

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

**Yes!** I want to get the latest information on changes affecting my practice, my clients, and the state of Alabama tort law, all while gaining CLE credit, including an hour of ethics credit. Please reserve my seat at the **2017 Tort Law Conference for Alabama Attorneys**. My registration includes the two-day conference, pages of valuable course materials, morning and afternoon refreshments (lunch is not included) and 12 hours of CLE credit. If I am dissatisfied, I am entitled to a 100% refund. **Fee:** \$497 for full program (\$447 before August 4), \$427 for additional attendees from the same firm, \$347 for one day only, \$247 for materials only.

Full Program: Sept. 14-15  Sept. 14 only  Sept. 15 only  Materials only (\$247)

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**M. Lee Smith**  
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### 100% GUARANTEE

If you are not completely satisfied after attending an M. Lee Smith event, let us know, and we will refund 100% of your registration fee—no questions asked.

### CLE INFORMATION

This program has been approved by the Mandatory Continuing Legal Education Commission of Alabama for a maximum of 12 hours' credit, including 1 hour of ethics.

### FEES

\$497 for full program  
(\$447 when registered by August 4)  
\$427 for additional attendees from the same firm  
\$347 for one day only  
\$247 for materials only

### 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.

**Alabama  
Law Weekly**

presents

# 8th Annual 2017 Tort Law Conference for Alabama Attorneys

This conference features Jefferson County Circuit Judges **Michael Graffeo** and **Carole Smitherman**, Magistrate Judge **John E. Ott**, and a faculty of leading Alabama tort law attorneys discussing the latest changes and decisions of critical interest to your successful practice.

## HIGHLIGHTS

- **Uninsured/underinsured motorist coverage**—legislative update, court filing procedures and deadlines, and choice of law and venue
- **Delivering an effective closing argument**
- **Deposition strategies**—key questions to ask and how to control the deposition
- **Obtaining and using cell phone records**—how to obtain the information and get it into evidence
- **Best and worst practices in civil litigation**—from a judicial perspective
- **Practical tips on resolving discovery disputes**
- **Update on evidence issues**—amendments, case law, and practical tips
- **Update on recent significant tort law cases**
- **Negotiation and settlement techniques**
- **Tips for practicing in federal court**
- **Ethical obligations in jury selection**

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



**WHEN** September 14-15, 2017

**WHERE** Embassy Suites Birmingham—Hoover



*Don't miss this CLE learning and networking event targeting the most complex and significant tort decisions, relevant laws, and emerging trends, all just for Alabama attorneys. And get valuable tips you can put to use in your practice.*

## SPEAKERS

- Rob Arnwine**  
Carr Allison, Birmingham
- Brandon Bass**  
Law Offices of John Day PC, Brentwood
- Karen Berhow**  
Porter, Porter & Hassinger, P.C., Birmingham
- Robert Cooper**  
Stockham Cooper & Potts, P.C., Birmingham
- Judge Michael Graffeo**  
Jefferson County circuit court, Birmingham
- Stephen Heninger**  
Heninger Garrison Davis, LLC, Birmingham
- Mark Hess**  
Hand Arendall, LLC, Birmingham
- Jeremiah Hodges**  
Hodges Trial Lawyers, P.C., Huntsville
- Terry McCarthy**  
Lightfoot, Franklin & White LLC, Birmingham
- Chief Magistrate Judge John E. Ott**  
U.S. District Court for the Northern District of Alabama, Birmingham
- Bentley H. Patrick**  
Nelson, Bryan & Cross, Jasper
- Michael Roberts**  
Cusimano, Roberts & Mills, LLC, Gadsden
- Keri Simms**  
Webster, Henry, Lyons, Bradwell, Cohan & Speagle, P.C., Birmingham
- Judge Carole Smitherman**  
Jefferson County circuit court, Birmingham

## DYNAMIC INTERACTION

Unlike other one-way presentations, you'll be encouraged to ask questions and present your own situations for discussion, while interacting with both the speakers and your peers.

## QUALITY PRESENTERS

Your presenters are all authorities in Alabama tort law. Their experience, skill, and familiarity with issues of specific concern to Alabama attorneys make this the perfect learning event for practitioners who represent injured parties or defend tort actions.

