Alabama Law Weekly
A weekly summary of Alabama law developments

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Ethics and contingent fee agreements

In Ethics Opinion R0-2015-01, the question before the Disciplinary Commission was whether a lawyer representing a client on a contingency fee basis may enter an agreement for, charge, or collect an attorney's fee based on the gross recovery or settlement of a matter and in the same matter charge an additional contingent fee for the negotiation of a reduction of third-party liens or claims—for example, medical bills, statutory liens, and subrogated claims—where the liens or claims are related to, and are to be satisfied from, the gross settlement proceeds from that matter.

The Disciplinary Commission's conclusion was as follows:

> Absent extraordinary circumstances, a lawyer may not enter into an agreement for, charge, or collect an attorney's fee based on the gross recovery or settlement of a matter, and in the same matter charge an additional contingent fee for the negotiation of a reduction of third party liens or claims, where the liens or claims are related to, and to be satisfied from, the gross settlement proceeds from that matter.

In explaining its response to this question, the Disciplinary Commission cited to Rule 1.5(a), Ala. R. Prof. C., which states that "a lawyer shall not enter into an agreement for, or charge, or collect a clearly excessive fee" and identifies nine factors to be considered when determining whether a fee is clearly excessive:

(1) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) The fee customarily charged in the locality for similar legal services;

(4) The amount involved and the results obtained;

(5) The time limitations imposed by the client or by the circumstances;

(6) The nature and length of the professional relationship with the client;

(7) The experience, reputation, and ability of the lawyer or lawyers performing the services;

(8) Whether the fee is fixed or contingent; and

(9) Whether there is a written fee agreement signed by the client.

The Commission noted that contingent fee agreements are normal and customary in plaintiffs practice and are particularly prevalent in personal injury representation. The Commission explained, however, that a lawyer may not enter into an agreement, even if in writing and signed by the client, that calls for an attorney's fee based on the gross recovery or settlement of a matter and in the same matter charge an additional contingent fee for the negotiation of a reduction of third-party liens or claims that are related to, and are to be satisfied from, the gross settlement proceeds from that matter. The Commission pointed out that this is so because the negotiation of a reduction of third-party liens and claims is incident to normal personal injury representation. Since such a reduction is frequently necessary to reach a settlement of a client's claim, this service is considered a routine element of case management.

The Commission also noted it is significant that the most advantageous time for negotiation of third-party liens or claims is prior to, rather than after, settlement of a tort claim. Before settlement, the lienholder or subrogated insurer has to face the possibility of receiving no recovery at all, whereas after a settlement is reached, the lienholder has much less incentive to agree to reduce its lien. The Commission therefore stated that absent extraordinary circumstances, a lawyer representing a client in a personal injury matter may not enter an agreement with the client to exclude consideration of third-party liens or claims from the

(continued on page 2)

Highlights

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scope of representation. Rather, the Commission opined that a lawyer's obligation to zealously represent the client's interests requires reasonable efforts to timely seek their reduction in conjunction with settlement. The Commission further pointed out that a lawyer negotiating these reductions in the process of reaching a settlement is compensated for his services by an attorney's fee calculated as a percentage of the gross settlement.

The Commission concluded by saying:

> In sum, while circumstances may exist in which it is permissible for an attorney to enter into an agreement for, charge, or collect a contingent fee for the reduction of medical bills or hospital or subrogation liens or other third party liens or claims to be satisfied out of settlement funds, the Disciplinary Commission is of the opinion that they are impermissible in routine contingent fee representation where the attorney's fee is based on the gross settlement or recovery.

