

Alabama Law Weekly

Presents



Includes the latest developments in the medical malpractice area in Alabama

Your Distinguished Faculty

W. R. (Rip) Andrews
Marsh, Rickard & Bryan, P.C.

Judge Joseph L. Boohaker
Jefferson County circuit judge

Stan Cash
Huie Fernambucq & Stewart, LLP

Robert (Bob) Cooper
White Arnold & Dowd, P.C.

Stephen D. Heninger
Heninger Garrison Davis, LLC

Jasper Juliano
Parsons, Lee & Juliano, P.C.

Joe Miller
Starnes Davis Florie LLP

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2017

Medical Malpractice Conference

for Alabama Attorneys

When: Friday, April 28

Where: Hilton Birmingham Perimeter Park

This program features Judge Joseph Boohaker, presiding judge for Jefferson County, along with a faculty of leading defense and plaintiffs' attorneys, explaining the very latest developments in healthcare liability and sharing trial experiences.

Highlights include:

- Defending fetal death cases—viability issues, defining the standard of care, what was the cause of the demise, and use of medical literature
- Issues arising from documentation and the medical record, including electronic medical records
- Proving breach of the standard of care in medical malpractice cases, including storytelling, controlling your case, and preventing death by jury instructions
- Deposing experts and what to ask for prior to discovery
- Discovery challenges presented by *Stinnett v. Kennedy*
- Overcoming bias in favor of healthcare professionals, including how to discover its extent in jury selection and how to frame the presentation of the case for the best opportunity to counter it
- Tips from a trial judge on the use of demonstrative evidence and the use of technology in the courtroom
- Ethical obligations in jury selection, including conducting responsible social media analysis

BONUS: Attendees will receive a binder of materials during the conference and will be able to download the materials after the seminar.

EARN
CLE
CREDIT

7 hours of CLE
(6 hours of general
and one hour of
ethics)

Attend this one-day satisfaction-guaranteed event and enhance your professional skill set while gaining valuable CLE credit, 6 hours of general CLE and 1 hour of ethics CLE.

Get up to date on the hottest issues in Alabama healthcare liability law:

- Hospital liability
- Fetal deaths
- Discovery challenges
- Bias in favor of healthcare professionals
- Ethics and jury selection
- Proving breach of standard of care
- Tips from a trial judge

ATTORNEYS WILL LEARN:

- How to prove your case – storytelling, controlling the case, and preventing death by jury instruction
- What issues arise from documentation and the medical record, including electronic medical records
- What is the bias attending medical malpractice suits, how to discover its extent in jury selection, and how to frame the presentation of the case for the best opportunity to counter it
- How to defend fetal death cases, including viability issues, defining the standard of care, and using medical literature
- How to depose experts effectively and what to ask for prior to deposition
- How to overcome discovery challenges presented by *Stinnett v. Kennedy*
- How to use social media in jury selection

WHERE

Hilton Birmingham
Perimeter Park
8 Perimeter Park South
Birmingham, AL 35243
844-452-7704

Conveniently located at the intersection of I-459 and Highway 280. For complete directions, visit ... mleesmith.com/al-med-mal

 **FREE PARKING**

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WHEN

Friday, April 28, 2017
Registration: 8:00 A.M.
Conference: 8:30 A.M. - 5:15 P.M.

CONFERENCE FEES

\$337 for program, \$257 for additional attendees from the same firm, \$147 for materials. Program fee is fully refundable if you are dissatisfied with this event.

Register by March 17 and save \$50.

Registration begins at 8:00 A.M. The conference kicks off at 8:30 A.M. and concludes at 5:15 P.M. (There will be morning and afternoon breaks, and lunch will be on your own.)

PRESENTED BY

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Agenda

Discovery Issues with Experts

8:30 A.M. TO 9:30 A.M.

Stan Cash

Huie Fernambucq & Stewart, LLP

- Effective use of interrogatories
- Information on experts from sources outside discovery
- Deposing experts and what to ask for prior to deposition
- Other discovery issues
 - Quality assurance materials
 - Peer review materials
 - Personnel files
 - Credentialing files

Overcoming Bias in Favor of Healthcare Professionals

9:30 A.M. TO 10:30 A.M.

