

THE 3RD ANNUAL

Alabama Business Law Conference

Corporate veil-piercing Bankruptcy
LLC Act Ethics In-house counsel
Restrictive covenants
Appellate tips Data breach Cyber attacks

The Alabama Business Law Conference packs one day with Supreme Court Justice William Sellers and leading authorities delivering critical law practice guidance on the hottest topics and some of the most complex issues you'll face as a business law practitioner.

Highlights:

- Drafting LLC agreements under Alabama's LLC Act
- Best practices for drafting covenants under Alabama's Restrictive Covenant Law
- Elements of a veil-piercing claim and real world examples
- Bankruptcy issues that every in-house counsel and general transaction lawyer needs to master
- Advising your clients on how to respond to a data breach before it happens
- View from the appellate bench—from the Alabama Supreme Court's newest justice
- Alabama State Bar perspective about legal ethical issues that confront in-house counsel and business transaction lawyers



WHEN FRIDAY, OCTOBER 27, 2017

WHERE EMBASSY SUITES
BIRMINGHAM – HOOVER

FACULTY

The Alabama Business Law Conference has assembled a blue ribbon panel that includes a Supreme Court justice, an attorney from the Office of General Counsel of the Alabama State Bar, and attorneys who are tops in their field.

C. Ellis Brazeal, III
Jones Walker LLP

F. Gerald Burnett
*Cabaniss, Johnston, Gardner,
Dumas & O'Neal LLP*

Adam K. Israel
Balch & Bingham LLP

Jonathan W. Macklem
Christian & Small LLP

Mark Moody
*Assistant General Counsel
Alabama State Bar Center for
Professional Responsibility*

Charles A. Ray, IV
Lanier Ford Shaver & Payne P.C.

Justice William B. Sellers
Alabama Supreme Court

Will Hill Tankersley
Balch & Bingham LLP

WHERE

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WHEN

FRIDAY, OCTOBER 27, 2017

Registration begins at 8:00 a.m. The conference begins at 8:30 a.m. and concludes at 5:15 p.m.

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

PRICE: \$337 for program (\$257 for additional attendees from the same firm), \$147 for materials only

\$50 early bird discount until September 15

WHAT MAKES THIS SEMINAR UNIQUE?

- **An update on the LLC Act.** F. Gerald Burnett will update you on Alabama's LLC Act, including rights and liabilities of managers and members, dissolution and winding up, and series of assets.
- **Restrictive covenants.** Adam Israel and Will Hill Tankersley will provide a description of best practices for drafting restrictive covenants under Alabama's Restrictive Covenant Act, the current scope of the Act's coverage, and case authority developments under the Act.
- **Piercing the corporate veil.** Charles Ray will review the elements of a veil-piercing claim, give real world examples, and discuss practical considerations for both business owners and lawyers.
- **Bankruptcy issues.** Ellis Brazeal will provide vital information as to the effects bankruptcy can have on relationships with customers and vendors and on how to structure transactions so as to lessen the impacts of bankruptcy.
- **Cyber attacks and data breaches.** Jonathan Macklem will explain how to advise clients on how to respond to a data breach before it happens. He will also review class action considerations, subrogation claims, and administrative claims in the ever-evolving arena of data breach litigation.
- **View from the appellate bench.** Justice Will Sellers will provide an appellate perspective about business issues and emerging trends. He will also offer helpful hints in appellate review.
- **Ethics.** Assistant General Counsel Mark Moody with the Alabama State Bar Center for Professional Responsibility will give the Alabama State Bar perspective about legal ethics issues that confront in-house counsel and business transaction lawyers.

AGENDA

Cyber Attacks and Data Breaches 8:30 A.M. TO 9:30 A.M.

Jonathan W. Macklem
Christian & Small LLP

- The question is not if, but when. Learn how to proactively advise clients on responding to a data breach before it happens.
 - » Being a "breach coach" to your client. The first 24-48 hours after a breach is discovered are critical
 - » Attorney-client privilege considerations
 - » Payment Card Industry (PCI) Data Security Standard issues
- The ever-evolving arena of data breach litigation
 - » Judicial disagreement on the issues of Article III standing—who is the victim here?
 - » Class action considerations
 - » Rise in subrogation claims
 - » Administrative claims

Piercing the Corporate Veil 9:30 A.M. TO 10:30 A.M.

Charles A. Ray, IV
Lanier Ford Shaver & Payne P.C.

- The benefits of entity formation
- General maintenance requirements of an entity
- Elements of a veil-piercing claim and real world examples
- Practical considerations for both owners and lawyers

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

View from the Appellate Bench 10:45 A.M. TO 11:45 A.M.

Justice William B. Sellers
Alabama Supreme Court

After nearly 30 years as a practitioner with a practice that included, among other things, taxation, business organizations, and finance, Alabama Supreme Court Associate Justice Sellers will provide an appellate perspective about business issues, emerging trends, and helpful hints in appellate review.

