marshall, Guntersville
Banking and Insurance	Steve Marshall
Health.....	Mary Ellen Lamar, Decatur
Agriculture, Forestry &	Mary Ellen Lamar
Natural Resources	
Education	John Adams, Montgomery
Elections	Beth Moscarelli, Montgomery
Internal Affairs.....	Bob McCurley, Tuscaloosa
Marketing	Bob McCurley
Ways and Means, General Fund.....	Legislative Fiscal Office
Ways and Means, Education.....	Legislative Fiscal Office

Mergers and Consolidation of Business Entities passed both houses of the legislature and will become effective October 1, 2000. This will provide a convenient and simple way for the different types of business entities for profit to convert or merge with each other. This bill was sponsored by senators **Roger Bedford**, **Steve French** and **J. T. Waggoner**, and Representative **Bill Fuller**. The legislature also has under consideration two other matters drafted by the Alabama Law Institute: The Uniform Principal and Income Act and the Uniform Determination of Death Act.

The legislature is considering a moratorium on the death penalty as well as changing the form of the death penalty to include death by lethal injection. Alabama is one of two states that provides electrocution as the sole means of carrying out its death penalty.

There are several family law bills being considered concerning standards on custody and the creation of a family court in each county.

County officials' minimum pay was increased, taking into account the size of the counties. For counties over 200,000 persons the officials receive no increase since local legislation determines their pay.

Sheriffs' minimum pay will be \$50,000. The amount of pay increase for county commissioners and judges of probate will increase 15, 17 or 20 percent, depending on the size of the county.

(Continued on page 172)

Pro Bono Award Nominations

The Alabama State Bar Committee on Volunteer Lawyer Programs (formerly the Committee on Access to Legal Services), is seeking nominations for the Alabama State Bar Pro Bono Award. Nominations forms can be obtained by contacting:

Linda L. Lund, director
Volunteer Lawyers Program
Alabama State Bar
P.O. Box 671
Montgomery, AL 36101
(334) 269-1515

The Alabama State Bar Pro Bono Award recognizes the outstanding pro bono efforts of attorneys, law firms and law students in the state. The award criteria includes but is not limited to the following: the total number of pro bono hours or complexity of cases handled, impact of the pro bono work and benefit for the poor, particular expense provided or the particular need satisfied, successful recruitment of other attorneys for pro bono representation, and proven commitment to delivery of quality legal services to the poor and to providing equal access to legal services.

Nominations must be postmarked by May 15, 2000 and include a completed Alabama State Bar Pro Bono Awards Program nomination form to be considered by the committee.



ALABAMA STATE BAR

**ALABAMA STATE BAR MEMBERS
TAKE NOTE OF THIS FIRST CLASS OFFER**

**MAJOR MEDICAL INSURANCE
ISSUED ON A
*GUARANTEED ACCEPTANCE BASIS***

ISI provides quality benefits for members, employees, and eligible family members.



Administered by Insurance Specialists, Inc.

**Underwritten by New York Life Insurance Company
51 Madison Avenue, NY, NY 10010
*Policy Form GMR***



EST. 1959

THIS COMPETITIVELY PRICED PLAN INCLUDES:

- ◆ 100 % coverage for In-Network provider office visits
(\$15 co-pay applies - max \$200 per visit)
- ◆ Co-pay prescription card with the \$500 deductible plan
- ◆ Deductible choices of \$500 or \$1,000 per calendar year
- ◆ 80/20 In-Network and 60/40 Out-of-Network PPO Plan
- ◆ \$3,000,000 per person maximum (some restrictions apply)
 - ◆ Maternity covered as any other condition
- ◆ Endorsed by the Alabama State Bar Association

DON'T MISS OUT.....Call or fax your request for more information (including features, costs, eligibility, renewability, limitations and exclusions) TODAY to:

**INSURANCE SPECIALISTS, INC.
33 Lenox Pointe, N.E. ♦ Atlanta, GA 30324
(800) 241-7753 ♦ (404) 814-0232 ♦ Fax (404) 814-0782**

Tax assessors, tax collectors, revenue commissioners and license commissioners will receive an increase, not to exceed \$10,000 per year.

There are some counties that must vote to receive the raises, while others must vote not to receive them. These raises will take effect October 1, 2000. Also on that date probate fees, under *Alabama Code* Section 12-19-90, will increase to provide funds for these raises.

The legislature again is seriously considering a revision of Alabama's Constitution. This year the primary focus has been on Article I, "Declaration of Rights." The current 39 sections have been reduced to 19, deleting antiquated sections. Also, Article II, which delineates state and county boundaries, has been modernized.

It's anticipated that over the next several years the legislature will review the 17 articles of the Constitution to modernize Alabama's almost 100-year-old Constitution. These efforts are spearheaded by Representative **Jack Venable**,

chairman of the House Rules Committee, from Talladega, Alabama.

The Law Institute currently has several committees working on major revisions:

1. **Business Entities**—This committee is reviewing eight forms of business entities in Alabama to determine areas that are in common. The first item standardized was merger and consolidation. This will provide a consistent procedure in such items as filing, etc., leaving the identity of the entity intact.
2. **Uniform Prudent Investor Act**—This Uniform Act has been passed in 33 states in the last two years. Alabama's review will not be completed until next year.
3. **Article 9-Uniform Commercial Code**—Article 9 is under review. This is a very extensive revision of Alabama's current secured transactions law. This revision will be under study for at least another year.

Institute committees were reviewing the Uniform Public Employee Pension Fund Act and Alabama's Eminent Domain Law. Both studies have been suspended without any bills being recommended.

For more information about the Institute or any of its projects, contact Bob McCurley, director, Alabama Law Institute, P. O. Box 861425, Tuscaloosa 35486-0013; fax (205) 348-8411; phone (205) 348-7411; or www.law.ua.edu/ali.



Robert L. McCurley, Jr.

Robert L. McCurley, Jr. is the director of the Alabama Law Institute at the University of Alabama. He received his undergraduate

and law degrees from the University.

Want to help improve the image of the legal profession? It's easier than you think!

Why? Because of the ASB's "To Serve the Public" Video Presentation -- a complete package that includes an award-winning eight-minute video, speech points and even brochures for the audience. It's suitable for civic groups, schools or any community organization. Every local bar association has a copy of the presentation or you can just call the ASB (800-354-6154) and request one.

Imagine the impact if Alabama lawyers across the state did just one presentation in their local community. That's right -- there would be over 10,000 positive messages going out about the legal profession!

And it is really easy to do -- no prior preparation is needed. Just pick up the video presentation package and go! Even if you still have a little 'stage fright,' don't worry. You'll end up being as impressed by what Alabama lawyers do as the audience is!

It begins with you.

TO SERVE



THE PUBLIC

YES, I volunteer to present or to help schedule a presentation of "TO SERVE THE PUBLIC" to groups in my area. Contact me to make arrangements!

NAME _____

BAR ASSOCIATION _____

PHONE OR E-MAIL _____

OBJECTION!



If you're not insured with the Attorneys' Advantage Professional Liability Insurance Program... you should object to your current insurer on the following grounds:

1. **You may be paying too much for your liability coverage.**
2. **You may not have the broad coverage you really need.**

Attorneys' Advantage Professional Liability Insurance offers broad coverage...up to \$10 million in limits. Program benefits include:

- **First Dollar Defense**
- **Claims Expense in Addition to Liability Limits**
- **Risk Management Program**
- **Full Prior Acts Coverage Available**

Best of all, it's underwritten by TIG Insurance Company, A.M. Best rated "A" (Excellent), XI.

Don't delay! For more information, including a no-obligation quotation, call today. Plus you'll receive a free copy of *The Quarter Hour*, the newsletter for Attorneys' Advantage insureds that contains useful, practical information on ways to manage risk in your practice.



PLI Professional Liability Insurance, Inc.

Professional Liability Insurance, Inc.
300 Delaware Avenue • P.O. Box 2287
Wilmington, DE 19899

1-800-441-9385

Fax: 1-800-716-3411

www.zutz-pli.com/lawyers.html

TIG INSURANCE_{SM}

Attorneys' Advantage[®]
Professional Liability Coverage
On Favorable Terms



BUILDING ALABAMA'S COURTHOUSES

By Samuel A. Rumore, Jr.



Dale County

Established: 1824

The following continues a history of Alabama's county courthouses—their origins and some of the people who contributed to their growth. If you have any photographs of early or present courthouses, please forward them to: Samuel A. Rumore, Jr., Miglionico & Rumore, 1230 Brown Marx Tower, Birmingham, Alabama 35203.



The south side of the 1901 courthouse on Saturday afternoon, April 20, 1935. The farmers who were to be affected by the Pea River Redevelopment Project were assembled to learn how the federal government was going to buy their marginal lands and help them get better lands. This was the "Bear Farm" project, which in 1941 was selected as the nucleus of Camp Rucker.

Dale County

Sam Dale was one of the most colorful and intriguing characters in the early history of Alabama. He was a frontier scout and Indian fighter, and has been called the "Daniel Boone" of Alabama. Dale was born in Rockbridge County, Virginia in 1772. His family moved to Georgia in 1784. Both of his parents died there a few years later. At the age of 16, Dale became the support and guardian of his seven younger brothers and sisters. He farmed the family homestead. He also joined the local militia and served in the border wars against the Creek Indians. After this conflict he became a trader with the Indians in Georgia. Because of his large size he was known to the Indians as "Big Sam."

Around 1810, Dale moved to what would become Clarke County in the future state of Alabama. When the Creek Indian War erupted, he volunteered his

services as a scout and a fighter. On January 12, 1813, he and three comrades in a canoe attacked a canoe with nine Indian warriors. In remarkable hand-to-hand combat with rifles being used as clubs and with spectators on both river banks, Dale and his men "dispatched" the warriors. This famous canoe fight made Sam Dale a folk hero among the early Alabama settlers.

Dale moved to Monroe County and in 1817, due to his popularity, he served as a delegate to the convention that divided the Mississippi Territory. In 1818, he campaigned with

Andrew Jackson in the Seminole War. He became a member of the Alabama Territorial Legislature, the first Alabama Constitutional Convention and the first Alabama State Legislature. He served in the legislature a total of eight terms between 1819 and 1830. While a member of the Alabama Legislature, his col-



c. 1915 - The Confederate Monument was dedicated April 26, 1910, so this picture was later than 1910 - and with no vehicles other than mule and wagon - probably before 1920



Gathering on the east side of the courthouse, c. 1935 - the Ozark City Hall and L.W. Kolb's Furniture and Casket store can be seen to the left of the picture

leagues honored him by creating a county on December 22, 1824 and giving it his name. They also bestowed on him the rank of Brigadier General whenever he might be called into active service with the state militia.

In 1830 Dale moved to Perry County, Alabama and in 1831 he settled in Lauderdale County, Mississippi. His fellow citizens there recognized his abilities and elected him to the Mississippi Legislature in 1836. He died at Daleville, Mississippi on May 23, 1841. The State of Mississippi also recognized General Sam Dale by naming a county in his honor.

The eastern portion of Dale County, Alabama, was formerly a part of Henry County and the western portion had been a part of Covington County. Shortly before the new county was established, the citizens of Henry County had built a courthouse at their county seat town of Richmond. Richmond was very close to the county line of the newly created Dale County, but it remained in Henry County. Local residents petitioned the legislature to put Richmond in Dale County by moving the county boundary four miles to the east. The legislature complied on January 4, 1826 and Richmond became a part of Dale County.

Richmond has the distinction of being the first county seat of Henry

County and, due to the boundary change, the first county seat of Dale County as well. On January 11, 1826 the legislature passed an act requiring Henry and Dale counties to levy a tax, the proceeds of which were to be used exclusively to pay Robert Irwin and

Pelatih Whitehurst for building the courthouse and jail located at Richmond. Irwin is remembered for playing a significant role in the development of Irwinton which later became known as Eufaula. Whitehurst had been selected to be the first probate judge of



The 1901 courthouse, viewing the east side, with school children assembled (Note the brick paving in Union Avenue) c. 1938



The north side of the 1901 courthouse in Ozark - c. 1945 (Note the brick-paved street)

Dale County; however, because Richmond, where his house was located, was not initially located in Dale County, he had to decline this appointment. He did become the first postmaster of Richmond on July 10, 1826.

On December 20, 1827 the Alabama Legislature mandated that the Circuit Court of Dale County would continue to be held at the "old courthouse" built by Irwin and Whitehurst until a new site could be chosen near the geographical center of the county. On December 27, 1827 the legislature appointed five commissioners to choose the site: Isaac Ledbetter, Obediah Dick, Lewis Hutchinson, Samuel Pearson, and the judge of the County Court. The commissioners were directed to contract for the construction of appropriate public buildings and to supervise the contractor who submitted the lowest bid. On January 26, 1829 the legislature required that circuit court be held at the house of Creede Collins, which was located approximately two miles west of the present Daleville near Claybank Creek.

Finally, the commissioners chose a permanent site near "Kimmey's Store." They laid out a square, and public buildings were built around it. The town became known as Dale Courthouse and later Daleville. The contractor for the courthouse was Hampton Parrish, who constructed a log building with one door on the east side and another door on the south. Daleville was officially



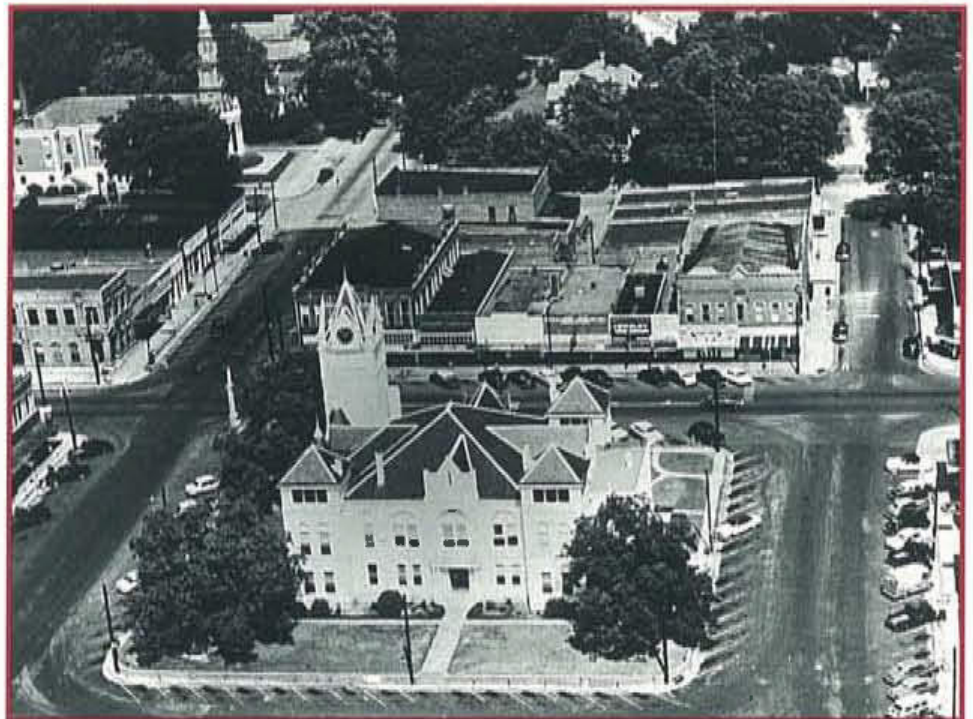
The 1901 courthouse viewed from the corner of Union Avenue and Reynolds Street - c. 1952

designated the county seat of Dale County on June 15, 1830.

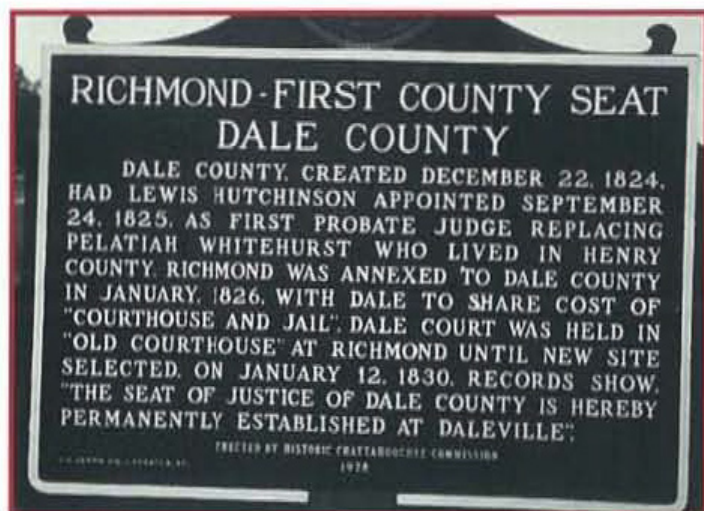
Daleville received its first post office on March 3, 1830, and John M. Kimmey was named first postmaster. Among the early business establishments in Daleville were those belonging to John S. Ledbetter,

James M. Long and William Pouncey. In fact, the second courthouse in Daleville was Pouncey's store. This building was purchased by the county and moved to the courthouse square in 1837.

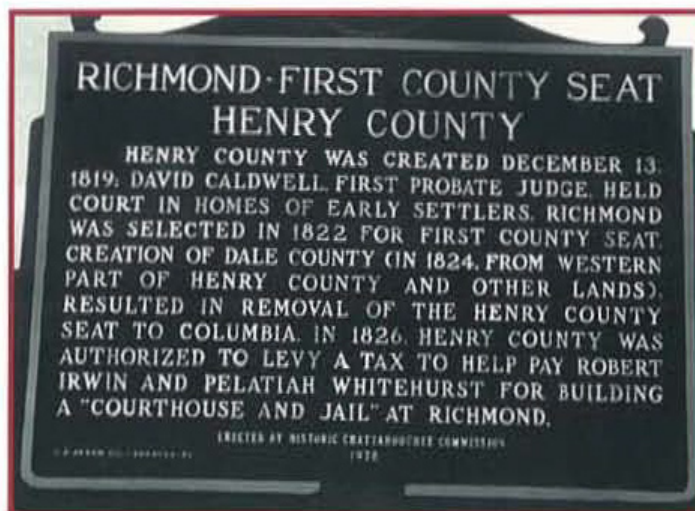
On December 29, 1841 the Alabama Legislature created Coffee County from



c. 1955 - Picture taken by helicopter shortly after Fort Rucker was chosen for Army aviation training



Marker at Richmond - first county seat



Richmond marker

the western portion of Dale. Prior to being divided, Dale County was almost square-shaped, and it contained approximately 1,990 square miles. The legislature neatly divided the county into two nearly equal rectangular-shaped areas, each with approximately 1,000 square miles.

The act which established Coffee County also created a five-member commission to select a new centrally-located site for the county seat of Dale County, because Daleville was only about six miles from the new county line. The members of the commission were Barney Watford, James Arthur, Thomas Andrews, James C. Ward, and Captain Hendrix.

The geographical center of the newly-configured Dale County was located approximately three miles west of the old "Block House" located on the Choctawhatchee River near the junction of its east and west branches. Two commissioners chose the upper or southeast side of the river while two chose the northwest or lower side for the county seat location. Commissioner Andrews cast the deciding vote. Even though he lived west of the river, he chose the hill-side location east of the river. On February 9, 1843 the Alabama Legislature officially designated this place as the county seat for Dale County and gave it the name "Newton" after a prominent local family. On August 25, 1843 Newton received its first post office.

The citizens of Newton soon built a wooden courthouse on the town square, with dimensions of 30 by 40 feet. It had

a courtroom on the first floor with the county offices placed on the second floor. In 1857 a larger courthouse was built under the direction of Judge Abel Echols, with county offices on the lower level and a courtroom upstairs. Circuit Judge John Gill Shorter, later to become Governor of Alabama, held court on several occasions in Newton.

During the Civil War, Newton was a center for recruiting soldiers for the Confederate Army. In March 1865, the town was attacked by a group of northern irregulars headed by Joseph Sanders. These 34 deserters approached the public square but were repulsed by eight members of the Home Guard, the local militia, who killed one and wounded two others. The town of Newton was spared from further attacks.

After the war, a strong movement began for the creation of a new county from the lower third of Coffee and Dale counties. Both Coffee and Dale were approximately 43 miles long from north to south. The village of Geneva in Coffee County was approximately 30 miles distance from the county seat of Elba. Residents of Dale County near the Florida border were similarly distant from Newton. Thus, the location of courthouses in both counties was inconvenient to citizens in the southern part of each. On December 28, 1868 the Alabama Legislature remedied this situation by creating Geneva County from the southern portions of Coffee and Dale. This action set in motion an effort to remove the Dale County Courthouse from Newton.

When Geneva County was created, Newton was left approximately four miles south of the geographic center of the reduced Dale County. Residents near to the center began an effort to move the courthouse north to their area. The controversy became more intense in the spring of 1869 when on March 22, the wooden courthouse at Newton burned with the loss of all county records, deeds, estate files and lawsuit files. It was never proven, but many believed that supporters of a new courthouse at Ozark set the fire that destroyed this courthouse.

On January 13, 1870 the Alabama Legislature called for an election to determine the location of the county seat. The county commissioners had suggested a ballot with Newton, Ozark and the geographical center of the county. Since Ozark was only about two miles away from the geographical center, the vote was held between Newton and Ozark only. On January 30, 1870 Ozark was selected as the county seat by the majority of Dale County citizens.

The promoters of the town of Newton, however, did not give up without a fight. They filed a court action seeking a writ of mandamus stating that the election had been conducted illegally. This writ was denied but the controversy continued. Finally, one year later, on January 31, 1871, the legislature declared that the election was legal and that the majority of Dale County voters chose to move the courthouse.

The town of Newton still exists. It continued to serve as a port for river



Marker at Daleville - second county seat

boats until 1890 when the railroad came. However, its population today is much smaller than the county seat town of Ozark. Newton lost its importance to Dale County in the election of 1870.

Ozark traces its roots back to two of the earliest settlers in Dale County, John Merrick, Sr. and Jr. The elder Merrick, a Revolutionary War veteran, opened a store where he "dispensed spirits." Because of the many reptiles in this area of Alabama, his wares could be justified as a necessary antidote. Merrick prospered and the area around his store became known as Merrick's. In 1837, his son also opened a store which sold liquors and he likewise prospered. In 1840, John Merrick, Jr. became colonel of the county militia.

Other businesses came to the area, including a cotton gin, a blacksmith shop and a wood-working plant. The first post office was established on June 7, 1843. The official name designated by the post office department and given to the place that had formerly been known as Merrick's was Woodshop.

In 1855, Elijah T. Matthews became

the postmaster at Woodshop. He suggested a new name for the post office and town. He had read a book on the history of the Ozark Indians of Arkansas and Missouri and petitioned the post office department for the name Ozark, a corruption of the French "aux Arks" which means "in the country of the Arkansa." Arkansa was the tribal name for these Indians. The post office department approved the new name in 1859.

Following the county seat election of 1870, the Dale County commissioners made plans to survey a court square. The county purchased 70 acres approximately one-half mile south of the original or "old Ozark" settlement. A square was platted at 198 feet on a side. The survey was completed on May 6, 1870. Shortly after the completed survey, the

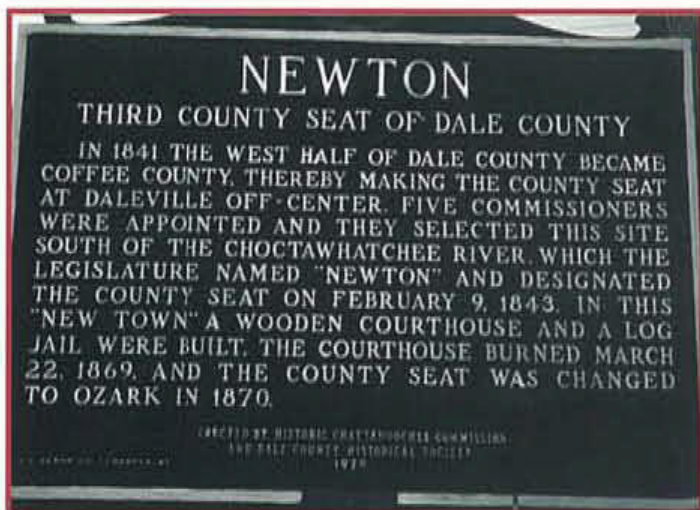
county constructed a white frame building with a picket fence as the courthouse. The contractor was Dr. W. L. Milligan. The Alabama Legislature incorporated Ozark on October 27, 1870.