## ATTORNEYS WILL LEARN

- The latest tort law rulings from the Alabama appellate courts
- What judges think are the best and worst practices in civil litigation
- The latest developments in cases in which one of the drivers in an automobile accident was uninsured or underinsured
- How to deliver an effective closing argument
- The latest on amendments to rules and case law on evidentiary issues
- How to control a deposition
- How to resolve discovery disputes
- How to obtain and use cell phone information in your case
- How to negotiate claims effectively with insurance adjusters
- How to fulfill ethical obligations during jury selection

## WHAT YOUR COLLEAGUES SAID ABOUT LAST YEAR'S SEMINAR

*"I received current and relevant information."*

*"The speakers were knowledgeable."*

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

*"I enjoyed the interactions between the speakers and the audience."*

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

*"I like the binder of materials."*

Call 800-727-5257 to register risk-free  
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**EARN  
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**Earn 12 hours of CLE**  
(11 hours of general and  
1 hour of ethics)



## WHERE

**Embassy Suites Birmingham-Hoover**  
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**WHEN**

**September 14-15, 2017**

8:30 A.M. TO 4:15 P.M.

Registration begins at 8:00 a.m. The conference begins at 8:30 a.m. and concludes at 4:15 p.m both days.

(There will be morning and afternoon breaks, and attendees will have 1 hour and 15 minutes for lunch on their own)

**CLE:** 12 hours of CLE  
(11 hours of general and 1 hour of ethics)

**Price:** \$497 for full program, \$427 for additional attendees from the same firm, \$347 for one day only, \$247 for materials

**Register by August 4 and save \$50**

## TOPICS

- Tort law update
- Evidence update
- Closing argument
- Uninsured/underinsured motorist coverage
- Depositions
- Discovery
- Use of cellular information
- Negotiating damages
- Judges' tips on trial practice
- Federal practice
- Ethics

## WHAT MAKES THIS SEMINAR UNIQUE?

- **Outstanding faculty.** The faculty includes both plaintiff and defense attorneys who are seasoned speakers and recognized as the best in their areas.
- **Judges' perspective.** Attendees will hear from Judges Michael Graffeo and Carole Smitherman, as well as Chief Magistrate Judge John E. Ott.
- **Valuable updates.** A top authority will update attendees on recent case law developments in tort law.
- **Practical tips.** You'll learn from experienced and skilled litigators how to get the most out of depositions, how to resolve discovery disputes, how to obtain and use cell phone information, and how to make an effective closing argument.
- **Substance.** Attendees will get in-depth treatment of uninsured and underinsured motorist coverage, including a legislative update, a review of court filing procedures, and a discussion of statute of limitations, choice of law, and venue issues.
- **Depositions.** You'll learn how to admit critical evidence through your opponent's deposition testimony and how to control the deposition.
- **Negotiation.** You'll get tips for investigating, negotiating, and working with the insurance adjuster to resolve your claims.
- **Ethics.** You'll get a review of ethical obligations in jury selection, such as conducting juror background research and social media analysis, investigating suspected juror misconduct, and the use of peremptory strikes.
- **Useful resource.** Attendees will receive a binder of the materials covered during the seminar and will be able to download the materials after the conference.
- **CLE.** Attendees can satisfy their annual CLE requirement, earning 11 hours of GENERAL credit and 1 hour of ETHICS credit.

# 2017 Tort Law Conference

## for Alabama Attorneys



## AGENDA

### Thursday, September 14 (Day 1)

#### Uninsured Motorist Update

**8:30 a.m. to 9:30 a.m.**

*Mark Hess*

*Hand Arendall, LLC*

- Legislative update
- Statute of limitations
- Court filing procedures and deadlines
- Choice of law and venue

#### Deposition Tips and Strategies

**9:30 a.m. to 10:30 a.m.**

*Brandon Bass*

*The Law Offices of John Day PC*

- Techniques for deposing the plaintiff, the defendant, and experts
- Key questions you need to be asking
- Getting more than "what happened"
- Admitting critical evidence through the opponent's testimony
- Controlling the deposition despite an obstinate opposing counsel
- Using exhibits that will sell to the jury