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

Ethics: View from the Alabama State Bar 1:00 P.M. TO 2:00 P.M.

**Assistant General Counsel
Mark Moody**
*Alabama State Bar Center for
Professional Responsibility*

EARN
ETHICS
CREDIT

Mr. Moody will give the Alabama State Bar perspective about legal ethics issues that confront in-house counsel and business transaction lawyers.

Drafting LLC Agreements under Alabama's LLC Law 2:00 P.M. TO 3:00 P.M.

F. Gerald Burnett
*Cabaniss, Johnston, Gardner, Dumas &
O'Neal LLP*

- Overview of LLC Agreement under Act
- Management structures
- Rights and liabilities of managers and members
 - » Liability of members under Act
 - » Treatment of duties of member owed to LLC
 - » Implied contractual covenant of good faith and fair dealing
- Voting
- Capital contributions and accounts
- Allocation of profits and losses
- Tax provisions to include in LLC agreement
- Distributions to members
- Indemnification
- Transfers of LLC interests
- Books, records, and access to information
- Dissociation
- Dissolution and winding up
 - » Effect of dissolution
 - » Winding up activities and affairs of LLC
 - » Claims against dissolved LLC
 - » Distribution of assets in winding up LLC
- Series of assets
 - » Enforceability of obligations and expenses of series against assets
 - » Name in which assets of series held
 - » Dissociation as member of series
 - » Other provisions for series

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

Update on Alabama's Restrictive Covenant Law

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

Will Hill Tankersley and Adam Israel Balch & Bingham LLP

Mr. Tankersley and Mr. Israel, both of whom served on the 2015 Alabama Restrictive Covenant (Non-Compete) Act drafting committee, will provide a description of best practices for drafting covenants under the Act, the current scope of the Act's coverage, and case authority developments under the Act.

Top Five Bankruptcy Issues that Every In-House Counsel and General Transaction Lawyer Needs to Master

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

Ellis Brazeal Jones Walker LLP

Among other things, Mr. Brazeal will be providing vital information as to the effects bankruptcy can have on relationships with customers and vendors (including clawbacks and other preferences) as well as how to structure transactions so as to lessen the impacts of bankruptcy.

MEET YOUR FACULTY



C. Ellis Brazeal, III, a partner with Jones Walker LLP in Birmingham, is a nearly 30-year practitioner in bankruptcy courts as well as federal and state courts. An engineer by training with bachelor and masters in engineering degrees (with honors) from the University of Alabama, Mr. Brazeal holds a law degree from the University of Virginia. He is widely recognized by his peers as tops in his field in bankruptcy and creditors' rights (*Best Lawyers in America*[®], AV Preeminent[®], and *Super Lawyers*[®]). Recently, he has presented at the American Bankruptcy Institute on "Coal Bankruptcies."



F. Gerald Burnett, with Cabaniss, Johnston, Gardner, Dumas & O'Neal LLP in Birmingham, practices in the areas of tax law and disputes, commercial real estate and transactions, and timber. He has had substantial experience in the tax and entity structuring of LLCs and partnerships used primarily in real estate transactions, as well as other commercial transactions that include corporations. His work in the tax area has also

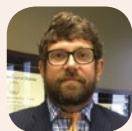
included jury and non-jury trials in eight states. He is listed in *Best Lawyers in America*[®] for Corporate and Tax Law.



Adam K. Israel is a member of the Financial Services Litigation Practice Group and the Appellate Litigation Practice Group at Balch & Bingham LLP in Birmingham where he has practiced since 2010. He practices in the areas of financial services litigation, general commercial litigation, and appellate litigation in both federal and state courts. He recently served on the Alabama Law Institute's committee to revise Ala. Code § 8-1-1, Alabama's statute on contracts in restraint of trade.



Jonathan W. Macklem, a partner with Christian & Small LLP in Birmingham, is an experienced corporate attorney who represents and advises clients on a broad range of legal matters—representing businesses and professionals in litigation in Alabama and across the Southeast. He regularly defends clients in complex contractual and business tort proceedings involving director/officer liability issues, shareholder disagreements, franchise disputes as well as employment-related matters. In recent years, an increasing focus of his practice has been in the area of privacy and data breach litigation. Mr. Macklem is currently defending a number of corporations in cyber liability and data breach lawsuits, and he advises clients on compliance and best practices as it relates to data protection. He has been named as a Rising Star by *Super Lawyers*[®] in the area of business litigation and has been named a Best Attorney in the area of employment litigation.