The small, two-story courthouse served Dale County until it was destroyed by a fire on November 27, 1884. Like the Newton courthouse fire of 15 years previously, all county records were destroyed. Also, there was suspicion that arsonists from Newton were responsible for the fire. An effort was made by Newton at this time to regain the courthouse. The attempt failed when the legislature, on February 2, 1885, authorized Dale County to issue bonds for the construction of a brick courthouse at Ozark.

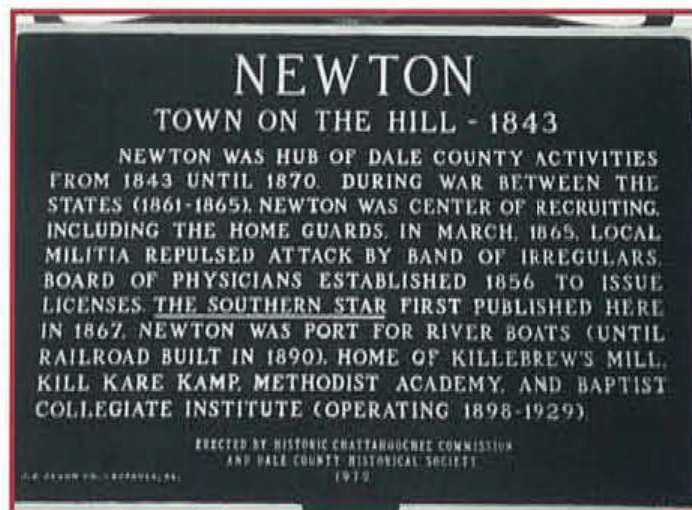
The county contracted with builder H. M. Tye of Elba, Alabama. The contract price for the new Ozark courthouse was \$5,780. Pending the construction of a new courthouse in 1885, courts were held in a large wooden building on what was called "the Casey corner" of the courthouse square.

In 1901, the county commission determined that the 1885 courthouse was inadequate for the needs of Dale county. Two proposals were then made. One was for a branch courthouse to be built at Newton. Newton was still an important town and its citizens still remembered the days when it was the county seat. The other proposal was to build a large and majestic courthouse in Ozark.

On February 20, 1901 an article in *The Southern Star* newspaper reported that the Alabama Senate had approved



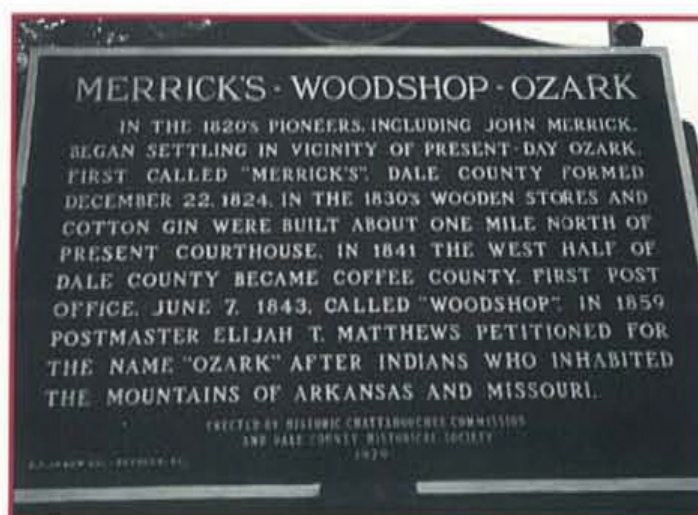
Marker at Newton - third county seat



Newton marker



Marker at Ozark - fourth county seat



Ozark marker

the proposal for a branch courthouse at Newton, because Senator Walter Acree, who introduced the branch courthouse bill, was the sole senator from the area and he was unopposed. The Alabama House, however, with Representative William Garner from Dale County, chose to conduct a public hearing on the matter. The arguments were related in *The Southern Star* as follows:

"Last Thursday a hearing was given the people of Dale County before the committee on counties and county boundaries, having Senator Acree's branch court bill in charge. The branch court for Newton was represented by Senator Acree and O. C. Doster, Esq., while those who opposed the measure were represented before the

committee by Representative Garner, Judge Carmichael, and M. Sollie, Esq.

"The bill was discussed at length by both sides and the committee after hearing all of the evidence gave an almost unanimous adverse report on Senator Acree's bill, which settles the question so far as this session of the Legislature is concerned.

"Senator Acree was unopposed in the Senate but when the measure came over to the House it met strenuous opposition from Mr. Garner, Dale's Representative, who succeeded in defeating the measure with ease."

The branch courthouse issue for Dale County never resurfaced. As an aside, it is interesting to note that during this

CLE Opportunities

The Alabama Mandatory CLE Commission continually evaluates and approves in-state, as well as nationwide, programs which are maintained in a computer database. All are identified by sponsor, location, date and specialty area. For a complete listing of current CLE opportunities or a calendar, contact the MCLE Commission office at (334) 269-1515, extension 117, 156 or 158, or you may view a complete listing of current programs at the state bar's Web site, www.alabar.org.

State-Specific

DL Document Assembly

Drafting Libraries

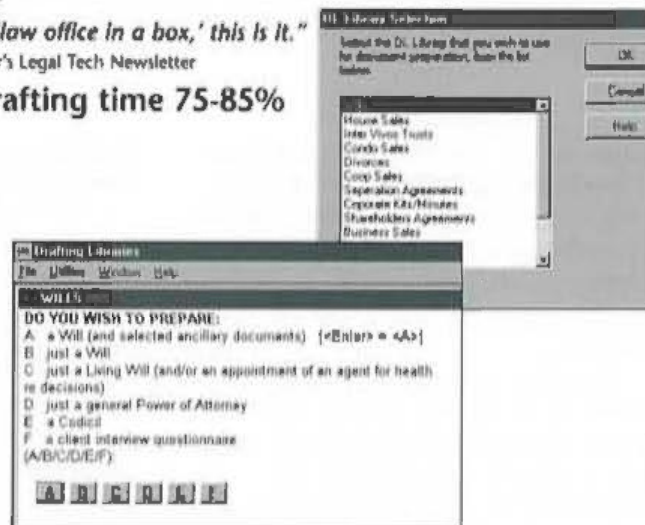
"If anything approaches 'law office in a box,' this is it."

—Leader's Legal Tech Newsletter

Cuts document drafting time 75-85%

Wills
Inter Vivos Trusts
Separation Agreements
House Sales
Condo Sales
Office Lease Riders
Store Lease Riders
Net Leases
Management Agreements
Mortgages/Deeds of Trusts
Security Agreements
Limited Partnerships
Business Sales
Shareholders Agreements
Corporate Kits
Limited Liability
Pre-nuptial Agreement
Commercial Real Estate Contracts

\$200 per library/per state



BlumbergExcelsior®
Since 1887

800 LAW MART
Fax: 800 561-9018

Arlington, TX Norcross, GA

800 529-6278

www.blumberg.com

Albany, NY Orlando, FL



Dale County Courthouse - front view



Dale County Courthouse - rear view

same decade, a similar effort was begun in neighboring Coffee County to establish a branch courthouse away from the county seat of Elba at Enterprise. This campaign succeeded in 1907 and even to this day Coffee County has two courthouses.

The other proposal for Dale County in 1901 was to raze the existing courthouse and build a bigger, grander and more majestic new structure. On September 25, 1901 the county entered into a contract for the new courthouse with M. T. Lewman & Company of Louisville, Kentucky. The architect was A. J. Bryan & Company of New Orleans. This same team designed and built the Monroe County Courthouse in 1903 and the Houston County Courthouse in

1905. Lewman also built the Autauga County Courthouse in 1906.

The 1901 Dale County Courthouse was constructed of red brick. It was two stories in height, had four entrance-ways, and had a clock tower, with four faces, at the northeast corner of the building. The structure possessed elements of a number of architectural styles including Medieval turrets, Romanesque window and door openings, and a Gothic clock tower. It is best described as eclectic.

This courthouse cost \$42,500 in 1901. It was built in compliance with the standards of the day, but no toilet facilities were included in the building's design. In 1938, through a Public Works Administration grant, four restrooms were added in an attachment

on the southern side of the building. Drinking fountains were also installed at that time.

Another significant event for Dale County took place in 1901 at the state constitutional convention. One of the provisions included in the new constitution allowed for the creation of a new county in the southeast corner of Alabama. This new county could be formed from territory taken from Henry, Geneva and Dale counties. On February 9, 1903 the Alabama Legislature passed the act creating Houston County. The lower part of Henry County, an eastern segment of Geneva, and the entire "panhandle" from Dale—the area south of the little Choctawhatchee River—were combined to form the new county. Dale County gave up approximately 80 square miles to create Alabama's 67th county.

Through the years, the 1901 courthouse was a much-beloved landmark and public building for the people of Dale County. Many citizens were outraged when in 1952 the county commission painted the red bricks white in order to stop extensive water damage. This action significantly changed the "look" of the courthouse. Finally, by 1965, the County Commission determined that the courthouse was too expensive to maintain and they made the decision to replace it. Local preservationists, such as Dorothy McGee Wells, sought to save the courthouse building and have it turned into a museum. But their efforts failed and the historic building came down.

On December 20, 1965 the County Commission approved the plans of Dothan architects Allen Waid and Robert Holmes for a new 38,000-square-foot building consisting of three stories and a basement. The commissioners appointed a Dale County Building Authority consisting of Coleman Garrett, chairman, Sam J. Carroll, Jr. and Martin Price, who by August 17, 1967 had arranged for a \$650,000 bond issue to pay for the building. The bonds were to be paid back by a two and one-half mill *ad valorem* tax that was already in existence and no longer pledged to retire any other debt.

Madison Construction Company, a general contractor from Ozark, was low bidder on the project. By April 1968, the

NEW FOR 2000!
Credit Cards Are Now Accepted
for Convention Registration!

"BEST-SELLER" GIFTS
For "EARLY BIRD" Registrants
See PRODUCTION NOTES for Details.

THE BIG PICTURE

2000 ANNUAL MEETING

ALABAMA STATE BAR

July 14-16, 2000 • Perdido Beach Resort • Orange Beach

REGISTER BY FAX OR ONLINE. CREDIT CARDS NOW ACCEPTED!

FORMS ENCLOSED FOR REGISTRATION, HOTEL RESERVATIONS AND GOLF SCRAMBLE.

ON LOCATION

Perdido Beach Resort Hotel Reservation Request

To ensure that you receive the guaranteed room rate, you must reserve your room no later than June 9, 2000.

Requests after this date will be honored based on availability and regular rates will apply.

THE HOTEL RESERVATION FORM MUST ACCOMPANY YOUR ANNUAL MEETING REGISTRATION FORM.

PLEASE PRINT

NAME _____

ADDRESS _____

CITY _____ STATE _____ ZIP CODE _____

FIRM _____ DAY TELEPHONE _____

ARRIVAL DAY/DATE _____ DEPARTURE DAY/DATE _____

NUMBER OF ROOMS _____ NUMBER OF ADULTS _____ NUMBER OF CHILDREN _____

Children stay free in parents' room. Rates are for single or double occupancy. Add \$10 for each additional adult in room. There is a \$10 charge for each rollaway bed or crib.

CHECK THE ROOM RATE PREFERRED: ☐ Standard: \$145 ☐ Gulf front: \$165 (Limited number: first come, first served)

CHECK PREFERRED ROOM TYPE: ☐ Double ☐ King (Limited number: first come, first served)
☐ Smoking ☐ Non-smoking (Limited number: first come, first served)

Please notify hotel of any special needs not listed.

In order to confirm this reservation request, a deposit equal to one night's room rate is required.

Please enclose your check or money order, or provide credit card information below:

Please bill my credit card:

☐ VISA ☐ MasterCard ☐ American Express ☐ Diner's Club ☐ Carte Blanche ☐ Discover

Card No. _____ Expiration Date _____

Cardholder's Signature _____

PLEASE MAKE CHECKS PAYABLE TO PERDIDO BEACH RESORT. Do not send currency.

CANCELLATION POLICY: Should cancellation of this reservation be necessary, there will be no penalty provided the reservations office is notified no later than 4:00 p.m., three (3) days prior to your arrival day. Should cancellation occur after this time, or if the hotel is not notified of cancellation, the deposit will not be refunded. When canceling, please record your cancellation number. In the event you need to check out prior to your confirmed departure date, please notify the resort prior to or at check-in. After check-in, there will be an early departure fee of 50 percent of the daily rate.

Check-in time is 4:00 p.m. Check-out time is noon.

ADDITIONAL HOTEL RESERVATIONS

All sessions of the annual meeting will be held at the Perdido Beach Resort. Additional accommodations are available in the area and reservations should be made DIRECTLY WITH THE HOTELS. Available hotels include:

The Island House Hotel: 1-800-264-2642 Seachase: 1-800-523-2409

THE BIG PICTURE: IMAGES OF THE LAW

From Reel Lawyers to Real Law

Register Today
ONLINE!
www.alabar.org

"BEST-SELLER" GIFTS
For "EARLY BIRD" Registrants
See PRODUCTION NOTES for Details.

PRODUCED AND DIRECTED BY THE ALABAMA STATE BAR

THE PREVIEW

Take a look at the legal profession through the camera's eye to see how the image of lawyers has evolved through the years—and how it is being shaped today. Where is the lawyer/hero of Atticus Finch? How are today's lawyers being portrayed—and is it a true picture? The Alabama State Bar strives always to encourage, motivate and prepare its members for the legal profession of today—and tomorrow. Join your colleagues in revisiting the world of celluloid law and discover the law in "pictures." Step back into history and "talk" to some of the most famous legal minds of the 19th and 20th centuries about today's ethical questions. Experience again the vivid emotion and sense of pride that "To Kill A Mockingbird" instills in each of us. Learn from the past portrayals of the legal profession as we step forward into the future. Bring the entire family "back to the beach" this year to discover THE BIG PICTURE. It's the only show around that lets you get the CLE you need, learn the latest from outstanding legal experts, renew law school friendships and network with colleagues—and even gives you time to relax on the beach. From the light-hearted to the inspiring, the 2000 Annual Meeting brings together the past, the present and the future of the legal profession. So, pass the popcorn and take your seat. The show is starting. Lights. . . Camera . . . ACTION! It's all part of THE BIG PICTURE—and Alabama lawyers are the stars!

IN THE SPOTLIGHT:

"The Alabama State Bar is proud to present . . . (pause for dramatic effect) . . . the stars of our highly acclaimed feature production (applause, applause)."

FEATURING:

• "REEL LAWYERS AND REAL LAW"

Michael R. Asimow, professor of law, University of California at Los Angeles School of Law, Los Angeles, California
Are movies mirrors of public opinion? In this highly entertaining session, you will see clips of both strongly favorable and strongly negative images of lawyers in film. Using his best-selling book, *Reel Justice: The Courtroom Goes to the Movies*,* Professor Asimow will tell us what film is teaching our clients and the general public about what we do and the ethical dilemmas we confront. A 15-minute question-and-answer period will conclude this opening plenary.

*EARLY REGISTRATION GIFT

• "IN SEARCH OF ATTICUS FINCH"

Mike Papantonio, author and Fellow in the International Academy of Trial Lawyers, shows how lawyers today can still be lawyer/heroes. Most all of us in the practice of law have, on occasion, found that something is missing. We start out with high aspirations and a genuine desire to benefit the community we serve. Later many of us feel we have lost our way. If you are having difficulty meshing your goals with your practice, you need to hear this statement of principles that leads one to the "high ground" of lawyering. *EARLY REGISTRATION GIFT

• "IMPEACH JUSTICE DOUGLAS!"

This engaging and provocative solo performance explores controversial issues with which Douglas was involved in his long tenure on the Supreme Court. Packed with anecdotes, humor, a bit of the cantankerous and the sometimes painful remembrances of conflicts, this play recounts a most important time in history and its legacy. Following the performance, the audience will discuss together the issues raised — and their ties to the belief systems of Alabama lawyers.

• "TO KILL A MOCKINGBIRD"

In an afternoon matinee for the entire family, 16 members of the Monroe County Heritage Museum's cast bring to life the beloved characters of Atticus Finch, Scout, Jem, Tom Robinson, and yes, even Boo Radley of the fictional small town of Maycomb in this Pulitzer Prize winning classic. Remember and learn from the past as you join colleagues, family and friends to once again see why actor Gregory Peck, and those who have followed him in portraying the leading role, continue to say "Atticus Finch was the kind of man I wish I was."

• "CLARENCE DARROW: CRIMES, CAUSES AND THE COURTROOM!"

Enjoy a relaxed and informal setting, come to learn and be entertained. In this solo performance, replete with humor, humanity and intense courtroom drama, we see arguably the greatest trial lawyer of the 20th century share his own thoughts and the courtroom summation in the famous *Scopes* trial, exploring timeless social, legal and ethical issues—providing fresh and provocative tools to facilitate discussion. A passionate proponent of civil and human rights, Darrow was often embroiled in bitter controversy for his unpopular stands on many issues. Lawyers throughout the country have said, "I have never learned so much while being entertained. It was the highlight of our convention." Don't miss this creative teaching tool about the law, ethics and professionalism.

PREMIER INVITATION

Register Today
ONLINE!
www.alabar.org

"BEST-SELLER" GIFTS
For "EARLY BIRD" Registrants
See PRODUCTION NOTES for Details.

Alabama State Bar Annual Meeting 2000 / Advance Registration

PLEASE PRINT

NAME (as you wish it to appear on name badge) _____

Check categories that apply: ☐ Bar Commissioner ☐ Past President ☐ Local Bar President ☐ Justice/Judge

FIRM _____ OFFICE PHONE _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

SPOUSE/GUEST NAME _____

Please indicate any dietary restrictions: ☐ Vegetarian ☐ Other _____Please send information pertaining to services for the disabled. What is the nature of the disability: ☐ Auditory ☐ Visual ☐ Mobility**REGISTRATION FEES (Advance Registration)**

	By June 30	After June 30	Fees
<input type="checkbox"/> Alabama State Bar Members.....	\$180.00	\$220.00	\$ _____
<input type="checkbox"/> Full-time Judges	\$ 90.00	\$110.00	\$ _____
<input type="checkbox"/> Attorneys admitted to the bar 5 years or less	\$ 90.00	\$110.00	\$ _____
<input type="checkbox"/> Non-Member (does not apply to spouse/guest of registrant)	\$280.00	\$300.00	\$ _____

TOTAL REGISTRATION FEES \$ _____**OPTIONAL EVENT TICKETS****FRIDAY, JULY 14, 2000**

	No. of Tickets	Cost
Bench & Bar Luncheon	@ \$20.00 each	\$ _____
Family Beach Buffet	@ \$35.00 each	\$ _____
Featuring the Perdido Beach Resort's "fresh catch" seafood buffet (cash bar)		
Children's Buffet (Children 11 and under)	@ \$ 4.00 each	\$ _____
PLAYBILL! Performance (Clarence Darrow)	@ No Charge	\$ _____

SATURDAY, JULY 15, 2000

Christian Legal Society Breakfast.....	@ \$12.00 each	\$ _____
Farrah Order of Jurisprudence/Order of the Coif Breakfast.....	@ \$15.00 each	\$ _____
Jones School of Law Alumni Breakfast	@ \$10.00 each	\$ _____
Birmingham School of Law Alumni Breakfast	@ \$10.00 each	\$ _____
Membership Luncheon and Annual Business Meeting	@ \$20.00 each	\$ _____
Afternoon Family Matinee	@ No Charge	\$ _____
University of Alabama School of Law Alumni Reception	@ \$25.00 each	\$ _____
Cumberland School of Law Alumni Reception.....	@ \$20.00 each	\$ _____

TOTAL EVENT TICKETS \$ _____**TOTAL FEES TO ACCOMPANY FORM** \$ _____**Appropriate payment must accompany registration form.**

Payment by check or credit card is requested. Checks for registration/tickets should be made payable to the Alabama State Bar.

Please bill my credit card: ☐ VISA ☐ MasterCard ☐ American Express

Card No. _____ Expiration Date _____

Cardholder's Signature _____

Mail registration form & check to: 2000 Annual Meeting, Alabama State Bar, P.O. Box 671, Montgomery, AL 36101.Advance registration forms **MUST BE RECEIVED NO LATER THAN JUNE 30, 2000.**

Cancellations with full refunds may be requested through noon, Friday, July 7, 2000.

NEW FOR 2000!
Credit Cards Are Now Accepted
for Convention Registration!


 A decorative banner with a yellow background and a purple border with white dots. The text "PICTURE THIS!" is written in bold, black, sans-serif capital letters. The banner is set against a background of a film strip with purple and yellow frames.

PICTURE THIS!

KIDS' CHANCE GOLF SCRAMBLE

Saturday, July 15, 2000 • 12:30 P.M. Shotgun Start • Lost Key Golf Club

Make your own golf history by taking a starring role at the beautiful Lost Key Golf Club. It's even more rewarding than an Oscar when you know that you're helping make a difference in a young person's life. Sign up for your part in the 6th Annual Kids' Chance Golf Scramble.

The Kids' Chance Scholarship Fund provides scholarships for children who have had a parent killed or permanently and totally disabled in an on-the-job injury. Kids' Chance was established in 1992 by the Workers' Compensation Section. Students from 20 counties throughout the state are attending college or technical school with help from Kids' Chance this year.

If you are unable to play in the tournament, please consider sponsoring a hole. The Workers' Compensation Section appreciates your support.

Fred Fohrell, chair

GOLF SCRAMBLE ENTRY FORM

Name _____

Address _____

City _____ State _____ ZIP Code _____

Office Telephone _____ Home Telephone _____

Member Club _____

USGA _____ Handicap Index _____ GHIN Number _____

Individual Player \$100 \$ _____

Hole Sponsorship \$250 \$ _____

Hole Sponsorship & 1 Player Slot \$300 \$ _____

Hole Sponsorship & 4 Player Slots \$500 \$ _____

TOTAL ENCLOSED \$ _____

Appropriate payment must accompany registration form.

Please make checks payable to: KIDS' CHANCE SCHOLARSHIP FUND.

Payment by check or credit card is requested. Mail check and registration form to:

2000 Annual Meeting Golf Scramble, Alabama State Bar, P. O. Box 671, Montgomery, AL 36101

Or

Please bill my credit card: ☐ VISA ☐ MasterCard

Card No. _____ Expiration Date _____

Cardholder's Signature _____

If you do not have a team, you will be paired with another player.

For further information, contact Tracy Daniel at 800-354-6154.

PRODUCTION NOTES

Register Today
ONLINE!
www.alabar.org

NEW FOR 2000!
Credit Cards Are Now Accepted
for Convention Registration!

TICKETS, PLEASE!

Advance Registration

Advance registration is encouraged to efficiently manage the meeting and as a cost savings to registrants. Registration forms should be completed by each lawyer and judge planning to attend and returned with the appropriate registration/ticket fees to the ALABAMA STATE BAR. The registration fee includes admission to section CLE programs, lecture outlines and registration materials. Meal and function tickets may be purchased at an additional charge as indicated on the registration form.