Supreme Court — Civil

▼ **Supreme Court grants mandamus relief and holds that action regarding the failure of a dam and subsequent claim for damages for flooding was due to be transferred from St. Clair County to Shelby County based on forum non conveniens.**

CIVIL PROCEDURE: Venue. Delaney Exchange, LLC, and Springdale Stores Exchange, LLC ("the plaintiffs"), with their principal place of business in Mobile County, owned real property in Shelby County on which they wished to construct a lake. They entered into separate contracts with Engineering Design Group, LLC, and its principal, David Stovall ("EDG"); Building & Earth Sciences, Inc. ("BES"); and Kent Brascho Excavating, Inc., and its principal, Kent Brascho ("KBE"). In September 2013, the dam constructed by KBE failed, causing the lake to drain and flood the surrounding properties. In March 2015, the plaintiffs commenced an action against EDG, BES, KBE, and Brascho in St. Clair County. BES and EDG filed motions to transfer the action to Shelby County pursuant to Alabama's forum non conveniens statute. Ala. Code 1975, § 6-3-21.1. The trial court denied the motion, and EDG and BES filed petitions seeking a writ of mandamus. **Writs of mandamus issued.** The parties did not dispute that venue was proper in St. Clair County because Brascho was a resident of St. Clair County and KBE had its principal place of business there before it dissolved. It was likewise undisputed that venue was proper in Shelby County because EDG's principal place of business was there. The Court explained that while a plaintiff's choice of venue is generally given great deference, the interest-of-justice prong of Section 6-3-21.1 requires the transfer of an action from a county with little, if any, connection to the action to the county with a strong connection to the action. The Court found that Shelby County had a strong connection to the action. EDG performed survey work at the dam site in Shelby County and created the designs for the dam at its office in Shelby County. The dam was constructed on the plaintiffs' real property in Shelby County. The complaint also alleged that Brascho and BES improperly performed work on the dam in Shelby County. In contrast, St. Clair County's only connection to the case was that Brascho resided there and KBE, which was no longer in existence, once had its principal place of business there. The Court rejected the plaintiffs' argument that Brascho's acceptance of EDG's designs in St. Clair County was significant. The Court pointed out that the act giving rise to the plaintiffs' claims was not the acceptance of the designs but rather KBE's construction of the dam in accordance with those designs. The Court then noted that it has repeatedly held that the presence one or more defendants in a plaintiff's chosen forum, without more, constitutes a weak connection to the case. See *Ex parte Quality Carriers, Inc.* [Ms. 1140202, June 5, 2015] ___ So.3d ___ (Ala. 2015)[24 ALW 24-4]. Finally, the Court held that while a trial court has a degree of discretion in determining the factors in the interest-of-justice prong of the statute, that discretion is not unlimited and must be considered in light of the fact that the Legislature used the word "shall" instead of "may" relating to the transfer of actions under Section 6-3-21.1. ***Ex parte Engineering Design Group, LLC (In re: Delaney Exchange, LLC v. Engineering Design Group, LLC),*** 25 ALW 7-1 (1141219) 2/5/16, St. Clair Cty., Bryan; Stuart, Bolin, Parker, Shaw, Main, and Wise concur; Murdock concurs in the result; Moore dissents, 28 pages. [ATTY: Pet: John Laney, Birmingham; Resp: J. Bart Cannon, Birmingham]

Supreme Court — Criminal

▼ **Supreme Court reverses Court of Criminal Appeals and holds that exclusion of hearsay evidence did not warrant reversal of defendant's burglary conviction because evidence was not "critical" to the defense of the case.**

EVIDENCE: Hearsay. Devonte Acosta was charged with first-degree burglary. The evidence presented at trial indicated that James Benford, Sr., and two of his three sons were in their house when three armed black men entered the house and stated they wanted their "property" back from Benford's absent son. The men left after rummaging through the house. Benford and his two sons testified that they recognized Acosta and R.J. as two of the armed men who entered the house. Detective Josh Fisher testified that Benford and his sons provided statements. On cross examination, Fisher testified that Benford's trial testimony differed from his statement given during the investigation that he could not identify any of the men who entered the house. R.J.'s mother testified that Acosta was not with R.J. at the time of the burglary, and Acosta's brother testified that he and Acosta were together at the time of the burglary. Acosta called R.J. as a witness, but he refused to answer any questions, invoking his Fifth Amendment right against self-incrimination. Acosta then called Detective Fisher and asked him if R.J. had indicated to him that Acosta was not involved in the burglary. The State lodged a hearsay objection. Acosta argued that R.J., in light of his invocation of his Fifth Amendment rights, was unavailable but that his testimony should be admitted through Fisher. The trial court ruled that Fisher's testimony about R.J.'s