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

#### Evidence Update

**10:45 a.m. to 11:45 a.m.**

*Terry McCarthy*

*Lightfoot, Franklin & White LLC*

- A refresher on the recently enacted amendments to the Alabama Rules of Evidence
- Practical tips on evidence issues that frequently arise in trial
- An update on recent cases from the Alabama appellate courts on evidence issues

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

#### Discovery Disputes in Tort Cases

**1:00 p.m. to 2:00 p.m.**

*Jeremiah Hodges*

*Hodges Trial Lawyers, P.C.*

- Preparing and winning discovery motions
- Pushing back against overly-broad or unreasonable requests

- Sampling practices and discovery about discovery
- Best practices for resolving discovery disputes with opposing counsel
- When you need to take your discovery dispute to the judge
- When to make a motion to compel

#### Cellular Information: Obtaining and Admitting in Litigation

**2:00 p.m. to 3:00 p.m.**

*Rob Arnwine*

*Carr Allison*

- The type of cellular information available
- How to obtain the information in discovery
- How to get the information into evidence
- Use of experts

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

#### Negotiation of Damages, Settlement, and Litigation Techniques

**3:15 p.m. to 4:15 p.m.**

*Keri Simms*

*Webster, Henry, Lyons, Bradwell, Cohan & Speagle, P.C.*

- Varying definitions of "preventable" accident
- What to look for in internal investigation documents
- Medical evaluations
- The recordable accident registry, prior recordable accidents, driver's history, prior instances of discipline
- Truck driver and motor carrier depositions
- Doctor, CMV inspector, and crash reconstructionist depositions
- Accident reconstruction documents
- Analyzing surveillance and photographs of the accident
- Negotiating pain and suffering
- Wrongful death damages
- Effectively negotiating with the adjuster
- Brake adjustments, animations, simulations exhibits

### Friday, September 15 (Day 2)

#### Best and Worst Practices in Civil Litigation

**8:30 a.m. to 9:30 a.m.**

*Judge Michael Graffeo,*

*Jefferson County circuit court*

*Judge Carole Smitherman,*

*Jefferson County circuit court*

*Bentley Patrick,*

*Nelson, Bryan & Cross*

- Mistakes in electronic court filing, initial pleadings, and responses
- Scheduling orders, case management conferences, and ADR
- Best practices in early resolution of simple cases
- Settlement conferences: What cases qualify and how to make the best use of them
- Effective summary judgment motions and hearings
- Complex cases: Special rules and tips

- Preventing discovery disputes: Timing, sequence, proportionality, cooperation between attorneys

#### Delivering an Effective Closing Argument

**9:30 a.m. to 10:30 a.m.**

*Stephen D. Heninger*

*Heninger Garrison Davis, LLC*

- Keeping the theme and story consistent
- Things to avoid in closing argument
- Arming the jury with resources to use in deliberations

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

#### Tort Law Update

**10:45 a.m. to 11:45 a.m.**

*Michael Roberts*

*Cusimano, Roberts & Mills, LLC*

Mr. Roberts, author of the *Alabama Tort Law Handbook*, will review recent cases from the Supreme Court of Alabama and the Alabama Court of Civil Appeals that affect the practice of Alabama tort lawyers. He will explain the significance of each holding.

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.**

*Robert Cooper*

*Stockham Cooper & Potts, P.C.*

**ETHICS CREDIT**

- 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 peremptory strikes: The challenge of *Batson*

#### Negotiation Secrets

**2:00 p.m. to 3:00 p.m.**

*Karen Berhow*

*Porter, Porter & Hassinger, P.C.*

- Proper investigation of the claim
- Proving insurer's conduct is unreasonable/reckless
- Resolving conflicts with adjuster
- "Reasonable expectation of a defense"
- "Ambiguity in policy"
- "Actual controversy"

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

#### Tips for Practicing in Federal Court

**3:15 p.m. to 4:15 p.m.**

*Chief Magistrate Judge John E. Ott*

*U.S. District Court for the Northern District of Alabama*

Chief Magistrate Judge Ott offers tips for tort attorneys when trying their cases in federal court.

## Your Distinguished Faculty:



**Rob Arnwine** with Carr Allison's Birmingham office, has a general defense practice with special emphasis on trucking litigation. An experienced trial attorney in both state and federal court, he has litigated a broad range of cases including wrongful death, professional liability, termite

damage, premises liability, and products liability.