Steve Heninger

Heninger Garrison Davis, LLC

- What is the bias attending medical malpractice suits?
- How to discover its extent in jury selection
- How to frame the presentation of the case for the best opportunity to counter it

— MORNING BREAK 10:30 A.M. TO 10:45 A.M. —

Hospital Liability

10:45 A.M. TO 11:45 A.M.

Jasper Juliano

Parsons, Lee & Juliano, P.C.

- Agency/vicarious liability
- Indemnification protection
- Negligent credentialing claims
- Issues arising from documentation and the medical record, including electronic medical records
- Protection of protected health information

— 11:45 A.M. TO 1:00 P.M. LUNCH —
(*ON YOUR OWN)

Ethical Obligations in Jury Selection

1:00 P.M. TO 2:00 P.M.

**ETHICS
CREDIT**

Robert (Bob) Cooper

White Arnold & Dowd, P.C.

- *Voir* Google: Use of social media in jury selection
- Ethical obligations in conducting juror background research
- Ethical limitations on juror investigation
- Conducting responsible social media analysis
- Duty to investigate and disclose known or suspected juror misconduct
- Ethical obligations to disclose juror relationships
- Medical privacy and *voir dire*
- Ethical implications in the use of preemptory strikes: The challenge of *Batson*

Proving Breach of the Standard of Care

2:00 P.M. TO 3:00 P.M.

W.R. (Rip) Andrews

Marsh, Rickard & Bryan, P.C.

- Storytelling in medical cases
- What is your expert really for
- Controlling your case
- Preventing death by jury instruction

— AFTERNOON BREAK 3:00 P.M. TO 3:15 P.M. —

Defending Fetal Death Cases

3:15 P.M. TO 4:15 P.M.

Joe Miller

Starnes Davis Florie LLP

- Emotions in the courtroom
- Viability issues
- Defining the standard of care
- What was the cause of the demise?
- Use of medical literature

Tips for Discovery and Trial Practice from a Judicial Perspective

4:15 P.M. TO 5:15 P.M.

Judge Joseph L. Boohaker

Jefferson County circuit court

Judge Boohaker shares his perspective on such topics as:

- How to prepare and win your discovery motion
- Demonstrative evidence v. demonstrative exhibits
- Discovery challenges presented by *Stinnett v. Kennedy*
- Using technology in the courtroom
- Most common evidentiary issues

Your Distinguished Faculty



W. R. (Rip) Andrews is a partner with Marsh, Rickard & Bryan, P.C., in Birmingham. His practice at the firm focuses primarily on cases involving product defects, wrongs committed by government officials and intellectual property or business disputes. In 2016, Mr. Andrews was lead or co-lead counsel in medical cases with verdicts totaling \$40 million.



Judge Joseph L. Boohaker has served as Presiding Circuit Judge for Jefferson County since July 1, 2015. He became a circuit judge for Jefferson County in January of 2001. Judge Boohaker obtained his B.S. in 1976 and his J.D. in 1979 from the University of Alabama. He served as a judicial law clerk to the Judges of the 11th Judicial Circuit in Florence, Lauderdale County, Alabama, from 1979 to 1980. He worked in private practice from 1980 until 2000 before serving as a judge. Judge Boohaker is active in the American Bar Association, the Birmingham Bar Association, and the Circuit Judges' Association.



Stan Cash is a senior partner at Huie Fernambucc & Stewart, LLP, in Birmingham with over four decades of litigation experience. Mr. Cash knows his way around just about any case and courtroom. He has tried over 100 jury trials to conclusion in both State and Federal Courts. Since joining the firm in 1974, he has been actively engaged in defending medical malpractice cases, product liability actions, professional errors and omissions and other complex litigation. He is a former president of the Alabama Defense Lawyers Association.



Robert (Bob) Cooper is a Shareholder at White Arnold & Dowd, P.C., in Birmingham. During the course of his career, Mr. Cooper has tried more than 150 cases to a jury verdict. His clients include businesses and individuals in the manufacturing, commercial transportation, health care and medical device, and insurance industries, among others. Mr. Cooper has defended clients in personal injury and professional negligence matters. He has represented business entities against claims of negligence, fraud and bad faith, and he has appeared on behalf of clients before the various authorities that regulate professional conduct. He is a Fellow of the International Academy of Trial Lawyers and the Alabama Law Foundation. He has been listed by "Super Lawyers" and *Best Lawyers in America*[®] for several years.