AT THE BOX OFFICE

Registration Hours

All annual meeting registrants should pick up their name badges, tickets and other materials at the registration desk located in the exhibit hall during these hours:

4:00 p.m. - 6:00 p.m. Thursday, July 13

7:30 a.m. - 5:00 p.m. Friday, July 14

7:30 a.m. - 4:00 p.m. Saturday, July 15

GOLF TOURNAMENT

The 6th Annual Kids' Chance Golf Scramble will be held on Saturday, July 15. Teams will be selected based on handicaps (max: 18). There will be a shotgun start at 12:30 p.m. Box lunches will be provided at the course.

• **First 75** registrants will receive a copy of *In Search of Atticus Finch* by Mike Papantonio, list price \$24.95.

• **First 250** registrants will receive a copy of *Reel Justice: The Courtroom Goes to the Movies* by Michael R. Asimow, list price \$14.95.

REGISTER TODAY AND WIN!

"BEST-SELLER" GIFTS
Special Gifts for
"EARLY BIRD" Registrants

IN THE SPOTLIGHT

LEGAL EXPO 2000

The LEGAL EXPO 2000 will be held in the hotel's exhibit hall and feature the products and services of various legal vendors. EXPO hours are 8:00 a.m.-5:00 p.m. on Friday and 8:00 a.m.-4:00 p.m. on Saturday. Visit the vendors and register to win prizes, including the Grande Prize! The Grande Prize drawing will be held Saturday during the Membership Luncheon and Annual Business Meeting.

LIGHTS! CAMERA! CLE!

Alabama lawyers have the opportunity to receive numerous hours of CLE credit—all at one convenient time and place.

COSTUMES

Business or beach casual wear is appropriate for all events.

PERDIDO BEACH RESORT

This world-class resort located on the glorious gulf shores of Alabama offers special amenities that include lighted tennis courts, indoor/outdoor swimming pools, exercise room, sailing and fishing charters, and Hobie cat rental. Championship golf courses and outlet malls are nearby. The resort is located in Orange Beach, Alabama, eight miles east of Highway 59 South on Highway 182. It is just 30 minutes from Pensacola and within easy access to I-10 and I-65.

HOTEL RESERVATIONS

Hotel reservations are to be made through the ALABAMA STATE BAR office and MUST accompany your annual meeting registration form. A hotel reservation form is included with registration materials.

CHECK-IN/CHECK-OUT

Check-in time at the Perdido Beach Resort is 4:00 p.m. and check-out time is noon.

PERDIDO PALS

This popular children's program is offered daily except Sunday for ages five - 11 years. Activities include: get-acquainted games, swimming, beach and pool activities, sand castle building, cartoons, movies and popcorn, arts

and crafts, volleyball, nature walks, and pirates' treasure hunt. Perdido Pals is for children of registered resort guests only and space is limited. It is recommended that you pre-register your child by calling Guest Services at 1-800-634-8001, ext. 103.

BABY-SITTING SERVICES

Additional baby-sitting services are available through licensed services. Sitters will care for children in their parents' room. Approximate cost for one child is \$30 for four hours, however fees vary according to number of children, hours kept, etc. and are subject to change. Contact the following services directly to make arrangements: Nanny's Care (334) 986-8200 or My Favorite Nanny (888) 660-0345.

TENTATIVE SHOOTING SCHEDULE

THURSDAY, JULY 13, 2000

- 2:00 p.m. - 4:00 p.m. BOARD OF BAR COMMISSIONERS' MEETING
- 4:00 p.m. - 5:00 p.m. MCLE COMMISSION MEETING
DISCIPLINARY COMMISSION MEETING
- 4:00 p.m. - 6:00 p.m. EARLY ANNUAL MEETING
REGISTRATION
- 6:30 p.m. BOARD OF BAR COMMISSIONERS' DINNER

FRIDAY, JULY 14, 2000

- 7:30 a.m. - 8:45 a.m. ALABAMA LAW FOUNDATION
TRUSTEES' BREAKFAST
- 7:30 a.m. - 5:00 p.m. ANNUAL MEETING REGISTRATION
- 8:00 a.m. - 5:00 p.m. LEGAL EXPO 2000
- 9:15 a.m. - 9:30 a.m. OPENING SESSION
• Welcome: The State of the Bar
• *Alabama Lawyers Assistance Program: An Overview*
- 9:30 a.m. - 10:45 a.m. PLENARY SESSION
• *Real Lawyers and Real Law*
- 11:00 a.m. - Noon FAMILY LAW SECTION MEETING
• *Domestic Relations Update*
DISABILITIES LAW SECTION MEETING
• *Social Security Update*
• *Special Education Law Update*
• *ADA Update*
WORKERS' COMPENSATION SECTION MEETING
• *Update on Case Law: Workers' Compensation - 2000*
ATTORNEYS INSURANCE MUTUAL OF ALABAMA, INC. ANNUAL MEETING
- 11:00 a.m. - 12:15 p.m. LITIGATION SECTION MEETING
• *Arbitration Nuts & Bolts - From Selection as an Arbitrator to Post-Award Remedies*
BUSINESS LAW & CORPORATE COUNSEL JOINT SECTION MEETING
• *Privacy: It's Not Just About Sex Anymore! - An update on the Gramm, Leach & Bliley Act and related federal and state legislation and regulation*
- 12:15 p.m. - 1:30 p.m. BENCH AND BAR LUNCHEON
Speaker: Hon. William R. Wilson, Jr.
United States District Court Judge
Little Rock, Arkansas
- 2:00 p.m. - 4:00 p.m. WORKSHOP A: Small Firm
Technology Skills
- 2:00 p.m. - 4:15 p.m. KEYNOTE PLENARY SESSION
PLAYBILL! "Impeach Justice Douglas!"
- 2:00 p.m. - 4:15 p.m. WORKSHOP B: Practical Skills
• *Law—The Basics*

2:30 p.m. - 3:30 p.m.

ALABAMA LAW INSTITUTE
COUNCIL MEETING

4:15 p.m. - 4:45 p.m.

HEALTH LAW SECTION
BUSINESS MEETING

4:15 p.m. - 5:30 p.m.

PRO BONO RECEPTION

6:30 p.m. - 8:00 p.m.

ANNUAL MEMBERSHIP RECEPTION

• Featuring Perdido Beach Resort's
"fresh catch" Seafood Buffet (cash bar)

8:30 p.m.

PLAYBILL! "Clarence Darrow: Crimes,
Causes and the Courtroom!"

SATURDAY, JULY 15, 2000

- 7:30 a.m. - 9:00 a.m. COFFEE FOR ALL REGISTRANTS
- 7:30 a.m. - 4:00 p.m. REGISTRATION
- 7:30 a.m. - 8:30 a.m. RISE & SHINE CLE FOR EARLY BIRDS
WORKSHOP A: Trial Skills
WORKSHOP B: Alternative Dispute
Resolution
BREAKFASTS
• Farrah Order of Jurisprudence/
Order of the Coil
• Christian Legal Society
• Jones School of Law Alumni
• Birmingham School of Law Alumni
• Past Presidents
• *The Alabama Lawyer* Board of Editors
- 8:00 a.m. - 4:00 p.m. LEGAL EXPO 2000
- 9:00 a.m. - 10:00 a.m. WOMEN'S SECTION MEETING
- 9:00 a.m. - 11:00 a.m. ELDER LAW SECTION MEETING
- 10:00 a.m. - 11:00 a.m. REAL PROPERTY, PROBATE &
TRUST LAW SECTION MEETING
ADMINISTRATIVE LAW
SECTION MEETING
ENVIRONMENTAL LAW SECTION
BUSINESS MEETING
- 11:15 a.m. - Noon KEYNOTE PLENARY SESSION
"In Search of Atticus Finch—
A Road Map"
- 12:15 p.m. - 2:15 p.m. MEMBERSHIP LUNCHEON AND
ANNUAL BUSINESS MEETING
- 12:30 p.m. - 5:30 p.m. KIDS' CHANCE GOLF TOURNAMENT
- 2:45 p.m. - 3:45 p.m. AFTERNOON MATINEE FOR THE
ENTIRE FAMILY
• Featuring "To Kill A Mockingbird"
- 5:00 p.m. - 7:00 p.m. ALUMNI RECEPTIONS
University of Alabama School of Law
Cumberland School of Law
- 5:30 p.m. - 7:30 p.m. OPTIONAL NIGHT ON THE TOWN

SUNDAY, JULY 16, 2000

- 8:00 a.m. - 11:00 a.m. LEGAL EXPO 2000
- 8:30 a.m. - 9:15 a.m. CONTINENTAL BREAKFAST
- 9:30 a.m. - 10:15 a.m. ECUMENICAL WORSHIP SERVICE
- 10:30 a.m. - 11:00 a.m. BOARD OF BAR COMMISSIONERS'
MEETING



ALABAMA STATE BAR
July 14-16, 2000 • Perdido Beach Resort • Orange Beach

"REEL LAWYERS & REAL LAW"
"IN SEARCH OF ATTICUS FINCH"
"IMPEACH JUSTICE DOUGLAS"
"TO KILL A MOCKINGBIRD"
"CLARENCE DARROW: CRIMES, CAUSES & THE COURTROOM!"

old structure was removed and construction of the new courthouse began. During the construction period, courts were held in the old "Dale Armory" since the local National Guard had moved to a new facility on U.S. Highway 231.

On May 4, 1969 the new courthouse was dedicated, with Governor Albert Brewer as the main speaker for the event. The county offices were located on the first floor of the building while the courtroom and county law library were located on the third floor. The entire second floor was left unfinished in 1969, but by 1983 this floor housed two more courtrooms and offices for judges and court staff.

The building was constructed of brick and concrete. It is of modern design. Outside the courthouse, to maintain its

roots to the past, the Dale County Commission preserved the brass bell from the former courthouse clock tower. This bell had served the county for 66 years. The historic bell was rededicated on December 9, 1974. ■

The author gratefully acknowledges the interest and assistance of retired judge and author Val L. McGee for his suggestions and for use of the historic photographs. The author also acknowledges assistance from Dale County historian Creel Richardson and Montgomery attorney Terry Brown.

Sources:

"Early History of Southeast Alabama," W. L. Andrews, articles written in 1899 and published in *The Alabama Historical Quarterly*, vol. X, pages 99-132, 1948; *Forgotten Trails, A History of Dale County Alabama 1824-1966*, Fred S. Watson, edited by William R.

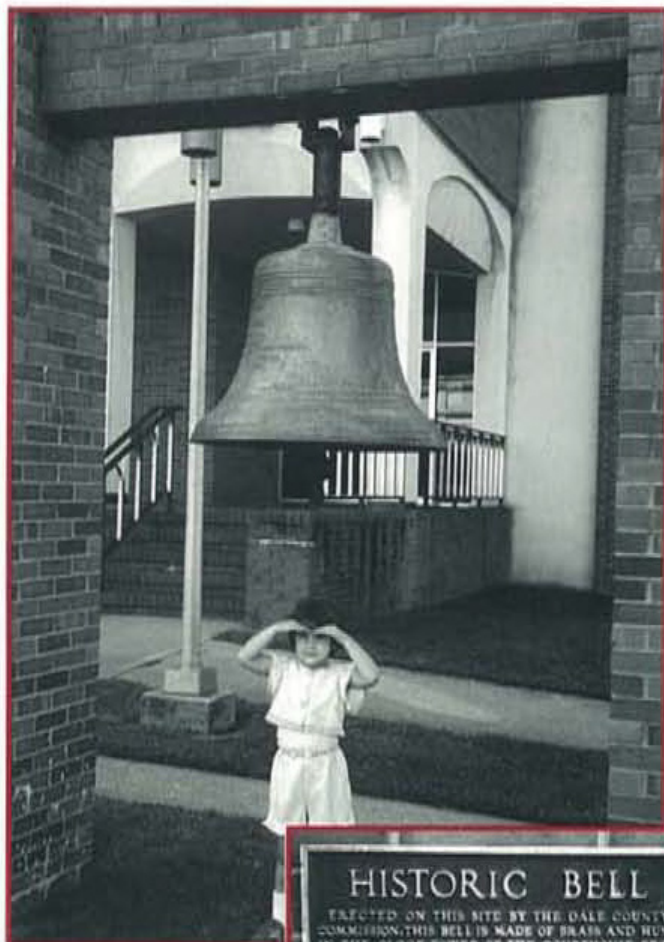
Snell, 1968; *Historic Markers for Dale County—County Seats & Courthouses*, prepared by the Dale County Historical Society, Val L. McGee, president, spring 1979; *The Origins of Fort Rucker*, Val L. McGee, 1987; *Claybank Memories, A History Of Dale County, Alabama*, Val L. McGee, 1989.



Samuel A. Rumore, Jr.

Samuel A. Rumore, Jr. is a graduate of the University of Notre Dame and the University of Alabama School of Law. He served as founding chairperson of the

Alabama State Bar's Family Law Section and is in practice in Birmingham with the firm of Miglionico & Rumore. Rumore served as the bar commissioner for the 10th Circuit, place number four, and as a member of *The Alabama Lawyer* Editorial Board. He is the current president-elect of the state bar and will become president in July 2000. He is a retired colonel in the United States Army Reserve JAG Corps.



The bell at Dale County Courthouse being viewed by Theresa Rumore (1985)



Marker for historic courthouse bell



The Law Office Management Assistance Program

The Law Office Management Assistance Program (LOMAP) is a clearing-house for information on all aspects of the operation and management of the modern law office.

For more information or to request confidential assistance with your office operations contact:

Laura A. Calloway, LOMAP Director
The Alabama State Bar
P. O. Box 671 • 415 Dexter Avenue
Montgomery, AL 36101
(334) 269-1515, ext. 116
lcalloway@alabar.org

War Stories

The *Alabama Lawyer* is looking for "war stories" to publish in upcoming issues, humorous tales and anecdotes about Alabama lawyers and judges.

Obviously, for such stories to be published, they must be (a) true, (b) amusing and (c) tasteful. Send your reminiscences to: *The Alabama Lawyer*, P.O. Box 4156, Montgomery 36101. Be sure to include your name, address and a daytime telephone number, in case we need to contact you.



LOCAL BAR

Award of Achievement

The Local Bar Award of Achievement recognizes local bar associations for their outstanding contributions to their communities. Awards will be presented at the Alabama State Bar's Annual Meeting in July at Orange Beach.

Local bar associations compete for these awards based on their size. The three categories are large, medium and small bar associations.

The following criteria will be used to judge the contestants for each category:

- The degree of participation by the individual bar in advancing programs to benefit the community;
- The quality and extent of the impact of the bar's participation on the citizens in that community; and
- The degree of enhancement to the bar's image in the community.

To be considered for this award, local bar associations must complete and submit an award application by June 1, 2000.

An award application may be obtained by calling or writing the director of programs at the state bar, Ed Patterson, (800) 354-6154 or (334) 269-1515, ext. 161, P.O. Box 671, Montgomery, 36101. ■

Attorneys: Buy Extras for Your Staff!

2000 BAR DIRECTORIES

will be out in June — Reserve your copies now.

Members: \$25 each 1 TO 5 COPIES

\$20 each 6 OR MORE COPIES

Non-members: \$60 each

ORDERS MUST BE PRE-PAID

Mail check to: Alabama Bar Directory • P.O. Box 4156 • Montgomery, AL 36101



Build your own network

Expand your professional contacts. Increase your expertise. Share ideas. As a member of the Alabama State Bar, you can choose to join one or more of the 18 practice sections that focus on a particular area of substantive law.

You can request an appointment to any of 25 committees or task forces that are involved with significant issues facing the bar in Alabama and across the nation.

Whether you are just building a practice or enjoy a thriving established law career, you can benefit from CLE programs, newsletters and meeting on a regular basis with colleagues who share your interests.

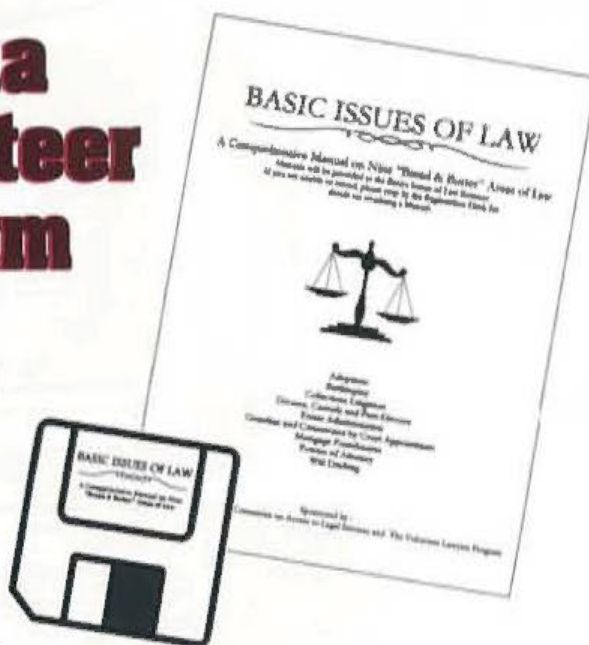
Check out the ASB's Web site at www.alabar.org for a complete listing of sections as well as an on-line committee preference form. Additional section membership information is available at (334) 269-1515, extension 305.

Keeping Alabama Lawyers Connected.


ALABAMA STATE BAR
To Serve the Profession

Join the Alabama State Bar Volunteer Lawyers Program

Join the Volunteer Lawyers Program and receive the "Basic Issues of Law" manual on a 3-1/2" disk, free. This manual covers nine "bread-and-butter" areas of the law, including adoption; bankruptcy; collections litigation; divorce, custody and post-divorce; guardian and conservator by court appointment; mortgage foreclosure; powers of attorney; and will drafting. To join, simply complete the form below and mail to: Volunteer Lawyers Program, Alabama State Bar, P.O. Box 671, Montgomery, Alabama 36101. Upon receipt of your enrollment form, the VLP will mail to you the "Basic Issues of Law" disk.



Enrollment Form

Alabama State Bar Volunteer Lawyers Program
P.O. Box 671, Montgomery, Alabama 36101
Phone (334) 269-1515, ext. 301 • Fax (334) 261-6310 • www.alabar.org

Name _____

Address _____

Telephone/Fax Number _____

Signature _____

I will accept two case referrals in the following areas:

- | | |
|---|--|
| <input type="checkbox"/> Adoption/Legitimations | <input type="checkbox"/> Bankruptcy |
| <input type="checkbox"/> Family Law | <input type="checkbox"/> Real Property |
| <input type="checkbox"/> Probate | <input type="checkbox"/> Where you need me |

Get on the list of very important people. Enroll today!!

Proposed Amendment of Rule VI, Rules Governing Admission to the Alabama State Bar

The Board of Bar Examiners of the Alabama State Bar, with the concurrence of the Board of Bar Commissioners, has recommended to the supreme court an amendment of Rule VI, Rules Governing Admission to the Alabama State Bar. The court has ordered that notice of this proposed amendment be given by publication in The Alabama Lawyer. The text of Rule VI as it would read after this amendment follows this notice. The court will receive comments regarding this proposed amendment through December 1, 2000. Comments must be in writing and filed with Robert G. Esdale, clerk, Supreme Court of Alabama, Judicial Building, 300 Dexter Avenue, Montgomery, Alabama 36104-3741.

— George Earl Smith
Reporter of Decisions
Alabama Appellate Courts

Rule VI. Board Of Bar Examiners

A. Creation of Board. In accordance with the provisions of Act 436 of the Legislature of Alabama of 1949, approved August 23, 1949 (Section

34-3-2, Code of Alabama, 1975), there is hereby created a Board of Examiners on admission to the Alabama State Bar, which Board shall hereafter be designated and known as the Board of Bar Examiners.

B. Composition of Board. Unless a different number is set by the Board of Commissioners of the Alabama State Bar, the Board of Bar Examiners shall consist of thirteen (13) members who are residents of the State of Alabama, and who are licensed attorneys of the Bar of this State. One examiner shall be designated by the Board of Commissioners as Chairman of the Board of Bar Examiners, but shall have no examining responsibilities. In lieu of examining responsibilities, the Chairman shall supervise and direct the activities of the Board of Bar Examiners within such rules as are promulgated for the Board of Bar Examiners. The Chairman shall be compensated as are all other examiners. The Board of Bar Examiners shall hold office at the pleasure of the Board of Commissioners of the Alabama State Bar and may be removed from office with or without cause by a majority vote of those present at any meeting of the Board of

Commissioners where a quorum is present. However, no examiner may serve more than four (4) consecutive years, after October, 1976, without the prior approval of the Board of Bar Commissioners.

C. Selection of Examiners. The Advisory Committee to the Board of Bar Examiners, appointed by the President of the Alabama State Bar, shall serve as a nominating committee to nominate persons for membership on the Board of Bar Examiners. Such nominations shall be made in consultation with the Chairman of the Board of Bar Examiners and the Secretary of the Alabama State Bar.

D. Vacancies and Removal From Office. Any vacancy on the Board of Bar Examiners shall be filled by the Board of Commissioners of the Alabama State Bar. Interim appointments for no more than one exam may be made by the Chairman with the approval of the Executive Committee of the Board of Bar Commissioners.

E. Compensation of Members. Each member of the Board of Bar Examiners shall receive as compensation such sums as shall be established from time to time by the Board of

Commissioners. In addition thereto, examiners shall be reimbursed for reasonable and necessary traveling and other expenses incident to the discharge of their duties. These expenses shall include books, postage, stationery, supplies, printing and other expenditures in the discharge of their duties. The members of such Board shall submit statements for their compensation and expenses on forms provided by the Secretary.

F. Organization and Authority of the Board. The Board of Bar Examiners shall be chaired by the Chairman who cannot succeed himself in office. The Secretary of the Alabama State Bar shall serve as Secretary ex-officio.

A quorum for any meeting shall consist of seven (7) members. A vote of the majority of the Board of Bar Examiners present at any meeting shall constitute the action of said Board.

The Board of Bar Examiners shall examine such applicants for admission to the Bar of Alabama as may be certified to the Board under these rules and shall perform such other duties as may be required of them by the Board of Commissioners of the Alabama State Bar.

G. Time and Place of Meetings. The Board of Bar Examiners shall hold meetings for the purpose of examining applicants for admission to the Bar at least twice each year as provided in Rule VI.N. All the members of the Board are not required to be in attendance throughout the examination; provided, however, that the Chairman shall arrange for the attendance of such members as are necessary for the efficient administration of the examination. The Board of Bar Examiners shall hold such other meetings as are necessary to fulfill its function. The Board shall meet at the call of the Chairman or a majority of the Board of Bar Examiners.

H. Bar Examination Subjects.

(1) Academic Bar Examination.

(a) **Alabama Essay Examination.** The Board of Bar Examiners will conduct an essay examination on subjects not covered by the Multistate Bar Examination or the Multistate Essay Examination. These subjects may include important topics of state law as well as federal taxation. At least twelve (12) months in advance of the first administration of the Alabama Essay Examination, the Board of Bar Examiners shall prepare and distribute to all students in Alabama law schools (individually or through the schools) and the deans of all Alabama law schools a detailed outline of the topics which are subject to being included on the Alabama Essay Examination. The Alabama Essay Examination shall not exceed three and one-half hours in length.

(b) **Multistate Bar Examination** (sometimes referred to as "MBE"). This portion of the examination will cover the following subjects: Contracts, Torts, Real Property, Evidence, Criminal Law, and Constitutional Law.

(c) **Multistate Essay Examination.** This portion of the examination will cover such of the following subjects as the Board of Bar Examiners may determine: Agency and Partnership, Commercial Paper, Conflict of Laws, Corporations, Decedents' Estates, Family Law, Federal Civil Procedure, Sales, Secured Transactions, Trust and Future Interests.

(d) **Multistate Performance Test.** This portion of the examination will consist of two 90-minute tests covering the following skills: problem solving, legal analysis and reasoning, factual analysis, communication, organization and

management of a legal task, and recognizing and resolving ethical dilemmas.

(2) **Legal Ethics.** The Multistate Professional Responsibility Examination (MPRE, see Rule VI.M) prepared by the National Conference of Bar Examiners shall be used as the examination on Legal Ethics and Professional Responsibility.