**Brandon Bass**, a shareholder with the Law Offices of John Day PC in Brentwood, Tennessee, focuses on medical malpractice, construction defects, and other complex litigation. He serves on the Board of Governors for the Tennessee Association for Justice and is past chair of

the organization's *Amicus Curiae* committee. He is a frequent speaker and author on tort and trial practice.



**Karen Berhow**, with Porter, Porter & Hassinger, P.C. in Birmingham, practices in the areas of workers' compensation defense litigation and personal injury defense litigation. She is admitted to practice in the state of Alabama and the U.S. District Court, Northern and Middle

districts of Alabama.



**Robert Cooper** is a founder of Stockham, Cooper & Potts, P.C. in Birmingham. During the course of his career, he 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.



**Judge Michael G. Graffeo** was elected circuit court judge in Jefferson County in November 2006 and re-elected in November 2012 (without opposition). Judge Graffeo practiced law in Birmingham continuously from 1984 until assuming the Bench in January 2007. From November

1987 to November 1989, he was an elected member of the City Council of the City of Birmingham. He is a member of the Alabama Circuit Judges Association, serving on its Education Committee.



**Stephen Heninger**, of Heninger Garrison Davis, LLC in Birmingham, has been listed in *Best Lawyers in America*® for the past 20 years, and he has tried 18 cases resulting in verdicts over seven figures. He was selected by *Super Lawyers*® as being within the Top Ten Attorneys in

Alabama for the past four years. He recently was inducted into the Alabama Law Foundation, which limits its invitations to the top one percent of the Bar in Alabama.



**Mark Hess** is a partner in the law firm of Hand Arendall, LLC in Birmingham, where he practices in the areas of insurance defense and coverage litigation defense of extracontractual claims, and commercial litigation. He has a substantial appellate practice. He speaks frequently on procedural

issues in defense litigation.



**Jeremiah Hodges**, with Hodges Trial Lawyers, P.C. in Huntsville, handles personal injury lawsuits and civil litigation, both plaintiff and defense. He served as the Chair of the Emerging Leaders for the Alabama Association for Justice and President of the Huntsville Young Lawyers. In 2011, 2012, and 2013, he was chosen as a *Super Lawyers*® Rising Star.



**Terry McCarthy** joined Lightfoot, Franklin & White LLC in Birmingham in 1999 after graduating first in his class at the University of Alabama School of Law, and he quickly earned a reputation for being "the Dean of Evidence." He has been involved as counsel of record in

numerous arbitrations, jury trials, and bench trials.



**Chief Magistrate Judge John E. Ott** was appointed to the U.S. District Court for the Northern District of Alabama in 1998. He now serves as the Chief Magistrate Judge of the Court. He has presided as a trial judge in over 50 criminal or civil cases in a variety of subject areas, including employment discrimination, civil rights, contract disputes, antitrust, negligence, and federal misdemeanor cases. He has also served as a settlement judge or mediator in over 500 cases in nearly every type of federal litigation.



**Bentley H. Patrick** practices at Nelson, Bryan & Cross in Jasper. He served as a circuit court judge in Jefferson County from May 10, 2015, until January 2017. He was a staff counsel from June 2003 to May 8, 2015 for Cincinnati Insurance Company. He was a trust officer for AmSouth Bank from June 15, 1989 to August 1, 1992.



**Michael Roberts**, with Cusimano, Roberts & Mills, LLC, in Gadsden, has written extensively on legal topics in treatises, articles, and journals, and has authored the reference book *Alabama Tort Law*, a two-volume, 50-chapter treatise, now in its fourth edition, analyzing the historical background and current status of tort law in Alabama.



**Keri Simms** is a partner at Webster, Henry, Lyons, Bradwell, Cohan & Speagle, P.C. in Birmingham, where he practices in the areas of automotive and commercial transportation, construction defect litigation, complex insurance coverage matters, complex litigation, product liability litigation, fraud misrepresentation, and bad faith first party insurance.



**Judge Carole Smitherman** is a Jefferson County Circuit Court Judge. She served in 2009 as the 31st Mayor of Birmingham and spent several years as a member of the City Council before assuming her current judicial position. She also was the first African-American woman hired as a deputy district attorney in Jefferson County and the first African-American female Municipal and Circuit Court Judge in Birmingham.