Stephen D. Heninger, with Heninger Garrison Davis, LLC, in Birmingham, has authored "Bad Faith in Alabama: An Infant Tort in Intensive Care" in the *Alabama Law Review*. He has served as President of the Birmingham Bar Association and the American Board of Trial Advocates (ABOTA) Alabama Chapter. He has been listed by "Super Lawyers" as one of the Top 10 Lawyers in Alabama for the past four years. He has been listed in *Best Lawyers in America*[®] since 1991. He is a "fellow" of the Alabama Law Foundation which limits its membership to the top 1% of the State Bar.



Jasper Juliano is a founding member of Parsons, Lee, & Juliano, P.C., in Birmingham. During a career which spans 39 years, Mr. Juliano has tried many cases on behalf of hospitals, physicians, product manufacturers and the construction and insurance industries throughout the State of Alabama. While his main specialty has been civil litigation, through his representation of medical caregivers and institutions and corporate clients, his career has been studded with cases resulting in major legal precedents ranging from the adoption of the Alabama Trade Secret Doctrine to numerous other landmark decisions. He has been named to *Best Lawyers in America*[®] in the specialty of medical malpractice defense.



Joe Miller, with Starnes Davis Florie LLP, in Birmingham, has devoted his practice to civil litigation, and he has worked on a broad variety of litigation matters. He focuses on defending physicians, nurses and other healthcare providers in medical malpractice cases. Mr. Miller also has experience in defending healthcare providers in cases brought pursuant to the False Claims Act. He has participated in trying over 70 cases and has argued before the Eleventh Circuit Court of Appeals in a False Claims Act case. He has been listed in *Best Lawyers in America*[®] since 2009. Mr. Miller is also an associate of The American Board of Trial Advocates, where he serves on the Executive Committee as the current Treasurer.

REGISTRATION FORM. FOR ASSISTANCE, CALL 800-727-5257.

YES! I want to get up-to-date information on the latest and most significant developments affecting my clients and my practice. Please reserve my spot at the **Medical Malpractice Conference for Alabama Attorneys**. My registration includes the one-day conference, pages of valuable course materials, morning and afternoon snacks, and up to 7 hours of CLE credit. If I am dissatisfied, I am entitled to a complete refund of my registration fee. Fee: \$337 for program (**\$287 before March 17**), \$257 for additional attendees from the same firm, \$147 for materials only.

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(6 hours of general and one hour of ethics)

FEE

\$337 for program, \$257 for additional attendees from the same firm, \$147 for materials

Cancellation Policy

- A \$50 processing fee applies to ALL conference cancellations.
- Registrants are responsible for the entire program fee for a cancellation made after 5:00 p.m. three weeks prior to the event (whether or not you attend the program or fail to cancel).
- An alternate may attend in place of the original registrant.

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10 reasons to attend this conference:

- **Quality presenters.** Your presenters are all authorities in the field of healthcare liability.
- **Judicial perspective.** You'll hear from Judge Joseph Boohaker, presiding circuit judge for Jefferson County.
- **Balance.** You'll hear from both plaintiffs' attorneys as well as defense attorneys.
- **Practical information.** You'll get information you can put to use in your practice right away, such as the effective use of interrogatories, tips for deposing experts, and how to obtain information on experts from sources outside discovery.
- **Dynamic interaction.** You'll be encouraged to ask questions and present your own situations for discussion.
- **Trial presentation.** You'll get tips on how to tell your client's story and control your case.
- **Timely information.** You'll get up to date on the latest developments in the healthcare liability area, including hospital liability issues, viability issues in fetal death cases and conducting responsible social media analysis during jury selection.
- **Overcoming jury bias.** You'll get tips on how to discover any bias of jurors and how to frame your presentation of the case in order to counter it.

- **Useful materials.** You'll receive a notebook of materials to take back to the office with you for future reference. And you'll be able to download the materials after the conference.
- **CLE.** You can earn over one-half of your annual CLE credit, including one ethics hour.

Comments from past Alabama Law Weekly CLE conferences:

"I received current and relevant information"

"The topics were very practical and useful for everyday civil practice."

"I love hearing from experienced trial lawyers – plaintiffs' and defense."

"I like the open format allowing attendees to ask questions."

"I liked the depth of coverage on topics."

"I like the binder of materials."

When: Friday, April 28

Where: Hilton Birmingham Perimeter Park

For registration assistance or to register additional attendees, call 800-727-5257 or visit us online at mleesmith.com/al-med-mal