An applicant must pass both the Academic Bar Examination and the Ethics Examination to be certified as a successful candidate.

I. Preparation, Conduct and Grading of Examinations.

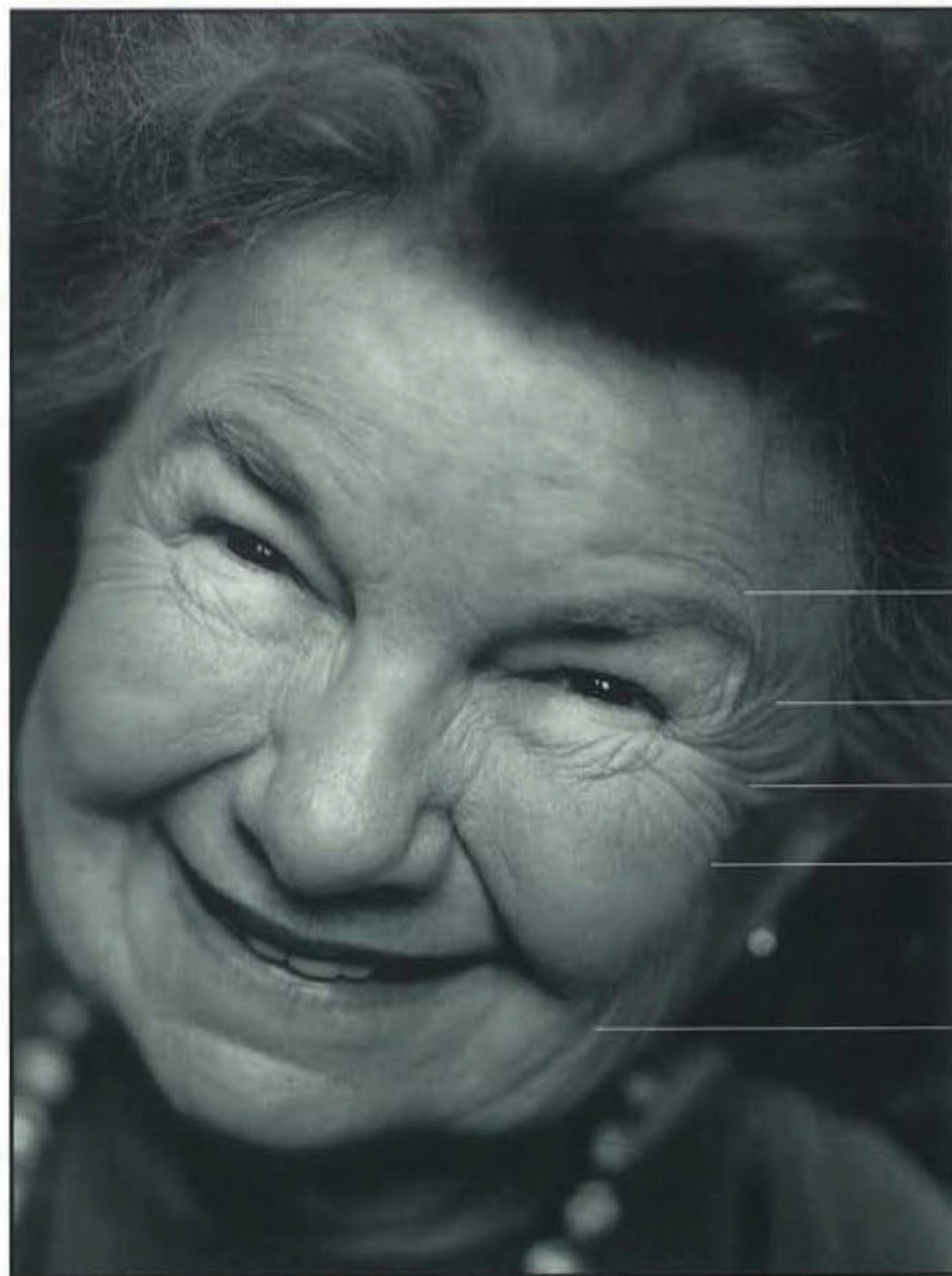
(1) Preparation of Examinations.

The Board of Bar Examiners shall be responsible for preparation of the Alabama Essay Examination, under such guidelines as shall be established by the Board with the approval of the Board of Commissioners.

The Multistate Bar Examination, the Multistate Essay Examination, and the Multistate Performance Test will be prepared by the National Conference of Bar Examiners, which shall determine their contents.

(2) **Conduct of Examinations.** The Board of Bar Examiners shall have the right, power and authority to adopt rules not inconsistent with the laws of the State of Alabama, or the orders of the Supreme Court or the Board of Bar Commissioners governing the control, methods and details of conducting such examinations.

The Secretary of the Alabama State Bar, at the time he issues to an applicant the certificate herein above provided for, shall issue to the applicant also a card containing a personal distinguishing number, the purpose and use of which shall be carefully explained to the applicant, and shall preserve a duplicate thereof in this office. In standing the examination, the applicant may not sign his/her



The joy and pain of childbirth.

*Days when their school
bus was late.*

Every second of their teens.

*Watching your babies
leave home.*

Watching them move back in.

It's as if our life's stories are recorded in the lines that nature draws upon our faces. And while our stories may differ, the message is always the same: that each and every moment that life serves up is precious. Which is exactly the concept behind Mount Royal Towers. Basically, it's about convenience and companionship. And the freedom to not just live life, but to celebrate it.



MOUNT ROYAL TOWERS

A Full-Service Retirement Community

205-870-5666



name to or upon any paper or document, or otherwise identify his/her examination answers than by said number, and is hereby forbidden to disclose this number to any member of the Board or to any other person whomsoever. If any applicant violates this requirement in any particular, the applicant's examination papers shall not be considered by the Board of Bar Examiners, and if it be discovered that such disclosure was made the applicant shall be subject to disciplinary action for deceit and misrepresentation. This requirement shall again be called to the attention of the applicant by the Board of Bar Examiners before he/she is permitted to begin the examination.

It is the express purpose hereof to provide a method whereby the Board of Bar Examiners, in passing upon the sufficiency of answers to questions propounded by it, shall be unacquainted with the identity of the person whose answers it is passing upon.

- (3) *Grading of Examinations.* Essay and performance test questions will test the applicant's ability to reason logically, to analyze accurately legal problems, to demonstrate a knowledge of the fundamental principles of law and their application, and to perform basic legal tasks. The grade of the paper shall be measured by the reasoning power shown as well as by the correctness or incorrectness of the answers. Answers to Multistate Essay Examination questions shall be analyzed and graded using the model answers provided by the National Conference of Bar Examiners and according to general principles of law. Answers to Alabama Essay Examination questions shall be analyzed and graded using the model answers prepared by the Board of Bar Examiners and according to Alabama or federal law as appropriate.

Essay and performance test questions will be scored by the Board

of Bar Examiners. The Board of Bar Examiners shall regrade all the answers of any applicant whose initial combined score, computed as set forth in Rule VI.J(1), is 125, 126 or 127.

respective applicants to identify them, the Board of Bar Examiners shall certify final grades to the Secretary of the Alabama State Bar no later than April 15th following a February examination, and September 15th following a July examination.

The Secretary shall make a permanent record in the Secretary's office of the grades attained by each examinee in each subject, and shall inform each examinee whether the examinee has passed or failed the examination.

An examinee who fails the academic portion of the bar examination will be furnished the following information at the time of notification of the failure: his or her Multistate Bar Examination scaled score, the grade made on each essay question and performance test, and his or her highest combined score.

Within sixty (60) days after the announcement of the results, a failing examinee shall be entitled to examine his or her own papers in the State Bar Headquarters for the purpose of ascertaining that grades were transcribed correctly, and upon payment of \$5.00 per section of any essay examination or performance test, the examinee will be entitled to receive a copy of the question(s), and of his or her answer(s), and of the model answer(s) and to examine at the State Bar Headquarters the three top papers on that particular examination.

J. Results of Examinations.

- (1) *Basic Rule.* Raw scores on the written portions of the Academic Bar Examination shall be weight-

ed so that the Alabama Essay Examination questions are worth 40% of the total written score, the Multistate Essay Examination questions worth 40%, and the Multistate Performance Test questions worth 20%. The total weighted raw written score shall be scaled to the MBE using the two methods for scaling bar examination scores approved by the National Conference of Bar Examiners. (Methods: 1. Equipercentile; 2. Standard Deviation.) The applicant's scaled written test score shall be expressed on the MBE range of scores (0-200) and shall be combined with the applicant's scaled MBE score. The scaled written test score and the scaled MBE score shall contribute equally to the combined score, so that the overall contribution of the respective components of the Academic Bar Examination will be as follows: MBE: 50%; Alabama Essay Examination: 20%; Multistate Essay Examination: 20%; Multistate Performance Test: 10%. An applicant who achieves a combined score of 128.000 or above by either of the two methods passes the academic portion of the bar examination. Scores which are not whole numbers shall be truncated to the next lowest whole number.

- (2) *Transfer of MBE Score.* An applicant who, after July 1, 1984, has taken and passed a bar examination in another jurisdiction, who has been admitted to practice in that jurisdiction, and who made an MBE scaled score of 140 or above will be excused from taking the MBE. The transferred score will be valid for a period of twenty months after taking the MBE. The applicant's transferred MBE score will be combined with the applicant's written test score according to the basic rule.

The applicant shall have the option to take all sections of the bar examination and the scores will be combined under the basic rule.

(3) *Carryover of MBE Score.* An applicant who, after July 1, 1984, has taken and failed the bar examination but who made an MBE scaled score of 140 or above will be excused from taking the MBE. The MBE scaled score will be carried over for any future examination for which the examinee is eligible within a period of twenty months after taking the earlier bar examination, and will be combined with the applicant's written test score according to the basic rule.

The applicant shall have the option to take all sections of the bar examination and the scores will be combined under the basic rule.

(4) *Carryover of Written Test Score.* An applicant who, after July 1, 1984, has taken and failed the bar examination, but who made a written test score which is equivalent to or greater than an MBE scaled score of 140, as determined in accordance with the basic rule, will be excused from taking the sections of the bar examination which contribute to the written test score. The written test score will be carried over for any future bar examination for which the examinee is eligible within a period of twenty months after taking the earlier bar examination, and will be combined with the applicant's MBE score according to the basic rule.

The applicant shall have the option to take all sections of the bar examination and the scores will be combined under the basic rule.

(5) *Time of Election to Transfer or Carry Over Score.* Elections regarding the transfer from another jurisdiction of an MBE score, or the carry-over of an MBE score or written test score from a previous Alabama examination, must be made at the time any application is filed.

K. Access to Information Regarding Alabama Essay Examination. At least

twelve (12) months in advance of the first administration of the Alabama Essay Examination, the Board of Bar Examiners shall prepare and distribute to all students in Alabama law schools (individually or through the schools) and the deans of all Alabama law schools an information booklet on the Alabama Essay Examination. This booklet shall include a description of the Examination, including a statement of its purpose and the areas of law to be covered; the instructions which will accompany the Examination when administered; and the subject matter or topic outline required by Rule VI.H.(1)(a). Following the first administration of the Examination, the information booklet shall be revised also to include the questions and corresponding model answers from the first administration. The Board of Bar Examiners shall thereafter update the information booklet at such times as it deems appropriate, and shall include therein representative sample questions and corresponding model answers from prior administrations. The Board shall routinely distribute the booklet to all applicants, and shall generally make the booklet available upon request. A reasonable fee, to be determined by the Board of Bar Examiners with the concurrence of the Board of Bar Commissioners, may be charged to requesting parties.

L. Access to Information Regarding Other Examinations. The Board of Bar Examiners shall make available to applicants sample and informational materials that will acquaint applicants with the general content and format of the Multistate Bar Examination, the Multistate Essay Examination, and the Multistate Performance Test. This requirement may be met by routinely distributing to all applicants the information booklets on these examinations published by the National Conference of Bar Examiners, and by advising applicants of the availability through the National Conference of Bar Examiners of sample questions and analyses. A reasonable fee, to be determined by the Board of Bar Examiners with the concurrence of

the Board of Bar Commissioners, may be charged to parties who request information outside the routine distribution to applicants.

M. Multistate Professional Responsibility Examination. Before admission to the Bar, each applicant must have successfully passed the Multistate Professional Responsibility Examination (MPRE). To complete successfully the MPRE, the applicant must have achieved a scaled score of at least 75 as that score is determined by the testing authority. Successful completion of the MPRE by an applicant at any time within the twelve-month (12) period prior to the taking of the Academic Bar Examination will be accepted and such successful completion may be carried over for a period of twenty (20) months from the time that the first Academic Bar Examination is taken, if such Academic Bar Examination is not passed. If an applicant has passed the Academic Bar Examination, but has not successfully completed the MPRE, he shall have a period of twenty (20) months from the date of the Academic Bar Examination in which to successfully complete the MPRE.

Complete application materials for testing, as well as all other correspondence, inquiries, and requests concerning application materials and the administration and processing of the National Conference of Bar Examiners' Multistate Professional Responsibility Examination (MPRE), should be directed to:

National Conference of Bar Examiners
MPRE Application Department
P.O. Box 4001
Iowa City, Iowa 52243
(319) 337-1304

N. Time of Bar Examinations. The examination will be given on Monday, Tuesday, and Wednesday of that week in February and July in which the MBE examination is administered. The Alabama Essay Examination will be on Monday, the Multistate Performance Test and the Multistate Essay Examination on Tuesday, and the Multistate Bar Examination on Wednesday.



Solicitation

By Any Other Name
Is Still

Solicitation

In today's world of lawyering,

one of the most troubling problems concerning the practice of law, as well as the image of the profession, is solicitation. Lawyers are constantly complaining that solicitation is rampant and is depriving lawyers who don't "run" cases of clients. Potential clients are increasingly complaining to the bar of unwanted personal contact by lawyers or their "investigators." How can we stem the tide of ever-increasing "ambulance chasing" which everyone, both lawyer and non-lawyer, complains about, but is very reluctant to get involved in by filing a formal written grievance?



By J. Anthony McLain
General Counsel, Alabama State Bar

The United States Supreme Court has determined that contact by mail or advertising by a lawyer is permissible, but may be subject to regulation or control by a disciplinary agency. The Alabama Supreme Court and the Disciplinary Commission of the Alabama State Bar have visited the issue of solicitation in opinions rendered by those respective bodies.

se is a rose is a rose is a

What the Alabama Supreme Court Has Said

While many believe that solicitation is a relatively new problem, the Alabama Supreme Court, in a 1956 case, held that, "There can, of course, be no justification for ambulance chasing. It cannot be too strongly condemned."¹

The court reaffirmed the lawyer's five-year suspension for soliciting clients involved with four accidents in which persons were killed or injured.

Some 16 years later, while reversing the lawyer's suspension for alleged solicitation, the court accepted the bar's argument that "...[T]he rule against solicitation should be enforced strictly."² The following year, the court reviewed the appeal of a lawyer charged with failing to include the required disclaimer in the lawyer's advertisement, with failing to file a copy of the advertisement with the bar as required by the *Code of Professional Responsibility*, and of engaging in private practice under a misleading name at the time of the published advertisement.³

Referring to the United States Supreme Court opinion in *Bates v. State Bar of Arizona*, 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed.2d 810 (1977), the court affirmed the right of the bar to restrain advertising that is deceptive or misleading.⁴

Then, in 1996, the court dealt with the philosophical basis for rules governing advertising and solicitation when a lawyer had a flower wreath delivered to a funeral home where the body of a small child who suffocated in a daycare van was located.⁵ Attached to the wreath was a letter of condolence approved by the lawyer who folded the letter and placed it in an envelope along with a copy of a brochure describing his firm's services. The lawyer argued that his conduct constituted "direct mail" solicitation and was therefore permissible pursuant to case law of the United States Supreme Court and opinions of the Disciplinary Commission of the Alabama State

Bar. In rejecting this contention, the court held, "The facts in this case do not concern 'direct mail' or even the 'mail' at all."⁶ The court further opined that the rule prohibiting solicitation "...is clear as to its purpose and spirit, and [the lawyer] clearly violated the purpose and spirit of the rule."⁷ In upholding the lawyer's two-year suspension by the Disciplinary Board, the court held that the lawyer's conduct adversely reflected upon his fitness to practice law and demonstrated "...an indifference to the purpose and spirit of the rule."⁸

The Disciplinary Commission Speaks Out

In light of the efforts of certain lawyers to engage in advertising and marketing of their legal services, the Disciplinary Commission has been requested on numerous occasions to provide ethical guidance under the former *Code of Professional Responsibility* and the present *Alabama Rules of Professional Conduct*.

In one request, the lawyer inquired as to whether he could contact potential class members in a medical malpractice action by way of direct mail.⁹ The Commission determined that such contact was permissible by mail, but not in person. The Commission further directed compliance with those other provisions of the *Code of Professional Responsibility* concerning advertising and solicitation, e.g., filing requirements, disclaimer, etc.

In another matter, the Commission was asked to assess the proposed activity of a lawyer who had departed from a law firm and who wanted to contact clients he had represented while a member of the former firm.¹⁰ The Commission concluded that absent intentional interference or fraud, the lawyer could contact the clients unless the client objected.

The Disciplinary Commission has also determined that: (1) a lawyer may not use his participation in another business, occupation, or profession as a "feeder" for his law practice;¹¹ (2) a lawyer may not engage in in-person solicitation of present or past clients for "new" areas of legal work.¹²

An oft-requested opinion deals with the "Welcome Wagon" concept utilized in certain communities. The specific issue addressed to the Disciplinary Commission was whether a lawyer could enter into a sponsorship contract with "Welcome Wagon" whereby new residents in the community would be called upon by a member of "Welcome Wagon" who would give to the new resident a packet of information which would include the lawyer's firm brochure, business card, or other material supplied by the lawyer to "Welcome Wagon." In reviewing this proposed scheme, the Commission concluded that such would constitute in-person solicitation by a third party on behalf of the lawyer.¹³

2000 Alabama Bar Directory

Please note: The information contained in this year's *Alabama Bar Directory* will be current as of April 1, 2000. Any membership changes made after that date **will not** be reflected in this year's directory. Please mail all changes for next year's directory (2001) to: Alabama State Bar, Membership Dept., P.O. Box 671, Montgomery 36101; fax to (334) 261-6310; or e-mail to ms@alabar.org.

Who's On First?

Can Lawyer Ima Goodie Twoshoes, who shudders at the thought of being known as a "TV Lawyer," pay the advertising budget of Lawyer Needsa Help who will in turn refer all "big fee" cases to Ima? No, sir!¹⁴ The Disciplinary Commission has also determined that a law firm's inclusion in a firm brochure of past settlement or damages awards creates an unjustifiable expectation in the mind of the reader (prospective client?) seeking legal representation.¹⁵

The obvious solicitation is readily defined. But the creativity of lawyers sometimes creates an appearance of solicitation where none may have occurred. Consider the plaintiff's lawyer involved in a products liability or bad faith case who writes to other clients/customers/policyholders of the corporate defendant in an effort to obtain "pattern and practice" witnesses. In response thereto, certain of these may now feel that they have a like claim, and end up hiring the contacting lawyer. Most would view this as solicitation because, but for the contact, no lawyer-client relationship would have occurred. If the lawyer complies with the rules governing advertising as they relate to direct mail solicitation, no problem. If the lawyer does not, then there is a problem.

Many also question those instances where a non-lawyer "signs up" a client on behalf of the lawyer, with the client never meeting the lawyer in most instances until the matter actually proceeds to a court hearing or is settled. Such activity was condemned by the Alabama Supreme Court in *Davis v. Alabama State Bar*, 676 So.2d 306, 309 (Ala. 1996). The court rejected the lawyers' contention that they were the victims of a "witch-hunt" conducted by the bar because the bar did not approve of the firm's advertising practices. In upholding the discipline of a 60-day suspension for each of the two lawyers involved, the court stated, "We uphold the discipline imposed upon these attorneys, but we are not upholding it because they advertised; rather, we uphold it because the advertising was misleading in that the attorneys did not provide what they had said they would provide."

Let Go My Case-O!

Lawyers continue to complain that other lawyers are "stealing" their cases. Lawyers complain that their own clients receive direct mail solicitation letters offering legal services, even in situations where the recipient is already being represented. Some even complain that those who offer defense services to those being sued in district or circuit court are so zealous in their mailouts that the sued parties often receive the direct mail solicitation letter before service is perfected,

thereby giving the defendant advance notice. Believe it or not some of these defendants then evade service.

In order to allow this profession to maintain its right to self-police, lawyers owe it to the profession to stem the tide of unwarranted, prohibited solicitation. Lawyers also owe it to the public to refrain from unwanted intrusion into their personal affairs. The Alabama Supreme Court has reasoned that, "False and misleading advertising by attorneys can, and probably has, greatly harmed the public's perception of the legal profession, at a time when the public's confidence has diminished. Indeed, the vast majority of those in the legal profession think advertising is harmful to the image of attorneys."¹⁶

What then can be said about solicitation? While the two matters, advertising and solicitation, are obviously not one in the same, many times the public finds an offensive tone in both which causes the two to be grouped together for discussion purposes. And while a prophylactic ban on lawyer advertising is unconstitutional, the arguments supportive of advertising can hardly be said to apply to solicitation.

Champerty, ambulance chasing and barratry are all condemned and unacceptable to both the public and the profession. But how do we, as a profession, explain our less than adequate measures to prevent these from occurring? We must take affirmative steps to eliminate these problems from the legal landscape, and plant seeds of trust and professionalism, thereby ensuring the public's right to be safe from unwelcome advances and intrusions of those who seek to ply their trade in these ways. ■

Endnotes

1. *Ex parte Newton*, 265 Ala. 650, 652, 93 So.2d 650 (1956).
2. *Goldthwaite v. Disciplinary Board of Alabama State Bar*, 408 So.2d 504, 507 (Ala. 1982).
3. *Mezrano v. Alabama State Bar*, 434 So.2d 732 (Ala. 1983).
4. *Mezrano*, 434 So.2d at 736.
5. *Norris v. Alabama State Bar*, 582 So.2d 1034, cert. denied, 112 S.Ct. 417, 116 L.Ed.2d 438 (Ala. 1991).
6. *Norris*, 582 So.2d at 1036.
7. *Norris*, 582 So.2d at 1036.
8. *Norris*, 582 So.2d at 1037.
9. Disciplinary Commission RO-89-57.
10. Disciplinary Commission RO-91-06.
11. Disciplinary Commission RO-85-05.
12. Disciplinary Commission RO-93-02.
13. Disciplinary Commission RO-91-17.
14. Disciplinary Commission RO-99-01.
15. Disciplinary Commission RO-93-08.
16. *Davis*, 676 So.2d at 309.



The Top Ten Ways Of Avoiding Sexual Harassment Liability

By Christopher Lyle McIlwain

Title VII imposes a duty on covered employers to stop sexual harassment of employees by supervisors, co-employees and even third parties such as clients or customers. *Coates v. Sundor Brands, Inc.*, 164 F.3d 1361, 1366 (11th Cir. 1999). Violation of that duty can result in very large judgments against an employer.

The most cost-effective method for employers to deal with potential liability for sexual harassment is to avoid lawsuits in the first place without compromising or unduly prejudicing the employer's normal operations. In this fashion, the employer can not only dodge the financial penalties associated with this type of litigation, but also the bad publicity that may accompany the lawsuit.

Therefore, in the spirit of David Letterman, you are hereby offered the "Top Ten" ways of avoiding sexual harassment liability (drum roll, please):

10 Conduct Pre-employment Background Investigations

It is important for an employer to make a reasonable investigation of the prior employment of all applicants for employment during the hiring process to determine whether they have previously committed inappropriate behavior.