statements was hearsay and not admissible. The jury found Acosta guilty, and after the trial court summarily denied his motion to set aside the verdict, Acosta appealed. The Court of Criminal Appeals held that the trial court erred in refusing to admit Fisher's hearsay testimony regarding R.J.'s statement, holding that the strict application of the hearsay rule deprived Acosta of the ability to present a defense. The State petitioned the Supreme Court for certiorari review. **Reversed.** The Court first held that the issue was properly preserved for review because Acosta did, at the time the evidence was admitted, argue that the evidence was integral to his defense. In *Ex parte Griffin,* 790 So.2d 351 (Ala. 2000)[9 ALW 34-6], the defendant attempted to present evidence that another man had admitted under oath in court that he killed the man the defendant was accused of murdering. The trial court refused to admit the evidence, but the Supreme Court held that the trial court's ruling excluding the evidence with regard to the other person's confession and conviction prohibited the defendant from presenting his defense, particularly the critical evidence in question, to the jury and violated his due process rights under the Fifth and Sixth Amendments. The Court stated that critical evidence is evidence strong enough that its presence could tilt a juror's mind. Here, upon a review of the record, the Court concluded that Acosta's fundamental rights to a fair trial and to due process were not violated by the trial court's refusal to admit into evidence Fisher's hearsay testimony because it was not critical to Acosta's defense. Witnesses identified Acosta as one of the men who entered the house. Acosta, in his defense, testified he was not present and presented evidence from his brother and R.J.'s mother that he was not with R.J. during the burglary. The Court thus concluded that Detective Fisher's hearsay testimony that R.J. told him that Acosta was not present during the burglary would have been cumulative evidence. "Because Detective Fisher's hearsay testimony was not critical evidence for Acosta's defense, the trial court's exclusion of Detective Fisher's testimony did not deny Acosta a trial in accord with traditional and fundamental standards of due process." ***Ex parte State of Alabama (In re: Acosta v. State of Alabama),*** 25 ALW 7-2 (1141281), 2/5/16, Morgan Cty., Stuart; Bolin, Parker, Main, and Wise concur; Shaw concurs in the result; Moore, Murdock, and Bryan concur, 42 pages. [ATTY: Pet: Andrew Brasher, Asst. Atty. Gen.; Resp: James Timothy Kyle, Decatur]

Court of Civil Appeals

FAMILY LAW: Injunctive Relief. The Court's opinion of July 24, 2015, is withdrawn, and the following is substituted therefor. The parties were divorced in September 2014. Pursuant to the divorce judgment, the father was awarded legal and physical custody of the parties' minor children. In May 2015, the mother filed a petition for contempt and a petition to modify custody. On June 5, 2015, the trial court granted the mother's motion for "emergency visitation." On June 10, 2015, the trial court entered an order awarding the mother pendente lite custody of the children and setting

the case for hearing on September 14, 2015. However, the father was granted leave to make a written request for an expedited hearing. On June 11, 2015, the father filed a motion seeking to have the June 5, 2015, and the June 10, 2015, orders vacated, and he requested that a hearing be held "as soon as possible." On June 12, 2015, the father filed a petition for writ of mandamus. **Writ of mandamus granted.** Ala. R. Civ. P. 65(b) states that a temporary restraining order can be granted only if it appears from the facts that the immediate or irreparable injury will take place before the adverse party can be heard and if the applicant's attorney certifies in writing the efforts, if any, that have been made to give notice and the reasons supporting the claim that notice should not be required. In this case, the mother's attorney concedes that the certification required by Rule 65(b) was not included in any of the mother's ex parte motions because "as a matter of practice in the Eighth Judicial Circuit, this certification has not routinely been required." "The Rules of Civil Procedure cannot be ignored with impunity." Because the mother's attorney failed to comply with Rule 65(b), the trial court's orders are due to be set aside. Moreover, although the court granted the father leave to make a written request for a 72-hour hearing, such a hearing is statutorily required when a child is summarily removed from a parent's custody. See *Ex parte C.T.,* 154 So.3d 149, 153 (Ala. Civ. App. 2014)[23 ALW 18-2]. Accordingly, the petition for writ of mandamus is due to be granted. ***Ex parte Hutson (Hutson v. Hutson),*** 24 ALW 7-3 (2140728), 7/24/15, Morgan Cty., Thompson; Pittman, Thomas, Moore, and Donaldson concur, 10 pages. [ATTY: Pet: Michael Lambert, Athens; Resp: Britt Cauthen, Decatur]