Mark Moody is Assistant General Counsel with the Office of General Counsel at the Alabama State Bar (ASB). In addition to providing ethics opinions and prosecuting discipline cases, Mr. Moody reviews all attorney advertising and is the liaison prosecutor for the Unauthorized Practice of Law Committee. He is a graduate of Leadership Forum and serves on other ASB task forces, committees, and sections. He was a panelist on the prosecution of the Unauthorized Practice of Law at the American Bar Association's 2015 UPL Conference where his comments were later featured by BNA/Bloomberg. Most recently, Mr. Moody served as a panelist at the 2017 ABA National Legal Malpractice Conference in Boston discussing the potential problems of advising clients engaged in legal marijuana-related businesses. Prior to his employment in the Office of General Counsel, he served as a staff attorney for judges at the trial and appellate level.



Charles A. Ray, IV, with Lanier Ford Shaver & Payne P.C. in Huntsville, litigates commercial disputes in various courts

and venues. His experience with complex litigation has involved large construction projects (private and public), real estate ownership disputes, investment transactions, professional malpractice, corporate dissolution and shareholder disputes, and employment restrictions. His litigation experience also includes cases involving construction defects, mechanics' liens and surety-bond enforcement, landlord-tenant disputes, insurance coverage disputes, property rights, shareholder disputes, corporate dissolution, breach of contract, breach of fiduciary duties, fraud, trade-secret preservation, and various other statutory and common-law claims. He regularly develops and negotiates commercial construction contracts, landlord-tenant leases, service agreements, and employment contracts.



Justice William B. Sellers was appointed by Gov. Kay Ivey in May 2017 to fill a vacancy on the Supreme Court of Alabama. He received a B.A. from Hillsdale College in 1985, a J.D. from the University of Alabama in 1988, and a LL.M. in Taxation from New York University in 1989. Justice Sellers practiced in Montgomery for 28 years. He maintained a general business practice with emphasis on taxation and business organizations and finance. In 2012, he received the President's Award for service to the Alabama Bar Association. In 2013, Gov. Robert Bentley appointed Justice Sellers to the Alabama State Council on the Arts. Since 2014, he has served as the community liaison with the International Officers School at Maxwell Air Force Base. He is past President of the Rotary Club of Montgomery, past Chair of the Montgomery Area Business Committee for the Arts, Chair of the River Region United Way Campaign in 2008, and past Chair of the YMCA of Greater Montgomery.



Will Hill Tankersley, a partner in Balch & Bingham's Birmingham office, is a 1986 admittee to the Bar. He holds a J.D. from the University of Alabama School of Law and a LL.M. in Trade Regulation (Intellectual Property and Antitrust) from New York University Law School. In addition to his leadership of the Alabama Law Institute drafting committees for Alabama's Right of Publicity and Restrictive Covenant (Ala. Code § 8-1-1) Revision Act, he has been on the 11th Circuit pattern jury instruction drafting committees for copyright and trademark cases. He founded and was the first Chair of the Alabama State Bar Section on Intellectual Property. In a nearly 30-year career, he has represented clients as varied as the Andy Warhol Foundation, Auburn University, and the Southern Company. After college and before law school, he was a soldier. He can be reached at WHT@Balch.com.

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or visit mleesmith.com/ABLC

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YES! I want to get up-to-date information on trends and developments in Alabama business law affecting my clients and my practice. Please reserve my spot at the **2017 Alabama Business Law Conference**. 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 September 15**), \$257 for additional attendees from the same firm, \$147 for materials only.

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CLE: 7 hours of CLE

(6 hours of general and 1 hour of ETHICS)

FEE

\$337 for program, \$257 for additional attendees from the same firm, \$147 for materials (\$287 when registered by September 15)

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:

- **Appellate perspective.** You'll get an appellate perspective about business issues and emerging trends.
- **Quality presenters.** You'll hear from a "blue ribbon" panel of attorneys who are "tops in their fields."
- **Timely information.** You'll get the latest on the ever-evolving arena of data breach litigation.
- **Piercing the corporate veil.** You'll get a review of the elements for piercing the corporate veil and hear real world examples.
- **LLC law.** You'll get tips on drafting LLC agreements under Alabama's LLC Law.
- **Restrictive covenants.** You'll get best practices for drafting covenants under Alabama's Restrictive Covenant Act.
- **View from Alabama State Bar.** You'll hear the Alabama State Bar perspective about legal ethics issues that confront in-house counsel and business transaction lawyers.
- **Dynamic interaction.** You'll be encouraged to ask questions and present your own situations for discussion.
- **Useful materials.** You'll receive a binder of materials covered during the seminar and will 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.

HERE'S WHAT YOUR COLLEAGUES SAID ABOUT LAST YEAR'S ALABAMA BUSINESS LAW CONFERENCE:

"Very good seminar. Timely business topics. Very qualified speakers."

"Great CLE. Speakers were fantastic and knowledgeable."

"Several topics were very timely."

"Great schedule and great information."

"Good subject matter."

"Good material."

BONUS:

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