This will help cull some of the "bad boys" and will also provide a defense to state law claims for "negligent hiring" that are often appended to sexual harassment lawsuits. See, e.g., *Portera v. Winn-Dixie of Montgomery, Inc.*, 996 F. Supp. 1418, 1438 (M.D. Ala. 1998).

9 Don't Wait for Formal Complaints Before Taking Action to Stop Harassment

An employer must exercise reasonable care to prevent and promptly correct any sexually harassing behavior. The employer's duty to take corrective action is necessarily triggered when the employer "knows" about the harassment. This knowledge may be acquired not only through official complaints by victims, but also through unofficial complaints or reports of persons other than the victim. See, e.g., *Dees v. Johnson Controls World Services, Inc.*, *supra*.

In addition, an employer has an obligation to exercise a reasonable level of vigilance, *Splunge v. Shoney's, Inc.*, 97 F.3d 488, 491 (11th Cir. 1996) and it will be said to have "constructive knowledge" of sexual harassment where the circumstances are such that it should have known of the harassment. See, e.g., *Llampallas*, 163 F.3d, 1251, fn. 24 (harassment was open and pervasive); *Faragher*, 118 S.Ct. 2284 (discussing cases where the president or owner of the employer is the harasser, or where they or high-echelon officials of an employer organization have actual knowledge of the harassment).

Therefore, an employer should encourage *all* employees—not just victims—to report incidents of harassment they may witness or even ones about which they hear rumors. Then it should take corrective action whether a complaint has been made or not.

8 Adopt a Written Sexual Harassment Policy

Especially where an employer's operations are far flung, upper management may not become aware that sexual harassment is occurring. In those cases, a problem may fester until it cannot be controlled short of the litigation process. An early warning system can aid the employer by allowing it to take action to resolve problems before they reach that degree of seriousness.

Therefore, every employer should adopt a written sexual harassment policy which strongly opposes sexual harassment, encourages all employees to report incidents of sexual harassment, and describes an effective procedure for making complaints bypass the harasser and go directly to a specific representative of the employer. For a good example of such a policy, see *Madray v. Publix Super Markets, Inc.*, 30 F.Supp.2d 1371, fn. 2 (S.D.Fla. 1998).

This policy must be disseminated to all employees. *Faragher v. City of Boca Raton*, 524 U.S. 775, 118 S.Ct. 2275, 141 L.Ed.2d 662 (1998) (city failed to disseminate its policy within the department where the victim was employed); *Nuri v. PRC, Inc.*, 13 F.Supp.2d 1296 (M.D. Ala. 1998) (employer's motion for summary judgment denied where victim claimed that her failure to use complaint procedure was due to her lack of awareness of the policy). It is advisable to have all employees sign a verification of receipt of the policy.

If the employer adopts and disseminates an effective sexual harassment policy and procedure, it may be entitled to assert an

affirmative defense to liability under Title VII. In *Faragher v. City of Boca Raton*, *supra*, and *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742, 118 S.Ct. 1257, 141 L.Ed.2d 633 (1998), the Supreme Court held that a victim of sexual harassment by a supervisor who fails to utilize the complaint procedure cannot impose vicarious liability under Title VII on her employer unless the employer otherwise failed to exercise reasonable care to prevent and correct promptly sexual harassment of that victim, or unless the victim has also suffered some other tangible, adverse employment action.

This affirmative defense has been very effective in defending these types of cases. See, e.g., *Coates v. Sundor Brands, Inc.*, *supra* (affirming summary judgment for employer on this basis); *Masson v. The School Board of Dade Co.*, 36 F.Supp.2d 1354, 1359 (S.D. Fla. 1999)(same); *Maddin v. GTE of Florida, Inc.*, 33 F.Supp.2d 1027, 1032-33 (M.D. Fla. 1999)(same). See also, *Madray v. Publix Super Markets, Inc.*, *supra* (same; victim complained to management per-

sonnel but failed to complain to those management personnel designated by the policy to receive complaints).

7

Never Discourage a Complaint or Report About Sexual Harassment

Any employee who has a good faith, objectively reasonable belief that sexual harassment is occurring has a legal right to take action to stop it, including

reporting or complaining about the conduct. An employee also has a right to file an EEOC charge, give testimony, and assist or participate in any manner in an investigation, proceeding or hearing. 42 U.S.C. 2000e-3(a); *Clover v. Total System Services, Inc.*, 176 F.3d 1346 (11th Cir. 1999)(employee did not have objectively reasonable belief). Any adverse action against the employee because of her exercise of those rights gives rise to a cause of action for retaliation even if the conduct in question is not ultimately found to have risen to the level of actionable sexual harassment. *Sullivan v. National Railroad Passenger Corp.*, F.3d (11th Cir. 1999).

Instead of retaliating against one who complains, complaints and reports of sexual harassment should be encouraged so that the employer may nip potential lawsuits in the bud by ending any improper conduct. They should also be taken seriously and no attempt should be made to treat them in a humorous manner.

Generalized fear of potential retaliation is not sufficient justification for a

Free Report Shows Lawyers How to Get More Clients

Calif.—Why do some lawyers get rich while others struggle to pay their bills?

The answer, according to attorney, David M. Ward, has nothing to do with talent, education, hard work, or even luck.

"The lawyers who make the big money are not necessarily better lawyers," he says. "They have simply learned how to market their services."

A successful sole practitioner who once struggled to attract clients, Ward credits his turnaround to a referral marketing system he developed six years ago.

"I went from dead broke and drowning in debt to earning \$300,000 a year, practically overnight," he says.

Most lawyers depend on referrals, he notes, but not one in 100 uses a referral system.

"Without a system, referrals

are unpredictable. You may get new clients this month, you may not," he says.

A referral system, Ward says, can bring in a steady stream of new clients, month after month, year after year.

"It feels great to come to the office every day knowing the phone will ring and new business will be on the line."

Ward has taught his referral system to over 2,500 lawyers worldwide, and has written a new report, "How To Get More Clients In A Month Than You Now Get All Year!" which reveals how any lawyer can use this system to get more clients and increase their income.

Alabama lawyers can get a FREE copy of this report by calling 1-800-562-4627, a 24-hour free recorded message, or visiting Ward's web site, <http://www.davidward.com>

THE HIGHEST QUALITY IN COURT REPORTING

ESTABLISHED 1974

Condensed & Indexed Transcripts
Discovery ZX, ASCII & Word Perfect Diskettes
Realtime & Daily Copy Available Upon Request
Expedited Delivery
Videotape • Timestamping
Electronic Transcript Delivery
Deposition Suite

*Tyler
Eaton
Morgan
Nichols* & *Pritchett*
COURT REPORTERS

1975 SouthTrust Tower • 420 20th Street North
Birmingham, Alabama 35203
205-252-9152 • WATS: 1-800-458-6031
FAX: 205-252-0196

victim's failure to utilize an employer's complaint procedure. *Jones v. USA Petroleum Corp.*, *supra*. However, where an employer has a track record of punishing or ignoring complainants, a victim may be excused from following the procedure. This will result in a loss of the "failure to complain" defense recognized in *Faragher* and *Ellerth*.

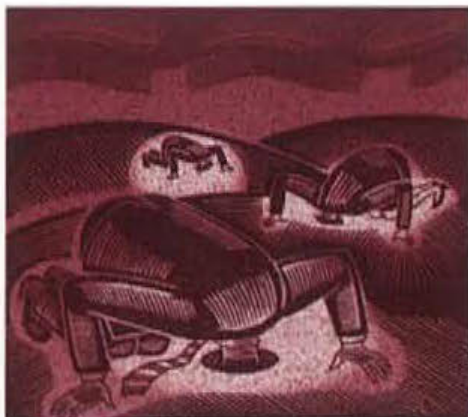
6 Regularly Publicize the Policy

Sexual harassment law has many parallels to the laws relating to workplace safety. As in the case of workplace injuries, Title VII imposes duties on employers to exercise reasonable care to prevent and correct promptly the cause of the interference with an employee's safe performance of her duties.

Faragher, 118 S.Ct., 2293. As part of their risk management programs, many prudent employers have periodic safety meetings with their employees to educate them on the employer's policies and procedures regarding safety so that accidents and resulting litigation can be avoided.

Although some courts have held that an employer has no duty under Title VII to conduct training sessions regarding sexual harassment, *Jones v. USA Petroleum Corp.*, 20 F.Supp. 2d 1379, 1386 (S.D. Ga. 1998), it is arguable that such a duty may be imposed by state law based on the concept of negligent training or supervision. See generally, *Portera v. Winn Dixie of Montgomery, Inc.*, 996 F.Supp. 1418, 1438 (M.D. Ala. 1998).

Moreover, so many decisions refer favorably to training programs that one must assume that at least subconsciously their existence has a positive impact on judges and juries who are considering the reasonableness of an employer's acts and omissions. See, e.g., *Masson v. The School Board of Dade Co.*, *supra* at 1358.



Therefore, an employer who is serious about eliminating sexual harassment and avoiding liability would be wise to conduct at least annual training sessions to emphasize the key points of the employer's sexual harassment policy.

It is also not a bad idea to erect posters in the work place reflecting that policy as was done in *Maddin v. GTE of Florida, Inc.*, *supra*.

5 Encourage Employees to Follow the "Preacher" Test

As part of its sexual harassment prevention program, an employer must educate its employees regarding the types of behavior which are unacceptable in the workplace.

Unfortunately the law does not provide a bright line test for determining whether conduct is actionable hostile environment sexual harassment. Before a jury renders its verdict, how does one know whether conduct is sufficiently "severe" or "pervasive" to alter the conditions of the victim's employment and create an "abusive" working environment? *Meritor Sav. Bank v. Vinson*, 477 U.S. 57, 67, 106 S.Ct. 2399, 2405, 91 L.Ed.2d 49 (1986). See also, *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 21, 114

S.Ct. 367, 370, 126 L.Ed.2d 295 (1993)(holding that the harassment must be both subjectively and objectively "offensive").

As a result of the nebulous applicable standards, courts and juries seem to apply their own standards of decency in judging the conduct of an alleged harasser. See, e.g., *Nuri v. PRC, Inc.*, 13 F.Supp. 2d 1296, 1302 (M.D. Ala. 1998)("Here, the jury apparently found that Nuri's supervisor crossed the line of decency."). Given this, it is often difficult to harmonize the results in cases which appear to involve materially similar facts. For example, in *Mendoza v. Borden, Inc.*, 158 F.3d 1171, 1175 (11th Cir. 1998), a panel of the Eleventh Circuit reversed a directed verdict in favor of an employer where the relevant evidence was as follows:

"Mendoza's testimony, essentially un rebutted, was that her supervisor, Dan Page—the highest ranking executive at Borden's Miami facility—'constantly' followed her around the office and the hallways of the Borden's plant, staring at her and looking her up and down in a sexually suggestive manner. Mendoza also testified that, on two occasions Page stared at her groin area and made a sniffing sound, and another time, rubbed his hip against hers, while touching her shoulder. Mendoza also asserts that Page made inappropriate comments, noting that he once told her, 'I'm getting fired up' when she came into his office."

Id. However, on rehearing *en banc* the court set aside the panel decision, holding that the conduct was below the "baseline of actionable conduct." *Mendoza v. Borden, Inc.*, ___ F.3d ___, ___ (11th Cir. Nov. 16, 1999).

Prudent risk avoidance strategy would, therefore, dictate that an employer require its employees to utilize the "Preacher Test" in connection with workplace relations: "If you would not do it in front of your preacher, don't do it in front of an employee of the opposite sex."

Unless one's preacher is Clintonesque, this should eliminate the typical factual fodder of harassment lawsuits such as posting of nude photos, sexual banter and jokes, frequent use of foul or sexually degrading language, and physical horseplay.

4

Promptly and Thoroughly Investigate All Complaints, Reports or Other Evidence of Sexual Harassment

Once an employer learns of sexual harassment, it should *immediately* initiate an investigation of the relevant facts. This investigation is required regardless of the apparent merits of the claim and regardless of the position of the alleged harasser. It should also be conducted even if the alleged victim desires otherwise. Delay will not only look bad to a jury, but the memories of witnesses will be worse and key documentary evidence may be lost or destroyed.

The investigation should be conducted under the guidance of an attorney experienced in these matters. It should be thorough and fair. It should be conducted by an investigator trained in the principles of sexual harassment law.

Beginning with the victim, the employer should try to find out all of the details—what, when, where, who—and the identity of anyone who may have witnessed the incidents. Supervisors of the harasser and co-workers of the victim are particularly important sources of information as



well as potential witnesses in any ensuing litigation. Find out what they know and what they do not know. To ensure accuracy, the statements should be taken individually and separately rather than *en masse*.

If possible, each statement should be recorded. Any relevant documentation, such as video security tapes, letters, pictures, e-mail messages, expense reports and time records (showing who was on duty at the time particular incidents are claimed to have occurred), should be collected and safeguarded.

While the investigation is ongoing, caution the alleged harasser against retaliating against or even contacting the alleged victim or potential witnesses. It is especially important that the harasser not be allowed to scare or coach victims or witnesses. If necessary, the harasser should be put on paid leave until the investigation is completed.

Investigations of this type can rarely be conducted on a totally confidential basis. It is important, however, that the relevant facts be disclosed only to those who have a "need to know". Among other things, disclosure of "facts" to persons outside this circle may give rise to liability for defamation if the facts turn out to be false. *Compare, Atkins*

Ford Sales, Inc., v. Royster, 560 So.2d 197 (Ala. 1990)(affirming judgment against employer for \$150,000 where facts derived from investigation of theft were disclosed to persons who did not need to know those facts as a part of a proper investigation) with *Stockley v. AT&T Information Systems, Inc.*, 687 F.Supp. 764 (E.D.N.Y. 1988)(granting summary judgment for employer where the employer investigated an anonymous complaint regarding sexual harassment and made a report of the investigation to executives involved in investigating or disciplining the harasser, even though the facts later became the subject of office gossip).

After the investigation is completed—and it should be completed promptly—the employer must analyze the evidence and try to determine whether a jury will find that harassment has occurred or not. As in any case this means focusing on the objective, verifiable facts and the credibility of the witnesses.

3

Take Effective Remedial Action Against the Harassers

As in the case of a safety violation or other workplace hazard, if the investigation determines that there is reasonable cause to believe that harassment has occurred, the employer has a duty to take action reasonably calculated to stop the offending conduct and prevent its reoccurrence.

This action may range from a warning or reprimand all the way to termination, including sensitivity training, counseling, suspension, involuntary transfer and financial penalties. The precise action taken ought to take into account the pervasiveness and seriousness of the misconduct. Any recommendations on punishment made by legal

Child Support Calculator v.2000.02

For Corel WordPerfect Office™ for Windows™ 95, 98, 2000, NT, LINUX™

Monthly amount and arrearage calculations.

Information / Order form on request.

Simple Logic, Inc., P. O. Box 110, Allgood, AL 35013

fax: 205-274-0178 e-mail: simple@otelco.net

SOFTWARE SOLUTIONS MADE SIMPLE SINCE 1991



counsel should be made verbally to top management or in such a manner that the attorney-client privilege can be preserved.

To ensure closure, the "victim" and the "harasser" should be informed of the employer's ultimate conclusion and its decision regarding remedial action. Both should be informed that no retaliation of the victim will be tolerated.

If punishment short of discharge is imposed, the employer should periodically monitor the harasser's behavior and follow up with the victim to make sure that the harassing conduct has ended and that no retaliation (reprimands; selective discipline; negative evaluations) has occurred or been threatened. If either has occurred, the employer would be well advised to immediately terminate the harasser. If, on the other hand, the victim gives false assurances that all is well, the employer is not responsible unless it has reason to know otherwise. *Coates v. Sundor Brands, Inc.*, *supra*.

2

Carefully Scrutinize All Adverse, Tangible Employment Action Against

Employees to Determine If Sexual Harassment Might Be the Actual Motivation for the Employment Decision

Where a harassing supervisor takes adverse, tangible employment action against the victim, the employer loses its "failure to complain" affirmative defense in supervisor sexual harassment cases. *Faragher*, 118 S.Ct., 2293; *Ellerth*, 118 S.Ct., 2270; *Kelley v. Worley*, 29 F.Supp.2d 1304, 1310 (M.D. Ala. 1998)(denying employer's motion for summary judgment where the supervisor/harasser had also fired the victim).

Tangible employment action is a decision which requires an "official act" of the employer and which inflicts direct economic harm. *Ellerth*, 118 S.Ct., 2269. The Supreme Court has held that it includes such things as firing, denial of a raise, demotions, failing to promote, reassignment with significantly different responsibilities, undesirable reassignments, and decisions causing a significant change in benefits. *Ellerth*, 118 S.Ct., 2268, 2284; *Faragher*, 118 S.Ct., 2293. The Eleventh Circuit has noted that the phrase also includes "unwanted" reassignment. *Dees v. Johnson Controls World Services, Inc.*, 168 F.3d 417, 422 (1999).

One very important unsettled question is whether a constructive discharge constitutes tangible employment action. Because it does not require an "official act" of the employer, one could argue that it does not. Moreover, recognizing constructive discharge as tangible employment action in this context would allow victims to simply quit before first allowing employers the opportunity to correct the situation. *Accord, Jones v. USA Petroleum Corp.*, *supra*.

Employers can partially alleviate the problem presented by tangible employment action by utilizing a procedure whereby important tangible employment decisions are made by someone or some group of persons outside an affected employee's line of supervision (and, therefore, hopefully outside the affected employee's zone of potential harassers) after an independent investigation. The Eleventh Circuit has held that an employer cannot be held liable for a supervisor's sexual harassment of an employee who fails to utilize a complaint procedure, *even if* the victim is also the recipient of tangible adverse employment action, if the decision to take that tangible employment action was made by someone *other than* the harasser after an independent investigation. *Llampallas v. Mini-Circuits Lab, Inc.*, 163 F.3d 1236 (11th Cir. 1998). Cf., *Stimpson v. City of Tuscaloosa*, F.3d ____ (11th Cir. 1999)(employee discharged by civil service board after administrative hearing).

If the independent investigation—which should include a meeting with the affected employee—reveals evidence of sexual harassment, adverse employment action against the victim should be suspended. If no such evidence comes to the attention

Do You Need a Tree Expert?

- * Tree Valuations
- * Pesticide Damages
- * Tree Care
- * Registered Foresters
- * Tree Protection
- * Timber Trespass
- * Tree Assessments
- * Certified Arborists



Southern Urban Forestry Associates
205-333-2477
P. O. Box 1403, Northport, AL 35476

Forensic Psychiatrist

ROBERT H. WRAY MD, JD

1-850-668-1488
Office and Fax

of the decision maker, the employer will be shielded from liability despite the adverse action unwittingly taken against the victim. *Llampallas*, 163 F.3d, 1250 ("Thus, [the decision maker] was not 'on notice' that [the harasser] could be scheming against [the victim] based on [the victim's] sex. [The victim], although she had the opportunity to do so, failed to inform [the decision maker] of her relationship with [the harasser] and of the information she possessed that would have put [the decision maker] on notice that [the harasser's] threat may have been motivated by a discriminatory animus.")

At the very least, all employees whose employment is terminated voluntarily or involuntarily should undergo an exit interview which would include questions designed to elicit information regarding any negative experiences while employed. If evidence of sexual harassment is revealed, the employer can consider reinstatement. If the employee does not proffer any evidence of sexual harass-

ment, this omission can be used as evidence in any later litigation.

1

Document, Document, Document

As the old saying goes, "If you can't prove it, it did not happen." It is, therefore, critical that an employer be able to prove that it used reasonable care to prevent and eliminate sexual harassment. This would include the ability to document that it has followed each of the suggestions outlined above.

For example, notes regarding pre-employment background investigations of applicants should be retained. Each employee should be required to sign an acknowledgment of their receipt of the sexual harassment policy. They should also sign attendance sheets regarding harassment-related training sessions. Instances in which the complaint procedure has been utilized and the chronology of all ensuing investigations should be recorded. The findings of the investigation and the extent of remedial action should also be documented. ■

Christopher Lyle McIlwain

Christopher Lyle McIlwain is president and a shareholder in the Tuscaloosa firm of Hubbard, Smith, McIlwain, Brakefield & Browder, P.C. He received a B.A. in 1977 from the University of Alabama and a J.D. in 1980 from the University of Alabama School of Law.

Helping Your Business Is Avis' Business.

Here's a business proposition from Avis because you're a member of **Alabama State Bar**. We'll give you very special discounts at participating Avis locations. For example, you are eligible for **20% off** our Avis Association Select Daily rates and **5% off** promotional rates.

And you can expect the most professional service in the industry. Because Avis cars come with Avis people, and trying harder is what they do best. So make it your business to take advantage of all the member benefits that Avis has waiting for you. Just show your Avis Member Savings Card or Association Membership ID card at time of rental. For more information or reservations, call Avis at **1-800-698-5685**. And be sure to mention your Avis Worldwide Discount (AWD) number: **A530100**.

Especially For Alabama State Bar Members Save \$15 Off A Weekly Rental!

Reserve an Avis Intermediate through a Full Size 4-Door car. Then present this coupon at a participating Avis location in the U.S. and receive **\$15 off a weekly rental**. Subject to complete Terms and Conditions. For reservations, call your travel consultant or Avis at: **1-800-698-5685**.

TERMS AND CONDITIONS

Coupon valid on an Intermediate (Group C) through a Full Size 4-Door (Group E) car. Dollars off applies to the cost of the total rental with a minimum of five days. Coupon must be surrendered at time of rental; one per rental.

An advance reservation is required. May not be used in conjunction with any other coupon, promotion or special offer. Coupon valid at Avis corporate and participating licensee locations in the contiguous United States. Offer may not be available during holiday and other blackout periods. Offer may not be available on all rates at all times. Cars subject to availability. Taxes, local government surcharges, and optional items, such as LDW, additional driver fee and fuel service, are extra. Renter must meet Avis age, driver and credit requirements. Minimum age is 25, but may vary by location. Rental must begin by 12/30/00.

Rental Sales Agent Instructions. At Checkout:

- In AWD, enter **A530100**. • In CPN, enter **MUGK720**.
- Complete this information:
RA# _____ Rental Location _____
- Attach to COUPON tape.



ARBITRATION AGREEMENTS

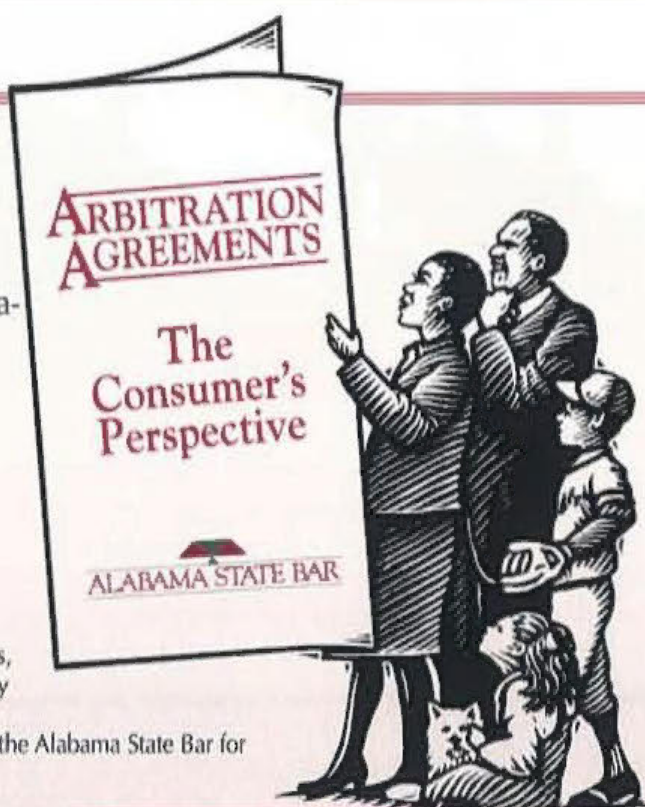
The Consumer's Perspective

Advantages and disadvantages to the consumer of mandatory binding arbitration, including the definition of arbitration and an arbitration agreement, the costs involved, what to expect in an arbitration and what consumers need to know in today's marketplace.

ALABAMA STATE BAR Publications Order Form

The Alabama State Bar is pleased to make available to individual attorneys, firms and local bar associations, at cost only, a series of brochures on a variety of legal topics of interest to the general public.

Below is a current listing of public information brochures available from the Alabama State Bar for distribution by local bar associations, under established guidelines.



Brochures

To Serve the Public

...details of bar public service programs highlighted in the *TO SERVE THE PUBLIC* video presentation.

\$10.00 per 100 Qty. _____ \$ _____

Law As A Career

...opportunities and challenges of a law career today

\$10.00 per 100 Qty. _____ \$ _____

Lawyers and Legal Fees

...a summary of basic information on common legal questions and procedures for the general public

\$10.00 per 100 Qty. _____ \$ _____

Last Will & Testament

...covers aspects of estate planning and the importance of having a will

\$10.00 per 100 Qty. _____ \$ _____

Legal Aspects of Divorce

...offers options and choices involved in divorce

\$10.00 per 100 Qty. _____ \$ _____

Consumer Finance or "Buying on Time"

...outlines important considerations and provides advice on financial matters affecting the individual or family

\$10.00 per 100 Qty. _____ \$ _____

Mediation...Another Method for Resolving Disputes

...provides an overview of the mediation process in question-and-answer form

\$10.00 per 100 Qty. _____ \$ _____

NEW! Arbitration Agreements

...answers questions on arbitration from the consumer's perspective.

\$10.00 per 100 Qty. _____ \$ _____

Acrylic Brochure Stand

...individual stand imprinted with individual, firm or bar association name for use at distribution points

\$5.00 each Qty. _____ \$ _____

One stand per brochure is recommended.

Name to imprint on stand: _____

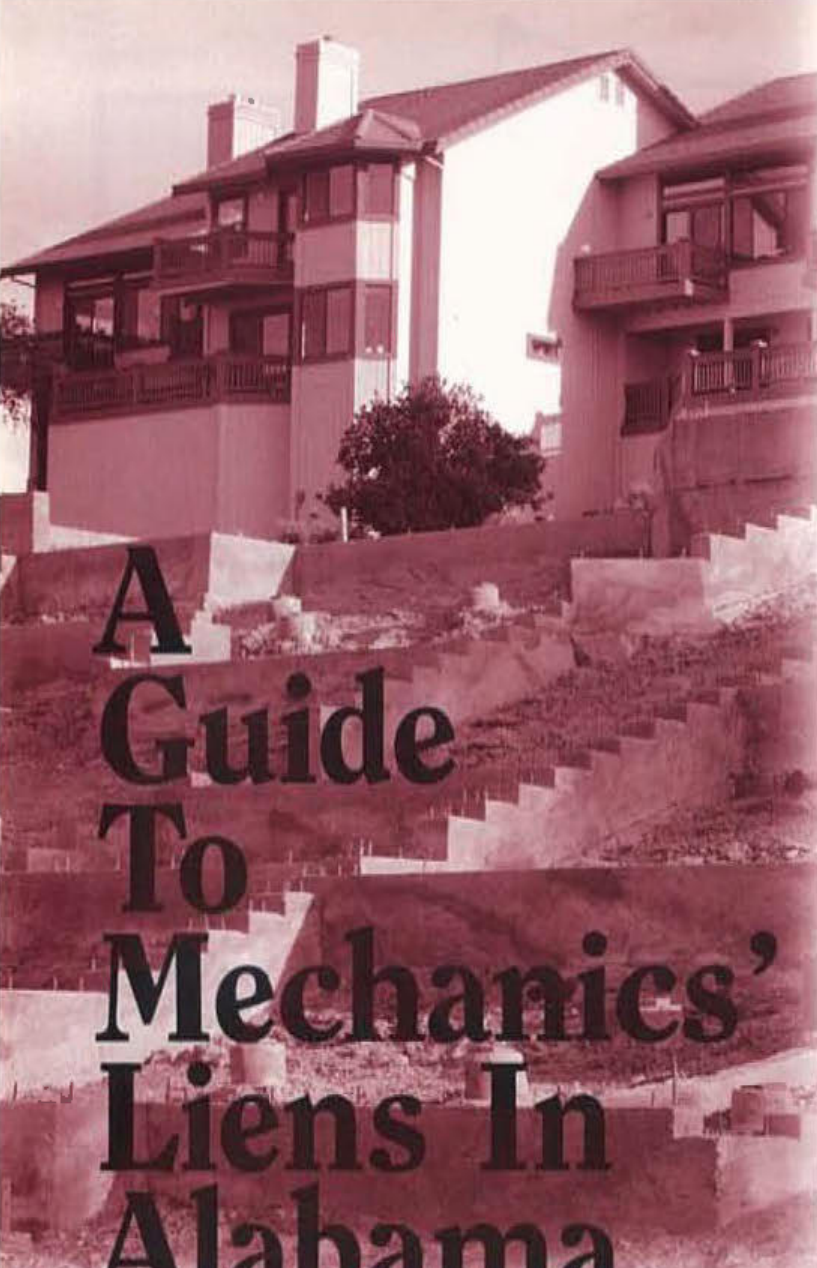
Subtotal \$ _____

Mailing Address

Shipping & Handling \$ 5.00

TOTAL \$ _____

Please remit **CHECK OR MONEY ORDER MADE PAYABLE TO THE ALABAMA STATE BAR** for the amount listed on the TOTAL line and forward it with this order form to:
Susan Andres, Director of Communications, Alabama State Bar, P.O. Box 671, Montgomery, AL 36101



A Guide To Mechanics' Liens In Alabama

By Keith C. Kantack

This article will address the definition of a mechanic's lien; the use of a mechanic's lien by a general contractor, subcontractor or material supplier engaged in the construction industry in Alabama; and the legal process associated with creating and enforcing a mechanic's lien in Alabama. This article is based on Alabama statutory law regarding mechanics' liens and various cases interpreting this law.

The *Alabama Code* specifically addresses mechanics' liens in §§ 35-11-210 through 35-11-234. A mechanic's lien is the generic name for a lien on real property in favor of a person or entity furnishing labor or materials for the erection of buildings or making improvements on *real property*.¹ When a mechanic's lien is filed by a person or entity, the mechanic's lien creates a legal encumbrance on the subject real property which may negatively affect the property owner or other interest holders in the subject real property such as a financial institution.

The basic theory behind a mechanic's lien is that one should not be able to enjoy the benefits of another's work or goods provided without compensating the other for those benefits.² Mechanics' liens are applicable to construction projects in which the owner is not a public entity such as a municipality, the State of Alabama or the United States government.³ For the most part, construction projects in which the owner is a governmental entity require that the general contractor post payment and performance bonds to provide for payment to persons providing labor or materials to a public project.⁴

Before proceeding, it is important to note that the utilization of a mechanic's lien may be just one legal remedy at the disposal of a contractor or supplier who has not been paid by an owner or general contractor. For example, a contractor or a supplier may have other legal remedies at their disposal such as breach of contract. A mechanic's lien claimant has the right to bring other valid legal claims the claimant may have against the subject defendant(s), in addition to a legal action to enforce a mechanic's lien.

Alabama Code § 35-11-210 defines the two types of mechanics' liens potentially available. The type of mechanic's lien available to a claimant depends primarily on the contractual relationship between the claimant and the owner. A "full price" mechanic's lien claimant has the ability to file a mechanic's lien in the full amount of its contract with the owner. An "unpaid balance" mechanic's lien claimant has a lien right as well, but only for amount of the unpaid balance due from the owner to the *general contractor*. Generally speaking, a general contractor has the ability to file a "full price" mechanic's lien; a subcontractor has the right to file an "unpaid balance" mechanic's lien; a material supplier having a direct contractual relationship with an owner has the ability to file a "full price" mechanic's lien; and a material supplier to a prime contractor or a subcontractor has the right to file an "unpaid balance" mechanic's lien.⁵

Nevertheless, a material supplier may also have the ability to file a "full price" mechanic's lien. Under *Alabama Code* § 35-11-210, a material supplier may provide notice to the owner that the supplier will be delivering material at a specified price which will be used in the construction project. This "pre-lien notice" must be given before the supplier delivers the material to the general contractor or subcontractor. Once such "pre-lien notice" is given by a material supplier, it may create the ability to file a "full price" mechanic's lien, unless the owner objects before the material is used by informing the supplier that it will not be responsible for the full price of the subject materials. Often such "pre-lien notice" is not given by material suppliers due to the sensitivity of the customer relationship between the supplier and its direct customer.

In Alabama mechanics' liens are created by specific statutes. Therefore, anyone seeking to enforce a mechanic's lien must strictly comply with the terms of the *Alabama Mechanics' Liens Statutes*.⁶ Every general contractor, subcontractor and material supplier must adhere to the following statutorily proscribed legal procedure in order to create a legally enforceable mechanic's lien.

Provide notice to the owner

Contractors having a direct contractual relationship with the owner are classified as "original contractors" by the *Alabama Code*.⁷ In a construction context, the general contractor is often the only construction-related entity that has a direct relationship with the owner. An original contractor does not have to provide notice to the owner of the basis of the original contractor's mechanic's lien.⁸ Material suppliers who have not filed a "pre-lien notice" as discussed above and subcontractors must give written notice to the owner that a mechanic's lien is claimed, and such notice must set forth the amount claimed, for what, and from whom the amount claimed is owed.⁹ A potential mechanic's lien claimant should also consider providing this notice to the general contractor and the financial institution lending money for the construction project, if applicable. This notice allows the owner and lending institution to take the appropriate action to ensure that the potential mechanic's lien claimants are paid.

File a Verified Statement of Lien

After providing notice, if applicable, a mechanic's lien claimant must file a Verified Statement of Lien in the probate court in the county where the subject real property is located. The Verified Statement of Lien must contain the amount of the claimant's monetary demand and a description of the subject real property.¹⁰ *Alabama Code* § 35-11-213 contains a form that may be used as the Verified Statement of Lien. The Verified Statement of Lien must be filed by an "original contractor" (typically the general contractor) within six months after the last item of work or material has been furnished.¹¹ Material suppliers who have not given the "pre-lien notice" and subcontractors have four months after the last item of work or material has been furnished to file the Verified Statement of Lien.¹² *See Sherrod v. Crane Co.*, 182 So.48 (Ala. 1938).

File a lawsuit to obtain an enforceable mechanic's lien

A lawsuit must be filed in the county in which the subject real property is located within six months "after the maturity of the entire indebtedness."¹³ *See Ala. Code* § 35-11-211 (1975). A debt is mature when it accrues so as to be due and payable.¹⁴ However, the parties to a contract may expressly state a time when the entire indebtedness matures.¹⁵ The defendants in a lawsuit must include the owner of the subject real property and any person(s) responsible for the debt, and should also include the owner's lender, if applicable.¹⁶ A claimant may also name other persons who claim a legal interest in the land as defendants in order allow the court to determine the priority of the interest holders in the subject real property.¹⁷

Before commencing the mechanic's lien process, a claimant should have a clear basis to hold a defendant liable for non-payment to the claimant. If the mechanic's lien process is

commenced with malice by the claimant, the claimant may be liable for damages incurred by the defendants. Depending on the circumstances of the particular case, the most common defenses to a mechanic's lien lawsuit are as follows: The claimant did not strictly adhere to the statutory requirements associated with prosecuting mechanics' liens; the debt is not owed to the claimant; the claimant breached the subject contract or there was no enforceable contract to give rise to the mechanic's lien; and the claimant executed a "lien waiver." The fact that a claimant is an unlicensed contractor may also be used as a defense to a mechanic's lien lawsuit.¹⁸

A successful mechanic's lien claimant obtains a legally enforceable interest in the subject real property which can be foreclosed upon such that the subject property may be sold to satisfy the mechanic's lien claimant's judgment.¹⁹ For example, a mechanic's lien has priority over all other liens, mortgages or encumbrances created subsequent to the commencement of work on the building or other improvements on the subject real property.²⁰ In addition, the mere commencement of the process associated with creating an enforceable mechanic's lien creates considerable pressure on the owner and other potentially responsible parties to ensure that the claimant's legitimate demands are investigated and satisfied. ■

Endnotes

1. *Emanuel v. Underwood Cool & Supply Co.*, 14 So.2d 151 (Ala. 1943).
2. *See* Hairton, *Detinue, Execution and Mechanics' Liens, The Law in Alabama* 75 (1980).
3. 40 U.S.C. §§ 270(a) - 270(d) (1988); *Ala. Code* §§ 39-1-1, *et seq.* (1975).
4. *Id.*
5. *See generally Ala. Code* § 35-11-210 (1975); *Ala. & Ga. Lumber Co. v. Tisdale*, 365 So. 618 (Ala. 1903).
6. *Buckner v. Alpha Lumber & Supply Co.*, 828 So. 2d 450 (Ala. 1993).
7. *See Ala. Code* § 35-11-218 (1975).
8. *Id.*
9. *Id.*
10. *Ala. Code* § 35-11-213 (1975).
11. *Ala. Code* § 35-11-215 (1975).
12. *Id.*
13. *Ala. Code* § 35-11-220 (1975).
14. *Howell v. Hallett Mfg. Co.*, 178 So. 2d 94 (Ala. 1965).
15. *See Sherrod v. Crane Co.*, 182 So.48 (Ala. 1938).
16. *See generally Lily Flagg Bldg. Supply Co., Inc. v. J.M. Medlin & Co., Inc.*, 232 So. 2d 643 (Ala. 1970); *Ex parte Grubbs*, 571 So. 2d 1119 (Ala. 1990); *Bailey Mortgage Co. v. Gobble File Lumber Co.*, 565 So. 2d 138 (Ala. 1990).
17. *See Ala. Code* § 35-11-223 (1975).
18. *See J&M Industries v. Hungley Oil Co.*, 546 So. 2d 307 (Ala. 1989).
19. *See Ala. Code* § 35-11-226 (1975).
20. *See Ala. Code* § 35-11-211 (1975).



Keith C. Kantack

Keith C. Kantack practices with the firm of Sirote & Permutt, P.C. in the firm's Montgomery office. He holds a B.B.A. and an M.B.A. from the University of Mississippi. Before returning to school at the University of Alabama School of Law, he was a supervising surety bond underwriter with The Travelers and The C.N.A. insurance companies in Birmingham and Atlanta.



Federal Tax Relief For Innocent Spouses:

New Opportunities under the IRS Restructuring and Reform Act of 1998

By John B. Harper

The IRS Restructuring and Reform Act of 1998 (P.L. 105-206) greatly expands the relief given to taxpayers who are financially victimized by their spouse's actions in the filing of joint returns. The expanded relief is both substantive and procedural. Now taxpayers and their representatives have much greater flexibility in choosing their remedies and a much greater chance of prevailing on their choices.

The Problem

For many years a married taxpayer who sought the benefits of lower rates by willingly filing a joint return sometimes discovered that the other side of the coin, joint and several liability for the taxes, produced unexpected harsh results. More often than not, by the time deficiencies were asserted by the Internal Revenue Service or unpaid taxes on the return became severely delinquent, the taxpayers were no longer married and had conflicting financial interests. Even worse, the spouse who once had the greater income and assets had fallen on hard times financially, disappeared or even died. Thus, one spouse, usually the wife, who earned little of the income and had the least financial resources, and the least knowledge about either, bore the burden of paying the taxes.

I.R.C. § 6013(e)(1986) provided innocent spouses some relief from joint and several liability for tax deficiencies. However, relief was not easily obtained. To qualify, the spouse seeking relief had to show that there was a substantial understatement of tax attributable to

"grossly erroneous" items of the other spouse on the return; that, in signing the return, he or she did not know or have reason to know of the substantial understatement; and that under all the facts and circumstances, it would have been inequitable to hold the innocent spouse liable for the deficiency involving the substantial understatement. The "grossly erroneous" test was a difficult hurdle in deductions, credits and bases, because the item had to have no basis in law or fact, rather than merely being disallowable. To be "substantial," an understatement had to be greater than \$500, except that if it were attributable to a deduction, credit or basis, there were income tests for the innocent spouse to meet. The income tests arguably discriminated against lower income taxpayers. The test for "knowledge of the understatement" was not the same in every court and there was no statutory provision for partial relief based on limited knowledge of the other spouse's affairs. Likewise, what was "inequitable" seemed to vary from court to court and from decision to decision. Perhaps worst of all, there was no relief from liability for an amount reported on a return, but not paid.

New Law

Congress repealed § 6013(e) effective for all liabilities arising after July 22, 1998, and liabilities arising before that date that were unpaid as of that date. Congress added new Code § 6015 that liberalizes the requirements for innocent spouse relief; adds a post-return filing, separate liability election; and gives the IRS discretionary authority to grant

"equitable relief" where innocent spouse relief and separate liability are not available, including relief from underpayments of tax properly shown on a return. The statute adds direct Tax Court review of Service denials of innocent spouse relief and separate liability elections and gives the court the ability to restrain collection during the review.

Traditional Innocent Spouse Relief Expanded

Under § 6015(b) traditional innocent spouse relief is now available to all understatements of tax attributable to erroneous return items of the other spouse. No longer must the understatement be "substantial" nor must the return items be "grossly" erroneous. Consequently, relief may be sought from an understatement resulting from a math error as defined in § 6213(g). Chief Counsel Notice (35)(1)5-000 (Oct. 5, 1999). The requesting spouse must still establish that when the return was signed, he or she did not know, and had no reason to know, that there was an understatement of tax. I.R.C. § 6015(b)(1)(C). The old criteria used to determine knowledge and reason to know still apply: for example, control over finances, actions of the other spouse, reliance on professional advisers/return preparers, educational levels, involvement in the activity giving rise to erroneous item, and changes in lifestyle during the period covered by the understatement. See *Stevens v. Commissioner*, 872 F.2d 1499, 1505 (11th Cir. 1989).

However, if the claiming spouse can show that he or she did not know the extent of the understatement, relief can be obtained on a proportionate basis for the portion of the understatement for which the requisite lack of knowledge or reason to know was lacking. I.R.C. § 6015(b)(2). There is still the requirement that "taking into account all the facts and circumstances, it is inequitable to hold the [requesting spouse] liable for the deficiency." I.R.C. § 6015(b)(1)(D). Inequity is still based on factors such as significant benefit from the understatement (other than normal support), economic hardship if relief is not granted, abuse, and current marital status. See *Aude v. Commissioner*, 74 T.C.M.(CCH) 993, 1001 (1997).

Separate Liability Election

For divorced and separated taxpayers, Congress added a new, very attractive option to obtain relief from the effects of filing a joint return, the separate liability election of § 6015(c). Now these taxpayers may elect to limit their liability to the deficiency arising from items that would have been allocated to the electing taxpayer if he or she had filed a separate return. Inequity is not a factor and knowledge is less of a problem. Note the separate liability election relates only to a deficiency on the return. The election is not an opportunity to file an after-the-fact separate return. An individual is eligible for the election if, at the time of the election, the taxpayer is no longer married to or is legally separated from the person with whom the joint return was filed, or was not a member of the same household with that person during the 12-month period ending on the date of the election. I.R.C. § 6015(c)(3). For eligibility purposes, a widowed individual is treated as no longer married. H.R. Conf. Rep. No. 105-599, 105th Cong., 2d Sess. 252, n. 16 (1998).

There are rules to prevent collusion between divorcing spouses who might be tempted to transfer assets to the spouse with the lesser liability. If the Service "demonstrates" that assets were transferred between individuals filing a joint return as part of a fraudulent scheme, the election is invalid. Joint and several liability applies. I.R.C. § 6015(c)(3)(A)(ii). Similarly, the liability

of an otherwise qualifying spouse will be increased by the value of any "disqualified asset" transferred to that individual. I.R.C. § 6015(c)(4). A "disqualified asset" is property transferred when the principal purpose of the transfer was the avoidance of tax, including its payment. A transfer of property within one year of the issuance of a revenue agent's report is presumed to have been made principally for avoidance. The presumption is refutable. The presumption does not apply to transfers incident to divorce or separate maintenance.

Knowledge can be a dangerous thing when making a separate liability election, but not nearly so dangerous as in the traditional innocent spouse case. To defeat the election, the Service must "demonstrate" (presumably by a preponderance of the evidence) that the elector had "actual knowledge" at the time the return was signed of "any item giving rise to a deficiency (or portion thereof) which is not allocable to such individual." I.R.C. § 6015(c)(3)(C). "Actual knowledge" is a stricter standard for the Service to meet than the "had reason to know" standard used in traditional innocent spouse relief. In other words, "actual knowledge" must be proven and cannot be inferred from indications that a spouse had reasons to know. The Conference Committee Report indicates that the "actual knowledge" required is knowledge that "an item on a return is incorrect," not merely knowledge of the underlying transaction. H.R. Conf. Rep. No. 105-599, 105th Cong., 2d Sess. 253 (1998). As a practical matter, the Service may have a very difficult time proving the elector's state of mind, absent admissions to the contrary or "incriminating" documentation. Actual knowledge will not invalidate an election if the individual with actual knowledge establishes that such individual signed the return under duress. To illustrate the basic rule, suppose joint filers H and W each report \$100,000 in salary. W has a part-time business from which she had reportable income of \$25,000, of which she only reported \$10,000. The Service proves that H actually knew of an additional \$5,000 in income from the business. W will be liable for the full deficiency because the unreported income is fully allocable to her. H will be liable for a deficiency based on the \$5,000 of which

he had actual knowledge. The Service can collect the tax on the \$5,000 from either spouse, but the tax on the additional \$10,000 in unreported income can only be collected from W.

The failure of one spouse to elect results in full liability for the non-electing spouse as the other spouse's election is personal to that individual. Thus, if one spouse elects separate liability, the other spouse should, too. Indeed, elections should usually be filed automatically by both parties if neither is "innocent." In any event, the separate liability election is destined to become a critical part of the negotiations in a financial settlement of divorcing spouses with a significant tax problem.

Allocations range from the simple to the complicated. See I.R.C. § 6015(d). The electing spouse bears the burden of proof in establishing the portion of the deficiency allocable to him or her. I.R.C. § 6015(c)(2). Thus, records are critical and may be a problem when they are in the hands of an estranged spouse. In general, the electing spouse's liability for a deficiency is limited to the portion of the deficiency attributable to items allocable to that spouse. Allocations of items are generally made as if the taxpayers had filed separate returns. I.R.C. § 6015(d)(3)(A). Income items are allocated to the spouse who earned the wages or salary or who owned the business or investment that produced the income. Income from a jointly owned business or investment should be allocated equally between each spouse, unless there is clear and convincing evidence supporting a different allocation. To illustrate the basic rule, suppose H had income of \$100,000, but only reported \$90,000. W had income of \$80,000 and took an unallowable deduction of \$20,000. If H elects separate liability, his liability is limited to 33.3 percent of the deficiency [$\$10,000 \div (\$10,000 + \$20,000)$]. If W elects separate liability, her liability is limited to 66.6 percent of the liability.

Where the deficiency results from a denial of a deduction or credit, the deficiency is allocated to the spouse to whom the deduction or credit is allocated. All business deductions should be allocated according to the ownership of the business. Personal deductions should be allocated equally between each spouse, absent evidence that a dif-

ferent allocation is appropriate. For example, a valuation overstatement on a charitable contribution would be allocable to the owner of the property. Miscellaneous itemized deductions will be allocated to a spouse, even to the extent such deductions are disallowed because they do not exceed the two percent floor of § 67(a).

A spouse's liability is limited to the amount of income or tax that is allocated to the spouse and offset by the erroneous deduction or credit. I.R.C. § 6015(d)(3)(B). The balance is allocated to the other spouse. Examples in the Conference Committee Report illustrate this rule. Suppose that W had a salary of \$100,000 and H had self-employment income of \$30,000. A \$20,000 deduction allocated to H is disallowed. The resulting \$5,600 deficiency is allocated in proportion to the items giving rise to the deficiency. Because the only item giving rise to the deficiency is allocable to H and because he had sufficient income to offset the deduction, the entire deficiency is allocated to him. However, an item otherwise allocable to one spouse will be allocated to the other spouse to the extent that the item created a tax benefit on the joint return of the other filer. In our example, if H had reported only \$15,000 in self-employment income, the income offset limitation rule applies. The disallowed \$20,000 deduction entirely offsets the \$15,000 of H's reported income. The remaining \$5,000 of the disallowed deduction offsets part of W's income. The liability for the deficiency is divided proportionately to the amount of income offset. Thus, H is liable for 75 percent of the deficiency (\$15,000 ÷ \$20,000); W, for 25 percent (\$5,000 ÷ \$20,000). See H.R. Conf. Rep. No. 105-599, 105th Cong., 2d Sess. 252-254 (1998).

Exceptions to the basic rules can complicate matters. See I.R.C. § 6015(d)(2), (4) and (5). If a deficiency is attributable to the disallowance of a credit or a tax other than the income tax or alternative minimum tax and the credit or tax is allocated to one spouse, the deficiency (or portion of it) is allocated to that individual. In other words, this type of deficiency is considered first. Thus, in the preceding example, any understatement of self-employment tax included in the total deficiency

would be first allocated to H and the remainder of the deficiency allocated proportionately between H and W. Any provisions of the law disallowing a deduction or credit because a separate return is filed are disregarded. If a child's liability is included on a joint return, either filer's separate liability is computed without regard to that liability and then the liability is allocated appropriately between the spouses. The Service may provide for a different manner of allocation if it establishes that an allocation is appropriate due to the fraud of one or both filers. Whether this must be done by a mere preponderance of evidence or by clear and convincing evidence, as in a civil fraud case, is not known. Taxpayers should argue the higher burden. Finally, allocations of items are to be made without regard to community property laws.

Equitable Relief

Equitable relief is also a new remedy for aggrieved spouses. Section 6015(f) provides that under rules prescribed by the Service, the Service may, *in its discretion*, relieve an individual of liability if, "taking into account all the facts and circumstances, it is inequitable to hold the individual liable for any unpaid tax or any deficiency (or any portion of either) and such relief is not available to the individual" under the innocent spouse provisions or the separate liability provisions. If the Service does not grant relief under the innocent spouse or separate liability provisions, it will automatically consider relief under section 6015(f); a separate request is not needed. Pub. 971 (Rev. Dec. 1998). A spouse who filed separate returns in community property states may also obtain relief under section 66(c) using the equitable relief criteria.

Because relief can be now given to an *underpayment* of tax (tax shown on the return, but not paid), § 6015(f) is the most profound of the rule changes in this area. The legislative history indicates that Congress intended for the Service to grant equitable relief when a requesting spouse "does not know, and had no reason to know, that funds intended for the payment of the tax were instead taken by the other spouse for such other spouse's benefit," but also indicated they intended such authority be used where "taking

into account all the facts and circumstances, it is inequitable to hold an individual liable for all or part of any unpaid tax or deficiency arising from a joint return." H.R. Conf. Rep. No. 105-599, 105th Cong., 2d Sess. 254 (1998).

The Service's response to § 6015(f) is Rev. Proc. 2000-15, I.R.B. 2000-5 (Jan. 18, 2000). The Revenue Procedure prescribes threshold conditions for any request for equitable relief to be granted. They are:

1. The requesting spouse filed a joint return.
2. Relief is not available under § 6015(b) or (c).
3. The relief is requested within two years of the Service's first collection activity after July 22, 1998.
4. The liability remains unpaid.
5. No assets were transferred between spouses as part of a fraudulent scheme.
6. No "disqualified assets" were transferred to requesting spouse. See I.R.C. § 6015(c)(4)(B).
7. The requesting spouse did not file the return with fraudulent intent.

If all threshold conditions are met, the requesting spouse may be relieved of all or part of the liability, if taking into account all the facts and circumstances, the Service determines that it would be inequitable to hold the requesting spouse liable.

The Revenue Procedure then describes a set of circumstances under which equitable relief will ordinarily be granted for unpaid taxes reported on a joint return (not a deficiency). In other words, inequity is ordinarily presumed if all the conditions exist. The required conditions are:

1. At the time the relief is requested, the requesting spouse is no longer married to, or is legally separated from, the non-requesting spouse, or has not been a member of the same household during the preceding 12-month period. This is the same test found in the separate liability provisions, where a widow is deemed "no longer married."
2. At the time the return was filed, the requesting spouse had no knowledge or reason to know that the tax would not be paid. The requesting spouse must establish that it was *reasonable*

to believe that the other spouse would pay the reported liability. If the requesting spouse had the requisite knowledge or reason to know as to a portion of the liability, that spouse can still get relief as to the other portion.

3. The requesting spouse will suffer *economic hardship* if relief is not granted. "Economic hardship" means the taxpayer will be unable to pay his or her "reasonable basic living expenses" (not to include an affluent or luxurious standard of living). See Treas. Reg. § 301.6343-1(b)(4).

Relief will be granted only to the extent of the liability shown on the return prior to any adjustment and only to the extent the unpaid liability is allocable to the non-requesting spouse.

If one of the conditions for presumptive relief cannot be met, equitable relief (in whole or in part) can still be granted where under all the circumstances it would be *inequitable* to hold the requesting spouse liable for all or part of the unpaid liability. These provisions also apply to a deficiency on the return. The Revenue Procedure provides a list of factors to consider in granting equitable relief, which list is not exhaustive. Positive factors supporting relief are:

1. The requesting spouse is widowed (not specifically listed) or separated or divorced from the non-requesting spouse.
2. The requesting spouse would suffer economic hardship (see above) if relief is not granted.
3. The requesting spouse was abused (short of duress to file a joint return) by the non-requesting spouse.
4. The requesting spouse did not know or have reason to know that liability would not be paid or lacked similar knowledge of items giving rise to a deficiency.
5. The non-requesting spouse had a legal obligation pursuant to a divorce decree or agreement to pay the outstanding liability, unless at the time the decree or agreement was entered into, the requesting spouse knew or had reason to know that the non-requesting spouse would not pay the liability.

6. The liability for which relief is sought is solely attributable to the non-requesting spouse.

Negative factors are:

1. The unpaid liability is attributable to the requesting spouse.
2. The requesting spouse knew or had reason to know that the tax would not be paid at the time the return was filed or had such knowledge of the item giving rise to the deficiency. This is an "extremely strong factor" against relief, but not fatal. Relief can still be obtained in "limited situations." [These situations are not defined or illustrated in the Revenue Procedure. It is hoped that egregious economic hardship, coupled with clear fault on the part of the other spouse, will favor relief even when there is some knowledge.]
3. The requesting spouse significantly benefited (beyond normal support) from the unpaid liability. See Treas. Reg. 1.6013-5(b).
4. There will be no economic hardship if relief is not granted.
5. The requesting spouse has made a good faith effort to comply with federal income tax laws in the years following the tax year to which the relief relates.
6. The requesting spouse has a legal obligation pursuant to a divorce decree or agreement to pay the liability.

Review of Claim Denials

All denials of the relief sought under § 6015 are administratively reviewable by the Appeals Division. See Pub. 556 (Rev. Feb. 1999). If a joint filer is denied the innocent spouse relief or the separate liability sought from the Service, the denied spouse may petition the Tax Court for review. See I.R.C. § 6015(e); T.C. rules 320 and 321. A petition must be filed within the 90-day period *beginning on the date* (not the day after) on which the Service mails by registered or certified mail a notice to such individual of its determination of relief available to the individual. (This determination should not be confused with a notice of deficiency or 90-day letter issued in a deficiency case pursuant to I.R.C. § 6213). A petition may also be filed at any time after the date which is six

months after the date the "election" (request) is filed with the Service and before the close of the 90-day period.

If a decision of the Tax Court in *any* prior proceeding for the same taxable year has become final, such decision shall be conclusive, except with respect to the qualification for section 6015 relief that was not an issue in the prior proceeding. I.R.C. § 6015(e)(3)(B). The exception regarding qualification does not apply if the taxpayer meaningfully participated in the prior proceeding. Lack of meaningful participation can provide a taxpayer with a second "bite at the apple." Suppose a taxpayer participated in a 1997 hearing on her innocent spouse status under old § 6013(e); lost the issue because the court determined she *should have known* (but did not actually know) about the understatement; and, the tax remained unpaid on July 22, 1998 (when § 6015 became law). Since there is no actual knowledge, the taxpayer can now pursue a separate liability election under § 6015(c). For 6015(c) purposes, she did not "meaningfully participate" in the prior hearing because the separate liability election was not available at that time. See *Evans v. Commissioner*, 99-2 U.S.T.C. ¶50,603 (5th Cir. 1999) (unpublished opinion); cf. Priv. Ltr. Rul. 200006040 (Oct. 26, 1999).

Absent jeopardy, no levy or collection suit may be begun or prosecuted until the expiration of the 90-day appeal period or until the Tax Court decision has become final. The Tax Court and other federal courts may enjoin collection actions in violation of this rule. I.R.C. § 6015(e)(1)(B).

Note that a taxpayer can always raise a § 6015 (b) and (c) issue in a Tax Court deficiency case, without having filed an administrative request with the Service. The Service has concluded that a taxpayer-debtor (but not a non-debtor spouse) can request § 6015(b) and (c) relief in the bankruptcy courts under B.C. § 505(a)(1) as part of a "determination by the bankruptcy court of any unpaid tax liability of the debtor." Debtors do not have to follow the administrative procedures of section 6015 prior to seeking relief in the bankruptcy court. Priv. Ltr. Rul. 200006013 (Oct. 26, 1999).

Credits and refunds are permitted with respect to innocent spouse claims and equitable relief claims, but not separate

liability claims. However, a taxpayer can only bring a suit for refund with respect to an innocent spouse issue. To do so, a timely administrative refund claim must have been made and the tax paid in full. *Andrews v. United States*, 99-1 U.S.T.C. ¶50,359 (N.D. Ohio 1999). If a taxpayer brings a refund suit, the Tax Court loses jurisdiction of a section 6015 action filed by the taxpayer to the extent the District Court or Court of Federal Claims acquires jurisdiction over the same taxable years. The refund court then acquires jurisdiction over the innocent spouse issues. I.R.C. § 6015(e)(3)(C).

There is no statutory provision for any court review of equitable relief claims under § 6015(f). *See* Priv. Ltr. Rul. 199929019 (Apr. 21, 1999); *Mira v. United States*, 99-2 U.S.T.C. ¶50,760 (Bankr. M.D.Pa.1999) (no review under the Administrative Procedures Act, 5 U.S. § 701 *et seq.* (1988)); *but see*, *French v. United States*, 24 B.R. 369 (Bankr. N.D. Ohio, 1999) (review authority assumed without discussion).

Procedures

Administrative claims under §§ 6015(b), (c) and (f) should be filed on Form 8857 (Request for Innocent Spouse Relief), although the Service will consider claims in any form that contain the necessary information. A statement must be attached to Form 8857 explaining why the taxpayer qualifies for relief. Only one form need be filed for multiple years, even though the types of relief sought should be clearly stated for each year. Forms 8857 are filed with the Service employee dealing with the taxpayer's case (for example, revenue officer, revenue agent, appeals officer, etc.); the person named in a notice of deficiency (90-day letter); or, if neither situation applies, the Cincinnati, Ohio Service Center.

Requests may be filed at any stage of the examination or collection process. However, they must be filed not later than two years after the Service's first attempt after July 22, 1998 to collect the tax from the requesting spouse. An attempt to collect is an actual notice of levy, seizure or judicial suit or claim that puts the requesting spouse on notice that the Service intends to collect the joint tax liability from specific

property belonging to that spouse. Pub. 971 (Q&A) (Rev. Dec. 1998). Although the filing of a notice of lien only against the requesting spouse is not covered in the Service's instructions, computing the statute date from the date of the notice filing is advisable.

The Service is required to provide the non-requesting spouse an opportunity to participate in any administrative proceeding involving innocent spouse or separate liability elections. I.R.C. § 6015(g)(2). Tax Court Rule 325 provides that the Commissioner shall serve notice of the filing of a petition for review on the "other individual filing the return." The other individual may then file a notice of intervention with the court not later than 60 days after service of the notice by the Commissioner. An opportunity to intervene and participate may not be available to a non-debtor spouse in the bankruptcy courts. *See* Priv. Ltr. Rul. 200006013 (Oct. 26, 1999). The potential involvement of the other spouse further highlights the need to consider conflict of interest problems before proceeding to represent both spouses in the tax matter. T.D. Cir. 230 § 10.29 (31 C.F.R. Part 10).

A Few Practice Tips

Remember that a spouse can get relief from joint and several liability by proving that the joint return was not in fact "joint" because it was signed under coercion or duress or because of fraud, or because it was signed for him or her without her authority. *See Stanley v. Commissioner*, 81 T.C. 634 (1983). Thus, the possibilities of coercion, duress, fraud and an unauthorized signature should be examined as a threshold matter, prior to proceeding to the relief found in § 6015. This approach is particularly attractive when the aggrieved spouse would have had no tax liability if he or she had proceeded separately.

There seems to be no impediment to asking for relief under both § 6015(b) and § 6015(c) simultaneously. This might be advantageous, for example, when a spouse seeks a refund of prior payments (not allowable in separate liability elections), but there is still a balance due and the facts supporting separate liability are stronger than they are for innocent spouse.

Regardless of the new opportunities

under new § 6015, taxpayers and their representatives have to be concerned about the time involved in getting the Service to act on an administrative request for relief. Presently, there are about 46,000 pending requests, a huge backlog, and one that the Congress might not have anticipated. Unless the request is made during an audit or during its administrative appeal, it will be processed through the Cincinnati Service Center. The author is advised that requests take six to 12 months to clear centralized processing in the Cincinnati Service Center. When a request reaches the field for examination, investigation may take another four to six weeks. Given these time frames, some taxpayers with immediate financial difficulties may want to look seriously at other means of relief such as offers in compromise (likely to take about six months or less to process) or, in the worst-case scenario, bankruptcy. Offers may be particularly attractive since they may now be granted on the basis of "economic hardship." *See* Treas. Reg. § 301.7122-1T(b)(4).

Conclusion

The 1998 Act provides taxpayers who were victimized by their spouses with more alternatives and improved chances for relief. The equitable relief provisions will be particularly helpful since they also apply to underpayments of tax shown on returns. On the whole, the Service's rules for granting equitable relief seem reasonable. How flexible the courts and the Service will be in the application of the new rules remains to be seen. ■



John B. Harper

John B. Harper is the former deputy regional counsel, Southeast Region, for the Internal Revenue Service. He is retired from that position and is now practicing in Birmingham. He received his B.A.

from the University of Alabama in 1964 and his J.D. degree from the University's law school in 1969. He is a former adjunct professor of law at Cumberland Law School, where he taught federal tax procedure.



DISCIPLINARY NOTICES

Notices

- Pursuant to Rule 25, *Alabama Rules of Disciplinary Procedure*, **Vinson Wilson Jaye**, whose whereabouts are unknown, is hereby notified that an Order of Indefinite Suspension entered by the United State Court of Appeals for the Eleventh Circuit has been received by the Disciplinary Board of the Alabama State Bar.

Vinson Wilson Jaye is hereby ordered to file a written response with the Disciplinary Board within 28 days from publication of this notice containing any claim predicated upon the grounds set forth in paragraph (d) of Rule 25, *A.R.D.P.*,

that the imposition of the identical discipline in this state would be unwarranted and his reasons therefor.

Failure to file a response within 28 days will result in the imposition of discipline in accordance with the Rules of Disciplinary Procedure.

- **Paul Martin Foerster, Jr.**, whose whereabouts are unknown, must answer the Alabama State Bar's formal disciplinary charges within 28 days of May 15, 2000, or thereafter, the charges contained therein shall be deemed admitted and appropriate discipline shall be imposed against him in ASB No. 99-184(A) before the Disciplinary Board of the Alabama State Bar.

- **Richard Jade Spurlin**, whose whereabouts are unknown, must answer the Alabama State Bar's formal disciplinary charges with 28 days of May 15, 2000, or thereafter, the charges contained therein shall be deemed admitted and appropriate discipline shall be imposed against him in ASB No. 00-02(A) before the Disciplinary Board of the Alabama State Bar.
- **Thomas Allen Wingo, Jr.**, whose whereabouts are unknown, must appear before the Disciplinary Board of the Alabama State Bar for a hearing scheduled for June 21, 2000, at 9:00 a.m., at the Alabama State Bar in Montgomery. [ASB nos. 96-356(A) & 97-087(A)]

Reinstatements

- The Disciplinary Board, Panel II, upon hearing the petition for reinstatement of Mobile lawyer **Vader Al Pennington**, ordered that Pennington be reinstated to the practice of law effective February 15, 2000. The board's order was adopted by the Supreme Court of Alabama by order dated March 3, 2000. (Prior public discipline considered: one interim suspension effective 12/91 and one three-year suspension effective 1/92.) [ASB Pet. No. 93-04]
- Effective September 16, 1999, attorney **Lisa Ann Read** of Birmingham has been reinstated to the practice of

law in the State of Alabama. She was suspended on August 16, 1999 for noncompliance with the 1999 Client Security Fund Assessment requirement of the Alabama State Bar.

Suspensions

- Effective February 7, 2000, attorney **Joan Charlene McLendon** of Conway, Arkansas has been suspended from the practice of law in the State of Alabama for noncompliance with the 1999 Client Security Fund Assessment Rules.
- Alexander City attorney **J. Richard Waters, Jr.** was suspended from the practice of law in the State of

Alabama for a period of three years, effective March 2, 2000, by order of the Alabama Supreme Court. The supreme court entered its order based upon the decision of the Disciplinary Board, Panel II, of the Alabama State Bar. In ASB No. 98-173(A), the respondent attorney was found guilty of violating rules 1.3, 1.4(a), 1.15(a), 1.16(d), 8.4(a)(b) and (d), Alabama Rules of Professional Conduct. In that case, the respondent attorney was named executor of an estate. During the course of serving as executor of the estate, the respondent attorney failed to take any action on behalf of the estate and failed or refused to communicate

with beneficiaries regarding the status of the matter. In addition, evidence indicated that the respondent attorney misappropriated estate funds and when called upon to render an accounting of said funds, failed or refused to do so. Eventually, the respondent attorney was removed as executor of the estate and in excess of \$28,000 of estate funds remain unaccounted for.

- In ASB No. 98-51(A), the respondent attorney was found guilty of violating rules 1.5(f), 8.1(b) and 8.4(c), Alabama Rules of Professional Conduct. The respondent attorney had been appointed as defense counsel by the Circuit Court of Tallapoosa County. During the course of the proceedings, it was discovered that the respondent attorney had, in addition to submitting an attorney fee declaration, received additional payment from the defendant and/or his family. During the course of disciplinary proceedings, the respondent attorney failed or refused to respond to repeated requests for information from a disciplinary authority regarding the matter. [ASB nos. 98-51(A) and 98-173(A)]

- Effective February 11, 2000, attorney **William M. Butler** of Northport has been suspended from the practice of law in the State of Alabama for noncompliance with the 1998 Mandatory Continuing Legal Education requirements of the Alabama State Bar.

- Effective February 11, 2000, attorney **Paul Martin Foerster, Jr.**, of Mobile has been suspended from the practice of law in the State of Alabama for noncompliance with the 1998 Mandatory Continuing Legal Education requirements of the Alabama State Bar.

- Effective February 11, 2000, attorney **William Lee Hanbery** of Florence has been suspended from the practice of law in the State of Alabama for noncompliance with the 1998 Mandatory Continuing Legal Education requirements of the Alabama State Bar.

- Effective December 28, 1999, attorney **Jacob C. Swygert, Jr.** of Carrboro, North Carolina has been suspended from the practice of law in the State of Alabama for noncompliance with the 1998 Mandatory Continuing Legal Education requirements of the Alabama State Bar.

- Birmingham attorney **Mark Dwyer McKnight** was interimsly suspended from the practice of law in the State of Alabama pursuant to Rule 20(a), Alabama Rules of Disciplinary Procedure, by order of the Disciplinary Commission of the Alabama State Bar dated January 24, 2000. [Rule 20(a); ASB Pet. No. 00-01]

- Birmingham attorney **Edward Eugene Angwin** was suspended from the practice of law in the State of Alabama for a period of 91 days, effective January 19, 2000, by order of the Alabama Supreme Court. The supreme court entered its order based on the decision of the Disciplinary Commission of the Alabama State Bar. In three of four separate grievances filed against Angwin, the complainants alleged that Angwin undertook to represent them in various personal injury cases. After undertaking the representation, Angwin did little or no work in each case and failed or refused to respond to his clients' requests for information regarding the status of their cases. In one case, although Angwin filed suit on behalf of the client, he took no further

action in the matter and the action was dismissed for failure to prosecute. The fourth grievance involved the respondent attorney's failure to purchase an occupational license for the 1998-99 license year. During the course of the investigation of the grievances, the respondent attorney failed or refused to respond to numerous requests for information from a disciplinary authority.

- On August 27, 1999, Angwin submitted a conditional guilty plea in ASB nos. 98-204(A), 98-22(A) and 98-332(A) to violating Rule 8.1(b), *Alabama Rules of Professional Conduct*, and in CSP No. 99-893(A) to a violation of Rule 8.4(a), *A.R.P.C.* Angwin's conditional guilty plea was accepted by the Disciplinary Commission. Pursuant to the terms of the plea, the Disciplinary Commission imposed a 91-day suspension. The imposition of said suspension was suspended and held in abeyance pending Angwin's successful completion of two years' probation. Thereafter, Angwin failed to comply with the terms and conditions of probation and failed to respond to a subsequent order to show cause why his probation should not be revoked by the Disciplinary Commission. Based upon Angwin's failure to respond to the order to show cause, the Disciplinary Commission revoked Angwin's probation and placed into effect his 91-day suspension. [ASB nos. 98-204(A), 98-228(A) and 98-332(A) and CSP No. 99-893(A)] ■

Hooked on Alcohol or Drugs? You don't have to be.

The Alabama Lawyer Assistance Program can help. Calls are strictly confidential. Phone (334) 834-7576 or (334) 395-0807 (24-hour pager). Jeanne Marie Leslie, program director





YOUNG LAWYERS' SECTION

By Thomas B. Albritton, YLS president

The Young Lawyers Want Your Cell Phones



Thomas B. Albritton

During the weekend of March 10-11, 2000, the Young Lawyers' Section of the Alabama State Bar hosted its second AOP, or "Affiliate Outreach Project," in Birmingham at the Embassy Suites Hotel. The AOP is a workshop, coordinated through the Executive Committee of the YLS, that is offered to the leadership of local young lawyer groups, or "affiliates," throughout Alabama. The AOP encourages communication between the local affiliates and the Executive Committee of the state YLS. The workshop also provides an opportunity for local young lawyer leaders to share ideas for fund-raising and service projects with their fellow young lawyers throughout the state.

This year, representatives from Birmingham, Mobile, Tuscaloosa, Montgomery, and Andalusia attended the meeting. Speakers included: **Sam Rumore**, president-elect of the state bar; **Chris Glenos**, president of the Birmingham YLS; **Walter G. Chavers**, president of the Mobile YLS; and **Joe Dent**, president of the Georgia Young Lawyers' Section. The AOP was a huge success due to the organization and

hard work of **Brannon Buck** of Birmingham. Thanks, Brannon.

For the first time, the Alabama State Bar YLS and the state affiliates are working together on a joint service project. The ASB Young Lawyers' Section will collect cellular phones to donate to the Alabama Center for Domestic Violence. The center has agreed to coordinate with cellular phone service providers in the state to allow the phones to be used by victims of domestic violence to call 911, free of charge, if they find themselves in an imminently dangerous situation. Once we collect the phones, the center then will distribute them to battered women's shelters throughout the state, who, in turn, will distribute the phones to victims in their area. Again, this project will serve victims of domestic violence throughout the state of Alabama and will cost them nothing. We appreciate any help you can give us to make this first-time project a success. If they have not contacted you already, a YLS representative in your area will be in touch soon to solicit your help. In the meantime, if you have any questions, call me at (334) 222-3177, or your local YLS representative. ■

www.alabar.org

Netscape



Go To: <http://www.alabar.org>

Coming Soon To A Desktop Near You:

The Alabama State Bar's New & Improved Web site! Everything you need from the ASB will soon be just a few clicks away. You have told us how much you use the features now on our site.

Soon you will find a lot of great new ways to connect, including:

- easier navigation • on-line registration for the annual meeting • up-to-the-minute updates •
- committee preference forms • most current information on meetings and membership •

Coming This Spring to a Screen Near You . . . The New Look of www.alabar.org

ALABAMA STATE BAR

2000-2001 Committee and Task Force Preference Form

A Message from Sam Rumore, President-Elect

I extend an invitation to all Alabama State Bar members to volunteer for service on a state bar committee or task force. In my more than 25 years of law practice, some of the best friends I have made were met doing bar committee projects. Please be active in your local bar associations first. They need your time and talents, too. But if you see a state committee or task force that really interests you, let me know by completing this form. State bar projects involve travel or other out-of-the-office time commitments. Volunteer if you are willing to be a participating committee member. I encourage your service and your input for future bar projects.

APPOINTMENT REQUEST - Terms begin August 1, 2000 and expire July, 2001.

Indicate your top two preferences from the list by marking 1 or 2 beside the preferred committee (c) or task force (tf).

- | | |
|--|--|
| <input type="checkbox"/> Access to Legal Services (c) | <input type="checkbox"/> Indigent Defense (c) |
| <input type="checkbox"/> Alabama Lawyer, Editorial Board (c) | <input type="checkbox"/> Insurance Programs (c) |
| <input type="checkbox"/> Alabama Lawyer, Bar Directory (c) | <input type="checkbox"/> Intra Bench-Bar Communications (tf) |
| <input type="checkbox"/> Alternative Methods of Dispute Resolution (c) | <input type="checkbox"/> Lawyer Referral (c) |
| <input type="checkbox"/> Bench & Bar Relations (tf) | <input type="checkbox"/> Lawyer Public Relations, Information, Media (c) |
| <input type="checkbox"/> Character & Fitness (c) | <input type="checkbox"/> Lawyers Helping Lawyers (c) |
| <input type="checkbox"/> Client Security Fund (c) | <input type="checkbox"/> Legal Services Funding (tf) |
| <input type="checkbox"/> Correctional Institutions & Procedures(c) | <input type="checkbox"/> Military Law (c) |
| <input type="checkbox"/> Fee Dispute Resolution (c) | <input type="checkbox"/> Minority Participation & Opportunity (tf) |
| <input type="checkbox"/> History & Archives (c) | <input type="checkbox"/> Solo & Small Firm Practitioners (c) |
| <input type="checkbox"/> Legal Services Funding (tf) | <input type="checkbox"/> Unauthorized Practice of Law (c) |

BACKGROUND INFORMATION

Name: _____

Firm: _____

Address: _____ (Street or P.O. Box)
_____, _____ (City, State, ZIP)

Telephone: (office) _____ e-mail: _____ facsimile _____

Year of admission to bar: _____ ☐ Check if new address

How much time are you willing to spend on a committee or task force?

- | | |
|---|--|
| <input type="checkbox"/> 16+ hours per month | <input type="checkbox"/> 5 hours per month |
| <input type="checkbox"/> 6-15 hours per month | <input type="checkbox"/> occasional contribution |

INSTRUCTIONS FOR SUBMISSION

Copy this form from this edition of *The Alabama Lawyer*, and mail it to **Alabama State Bar, Attention: Programs, P.O. Box 671, Montgomery, Alabama 36101-0671**, send by **facsimile, (334) 261-6310**, or go to **www.alabar.org** and complete the form on-line and send it. We must receive your form **on or before June 15, 2000** to consider you for a committee or task force appointment. Please remember that the vacancies available for each committee and task force are extremely limited as most committee appointments are filled on a three-year rotation basis.



We're wanted
behind bars in fifty states.

Luckily, we're now behind yours.



As the nation's first Bar-related® title insurance underwriter, the sole reason we're in business is to keep you in business. We're lawyers for lawyers. And since our inception over 50 years ago, we've become the 6th largest underwriter in the country. We've seen the needs of real estate lawyers increasing all over. Which is why we've expanded our operations to your state. We're highly rated by Duff & Phelps, DemoTech, and LACE Financial. Not only that, we don't compete with you. So come visit us at www.thefund.com. And get an experienced underwriter that's truly behind you all the way.

Now you know!®



CLASSIFIED NOTICES

Rates: Members: Two free listings of 50 words or less per bar member per calendar year EXCEPT for "position wanted" or "position offered" listings—\$35 per insertion of 50 words or less, \$.50 per additional word;

Nonmembers: \$35 per insertion of 50 words or less, \$.50 per additional word. Classified copy and payment must be received according to the following publishing schedule:

May 2000 issue—deadline March 15, 2000; July 2000 issue—deadline May 15, 2000. No deadline extensions will be made.

Send classified copy and payment, payable to *The Alabama Lawyer*, to: *Alabama Lawyer Classifieds*, c/o Shannon Elliott, P.O. Box 4156, Montgomery, Alabama 36101.

SERVICES

- **CRIMINAL/CIVIL APPEALS BRIEFS:**

Licensed Alabama attorney with 15 years' experience in issue identification, research and preparation of state and federal appellate briefs for the Alabama appellate courts, the Eleventh Circuit Court of Appeals and the U.S. Supreme Court. Kathleen B. Morris, 100 Commerce Street, Suite 900, Montgomery, 36104. Phone (334) 264-6466. E-mail: MOR076@aol.com. *No representation is made that the quality of legal services to be performed is greater than the quality of legal services to be performed by other lawyers.*

- **ARBITRATOR/MEDIATOR:** Quick, cost-effective methods of settling claims, disputes or litigation. Certified mediator and arbitrator, member of the Alabama State Bar since 1986. Any type of dispute, including contract, personal injury, labor/employment, commercial, products liability, property damage, and domestic relations. Call John B. Baugh at (256) 768-0724. *No representation is made that the quality of legal services to be performed is greater than the quality of legal services to be performed by other lawyers.*

- **HANDWRITING EXPERT/FORENSIC DOCUMENT EXAMINER:** ABFDE certified. Formerly Chief, Questioned Documents Division, U.S. Army Criminal Investigation Laboratory. American Society of Questioned Document Examiners. American Academy of Forensic Sciences. Civil

and criminal cases accepted. Farrell Shiver, Shiver & Nelson Document Investigation Laboratory, 1903 Lilac Ridge Drive, Woodstock, Georgia, 30189. Phone (770) 517-6008.

- **TRAFFIC ACCIDENT**

RECONSTRUCTION: Evaluation of highway design. This engineer has reconstructed over 3,000 accidents in 20 states on highways, streets, railroads and highway construction zones involving trucks, vans, cars, pedestrians, and farm implements. Computer animation and CAD drawings prepared to illustrate his opinions. Over 42 years' engineering experience. Registered professional engineer and full ACTAR certification. Contact John T. Bates, P.E., toll-free (800) 299-5950.

- **FORENSIC DOCUMENT**

EXAMINATIONS: Seventeen years' forensic document examinations; 27 years' total forensic experience. Retired senior documents examiner and discipline coordinator, Alabama Department of Forensic Sciences. Member, Questioned Document Section—American Academy of Forensic Sciences; Southeastern Association of Forensic Document Examiners; Southern Association of Forensic Scientists; Alabama State Association of Forensic Sciences (past president). Contact Richard A. Roper, Ph.D., 7956 Vaughn Road, #141, Montgomery 36116. Phone (334) 260-2552. Fax (334) 260-7929. E-mail: richroper@aol.com.

- **LEGAL RESEARCH AND WRITING:** Experienced Alabama attorney (former

law clerk to federal judge and *Law Review* copy editor) providing research and writing services at reasonable rates. Emergency service available. Homewood, Alabama. (205) 879-8595. *No representation is made that the quality of legal services to be performed is greater than the quality of legal services to be performed by other lawyers.*

- **LEGAL DRAFTING, EDITING AND TRANSLATION:**

Fluently bilingual (English and French) lawyer. Member of the Quebec and Alabama State bar associations. Ten years' experience in drafting procurement contracts and software license agreements. Also experienced in streamlining legal documents and in translation. Resume and fee schedule available on request. Contact Adele Turgeon Smith, Selma. Phone (334) 875-5113. *No representation is made that the quality of legal services to be performed is greater than the quality of legal services to be performed by other lawyers.*

- **ELECTRICAL EXPERT WITNESS:**

Twenty-four years' in the electrical industry. Member of BOCA, CABO, IAEI, ICBO, SBCCI. OSHA-authorized instructor. LPI-certified lighting protection. NICET certified. Master electrician/contractor in 39 states. Fee basis only. Contact Steven J. Owen, electrical consultant. Phone (205) 987-2502. Fax (205) 982-9613.

- **STRUCTURAL ENGINEER AND CONSTRUCTION MANAGER:**

Registered professional engineer in Alabama, Mississippi and Louisiana.

M.S.C.E., with 28 years' experience in process chemical plants, refineries, power plants, food plants, commercial buildings, and residential housing. Experience with foundation and structural failures for insurance claims. Will perform computer animation for failed structures. Experienced testifying expert for difficult construction claims involving multiple contractors, construction manager and consulting engineer. Contact Hal C. Cain, Mobile, (334) 661-2605. Web site: www.hkcain.com.

- **DUI/DRE EXPERT WITNESS:** Expert witness in the following areas: Driving under the influence, drug recognition, standard field sobriety tests. Operation and maintenance of breath-testing devices by a former police officer (retired) and a national instructor for the National Highway Safety Traffic Administration. Also an instructor for breath-testing devices. Charles E. Smith (C.E.S. Consulting, Inc.). Phone (561) 286-5761. Fax (561) 286-6732 or e-mail: DUICONSUL@aol.com. CV and fees sent upon request.

- **INSURANCE EXPERT WITNESS:** Fee-only expert witness. Twenty years' experience in risk management insurance consulting. Pre-filing evaluation, deposition and trial. Policy coverage, captives, excess, deductibles, self insurance, agency operations, direct writers, property loss preparation. Member S.R.M.C. Contact Douglas F. Miller, Employers' Risk Management. Phone (205) 995-0002, Birmingham or WATS (800) 462-5602.

- **DOCUMENT EXAMINER:** Examination of questioned documents. Certified forensic handwriting and document examiner. Thirty-three years' experience in all forensic document problems. Formerly, chief questioned document analyst, USA Criminal Investigation Laboratories. Diplomate (certified)—ABFDE. Member: ASQDE; IAI; SADFE; NACDL. Resume and fee schedule on request. Hans Mayer Gidion, 218 Merrymont Drive, Augusta, Georgia 30907. Phone (706) 860-4267.

- **FORENSIC DOCUMENT EXAMINER:** Handwriting, typewriting, altered documents, medical records, wills, contractors, deeds, checks, anonymous letters. Court-qualified. Twenty years' experience. Certified: American Board of Document Examiners. Member:

American Society of Questioned Document Examiners, American Academy of Forensic Sciences, Southeastern Association of Forensic Document Examiners. Criminal and civil matters. Carney & Hammond Forensic Document Laboratory, 4078 Biltmore Woods Court, Buford (Atlanta), Georgia 30519. Phone (770) 614-4440.

- **NEED A CREDIBLE EXPERT:** PEG, Inc. (Professional Engineering Group) can provide experts for you! Examples: biomedical and biomechanical; building failures; construction safety and related codes; highway and transportation accidents and problems; OSHA issues; slips, trips and falls; product liability; environmental; various other areas. Call or write: PEG, Inc., 950 22nd Street, North, Suite 632, Birmingham, 35203. Phone (205) 458-8485. E-mail: lthpc@aol.com.

POSITIONS OFFERED

- **ATTORNEY POSITIONS:** Many of the best firms in Birmingham, Mobile, Huntsville, Atlanta, Nashville, and other cities across the South are seeking good lawyers with experience in the following areas: corporate, litigation, real estate, tax, intellectual property, ERISA, labor and employment. Associate and partner level positions are available. All inquiries are strictly confidential. Please contact Richard G. Brock, esq., at Acymtech, Inc. Phone (205) 871-3223. Fax (205) 871-3224. E-mail: richard@acymtech.com.

- **ATTORNEY JOBS:** The nation's #1 job-hunting bulletin for attorneys is now online at AttorneyJobsOnline.com. Subscribe online or call us: 1-800-296-9611. Extensive Web site presents thousands of attorney and law-related jobs nationwide and abroad at all levels of experience in public (federal, state and local) and private sectors. Sponsored by West Group.

- **EMPLOYMENT ATTORNEY NEEDED:** Huntsville firm seeks experienced employment practices/human resources counsel for national practice (including outside general counsel for rapid growth PEO businesses.) Work includes coordinating national litigation.

Do You Have More Work Than Time?

If you don't have the time necessary to research your opponent's arguments or write your brief, then

I CAN HELP!



As an attorney with eighteen years of experience in research and writing I have the time necessary for the sustained, uninterrupted research so often needed to win a case. When your case is fully researched you can represent your client with more confidence and be better prepared in court. I am available for short research questions or lengthier briefs. My rate is \$35.00 per hour.

Katherine S. Weed
P. O. Box 590104
Birmingham, AL 35259
(205) 941-1496
Ksweed@aol.com

No representation is made that the quality of the legal services to be performed is greater than the legal services performed by other lawyers

**FOCUS ON WHAT'S
REALLY IMPORTANT
IN YOUR REAL
ESTATE APPRAISER.**

MAI

**KNOWLEDGE.
EXPERIENCE.
INTEGRITY.**

Maximizing the return on real estate investments for buyers, sellers and lenders requires sound judgment and risk management expertise.

One of the best ways to succeed is to insist on a valuation expert who's a member of the Appraisal Institute, the world's most trusted authority on real estate appraisal. You'll recognize our members by the designations after their names — MAI, SRPA, SRA.

Standing behind these letters are Superior Knowledge, Documented Experience, Uncompromising Integrity.

Members of the Appraisal Institute carry this high degree of professionalism with their designations. You should require it for your financial protection and peace of mind.



For the names of designated appraisers or for more information on the Alabama Chapter of the Appraisal Institute, call 205-669-1719, fax 205-669-1720, e-mail msalchapt@aol.com or visit www.alabama.com.

Excellent compensation/benefits. Apply confidentially to Leo & Associates, 200 Randolph Avenue, Huntsville, 35801. Fax (256) 539-6024.

- **ATTORNEY POSITION:** Small, aggressive, plaintiff-oriented law firm seeks associate attorney with good communication skills. Experience in personal injury and bankruptcy preferred but not required. Trial experience preferred but not necessary. Salary and benefits commensurate with experience. Reply to: Managing Partner, P.O. Box 548, Anniston, 36202.
- **TAX PARTNER:** The Montgomery office of Sirote & Permutt, P.C., a major Alabama law firm, is seeking a tax partner to work in the areas of general taxation, general business law, corporate, partnership and limited liability company law, tax-exempt organizations, health care law, and estate planning and

**Position Available
Circuit Mediator, United States
Court of Appeals for the
Eleventh Judicial Circuit**

The available position is located in Miami, Florida. The incumbent will preside at mediations in selected civil appeals. The primary purpose of the mediation is to settle appeals and eliminate them from the court's docket. Duties include leading discussions of the procedural and substantive legal issues involved, conducting economic analyses of an appeal's settlement value, and probing for each party's interest in an effort to help the parties create and explore options to continued litigation. To qualify, an applicant must have exceptional legal skills and experience and significant training and experience in mediation. **For full requirements and application procedures, contact Cheryl Vessels, personnel specialist, at (404) 335-6202.** Starting salary is \$75,000 to \$99,000 (CL 31), depending upon experience. Applications will be accepted until the position is filled. It is anticipated that the successful candidate will commence his or her duties at the court in June 2000.

administration. A qualified candidate with a minimum of seven years of experience in the areas listed above is preferred. Please contact Robert Sasser at P.O. Drawer 4539, Montgomery, 36103-4539. Phone (334) 261-3430.

FOR SALE

- **LAW BOOKS:** William S. Hein Company—More than 70 years later, still your #1 source for buying/selling law books. 50%-70% savings on major sets, international law, rare/antiquarian Law. Appraisal services available. Call 1-800-496-4346. Fax: 716-883-5595. Web site: www.wshein.com/used-books.

FOR LEASE/RENT

- **BIRMINGHAM OFFICE:** Office space for lawyer in the historic Title Building located at 300 N. 21st Street, Birmingham, 35203. Very large office. Directly across from YMCA. Utilities, conference room, copy machine, fax machine, etc. Call Perry Shuttlesworth at (205) 254-9200.
- **SOUTHSIDE OFFICE:** Five Points, Southside law office available for solo attorney(s), 1117 22nd Street, South, Birmingham. From \$425 for a window office. "Virtual" office or "corporate image" also available for those needing limited conference room time. Receptionist and other ancillary services provided. Free parking and utilities included. Call Tom Plouff, esq. at (205) 939-0000.
- **GULF SHORES/FORT MORGAN/DAUPHIN ISLAND:** Houses on gulf. Two-, three- and four-bedroom, sleep 6-10, fully furnished. Call (205) 678-6139 or fax (205) 678-6142.
- **HOMWOOD OFFICE:** Homewood office or suite of offices available. Furnished office can be provided, two conference rooms, library, copier, fax, voice mail, reception, full break room, file storage, free parking, join three other attorneys, great location to start or build a practice. Located at: 2908 Crescent Avenue. Phone (205) 879-2999.

lawyers.com

One of the most useful
consumer legal resources on the Internet.

**"One of 100 Best Web Sites"
Entrepreneur**

**"When you need a lawyer...
this site can make the selection
process a bit easier."**

THE WALL STREET JOURNAL

**"One of 50 Most Incredibly
Useful Sites"**

YAHOO!
Internet Life

**"lawyers.com named the
Best of the Web"
Forbes Interactive
Money Guide**

**"A great place
to find
an attorney"**



Martindale-Hubbell's
lawyers.com

With over 5,000,000 searches to date, **lawyers.com** puts consumers in touch
with legal counsel every day! Call **1-800-526-4902, ext. 5095** for information on becoming
part of **lawyers.com**.

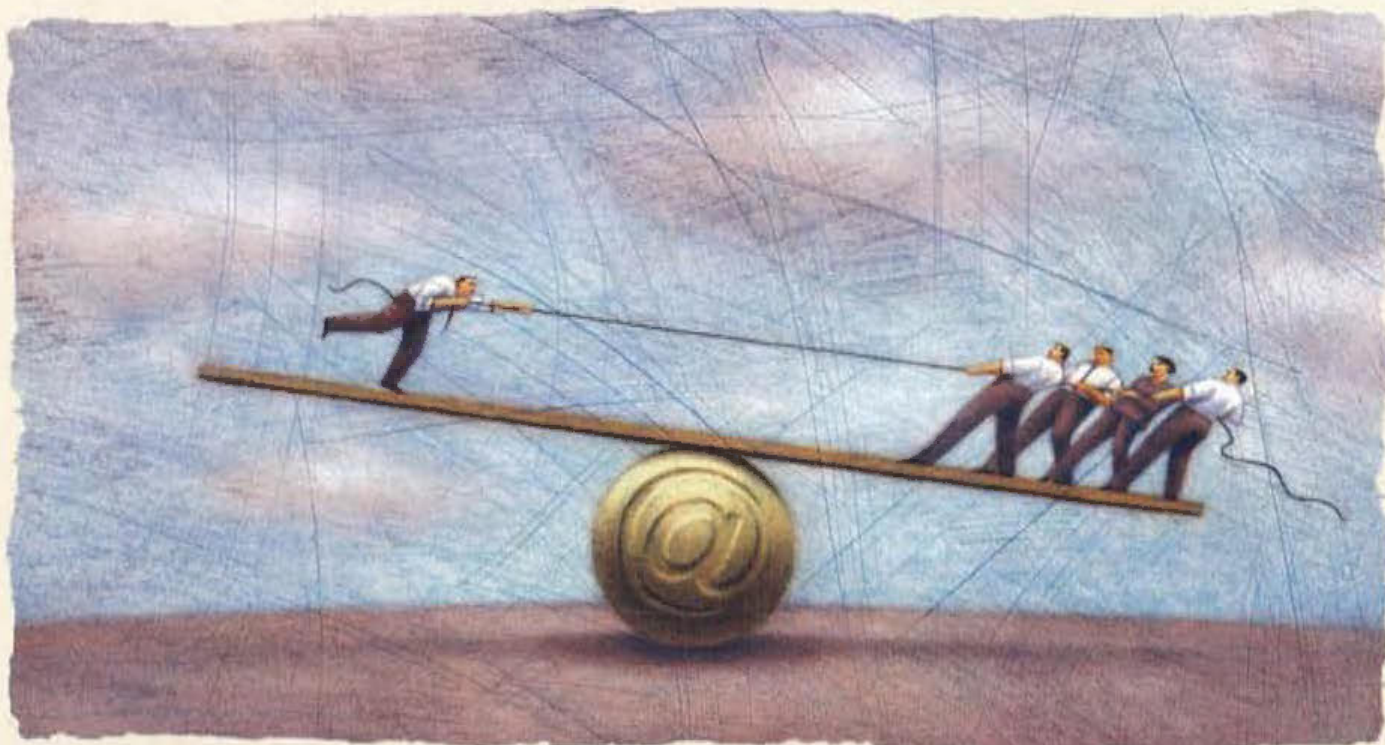
LEXIS Publishing™

LEXIS-NEXIS • MARTINDALE-HUBBELL
MATTHEW BENDER • MICHE • SHEPARD'S

LEXIS, NEXIS and Martindale-Hubbell are registered trademarks of Reed Elsevier Properties Inc., used under license. LEXIS Publishing and MICHE are trademarks of Reed Elsevier Properties Inc., used under license. SHEPARD'S is a registered trademark of SHEPARD'S Company. Matthew Bender is a registered trademark of Matthew Bender Properties Inc. © 2000 LEXIS-NEXIS. All rights reserved.



MARTINDALE-HUBBELL®
A Member of LEXIS Publishing™



Web site v. FirmSite®

from West Legal Directory®

Building a Web site for your practice can attract potential clients. But with a FirmSite, you'll have more pull.

Constructing a site and getting on the Internet is only the beginning. A FirmSite® from West Legal Directory offers legal professionals a comprehensive Internet marketing solution.

- **Build & maintain your site**

Unlike generalists, we construct sites only for the legal profession. We maintain your site, making changes as needed, and provide monthly usage reports.

- **Create compelling content**

Our unique experience with legal information offers you more than just an Internet brochure. We help you develop the persuasive content that can make all the difference.

- **Pull people to your practice**

We usher prospective clients to your site, not just traffic. Unlike any other provider, we connect you to one of the nation's leading legal help sites.

Every FirmSite can be found at Lawoffice.com – the Web address people go to for legal information and help. And that's why your practice needs to be there too.

Lawoffice.com
from West Legal Directory®

*****CAR-RT SORT**B-007
MS. LAURA ANN CALLOWAY
ALABAMA STATE BAR
PO BOX 671
MONTGOMERY AL 36101-0671



For more information, call your West Group representative
at 1-800-762-5272, or go to: www.westgroup.com/marketingolutions