PROPERTY: Foreclosure. CIVIL PROCEDURE: Damages—Attorney's Fee. Howard Ross owned four condominium units within the West Wind Condominium complex. In August 2005, Ross and West Wind Condominium Association, Inc. ("West Wind"), agreed that West Wind would accept maintenance and repair work from Ross in lieu of his paying the condominium association's monthly dues. In September 2006, West Wind notified Ross that it would no longer accept his work and that he should begin paying dues. Ross paid monthly dues starting in December 2006. West Wind rejected Ross' payments in April and May 2007 and sent a letter stating that it was disputing his charges for maintenance and repair work. Ross submitted an itemized list of charges but never received any additional correspondence from West Wind thereafter. In 2007, West Wind recorded liens on Ross' four condominium units. In February 2008, West Wind published notice of a foreclosure sale on the units. On February 15, 2008, West Wind conducted foreclosure sales, and it was the highest bidder. That same day, the auctioneer executed foreclosure deeds conveying the four units to West Wind. In March 2008, West Wind conveyed two of the units to Jimmy and Cynthia Spruill, one unit to Joseph London, and one unit to Delvin Sullivan. In 2008, Ross sued West Wind, London, the Spruills, and Sullivan, alleging that the foreclosure sales were invalid because West Wind had failed to give Ross "reasonable advance notice" of the sale as required by Ala. Code 1975, § 35-8A-316(a). The Spruills filed a cross-claim against West Wind and a counterclaim against Ross. The trial court entered a default judgment against Sullivan and entered summary judgments in favor of London, the Spruills, and West Wind. After the Spruills' counterclaim and cross-claim were resolved, Ross appealed. He agreed to pay the Spruills $8,000 in exchange for title to the condominiums they purchased. In *Ex parte Ross,* 153 So.3d 43 (Ala. 2014), the Supreme Court determined that the summary judgments entered in favor of West Wind and London were not proper. The case was remanded to the trial court. After remand, the court held a bench trial. It entered a judgment holding that West Wind had failed to give Ross reasonable advance notice and that therefore, the foreclosure sales were invalid. As relief, the judgment ordered that title to the condominium units be restored to Ross. The judgment denied Ross' claim seeking damages from West Wind and denied his recovery of an attorney's fee. Ross appealed. **Affirmed in part; reversed in part.** (1) Ross challenged the trial court's finding that he failed to prove damages that would support a recovery of monetary damages. He cited the fact that he had to pay the Spruills $8,000. "We agree that the doctrine of mitigation of damages required him to minimize his damages by acquiring title to those condominium units from the Spruills. . . . Accordingly, because the undisputed evidence indicated that Ross had paid the Spruills $8,000 in order to acquire title to those two condominium units from them, we conclude that the trial court erred in determining that Ross had introduced no evidence that would support an award of damages with respect to those two condominium units." (2) Ross also argued that the trial court erred by denying him money damages against West Wind because evidence was presented that after he purchased the condominium, London had rented the unit for $300 per month. He asserted that this evidence established that he had lost $300 per month. London testified that he had rented the property for six months. Ross provided that he had suffered $1,800 as a proximate result of the invalid foreclosure and that the trial court erred in holding that he had failed to prove any damages. (3) Finally, Ross claimed that the trial court erred by failing to award him an attorney's fee. Ala. Code 1975, § 35-8A-414 provides that a court "in an appropriate case" may award reasonable attorney's fees. However, the determination as to what constitutes an "appropriate case" is a matter within the discretion of the trial court. The trial court did not abuse that discretion in this case. This portion of its judgment is due to be affirmed. ***Ross v. West Wind Condominium Association, Inc. et al.,*** 25 ALW 7-4 (2140675), 2/5/16, Madison Cty., Pittman; Thompson, Thomas, Moore, and Donaldson concur, 13 pages. [ATTY: Appt: Michael Robertson, Huntsville; Apee: Curtis Whitmore, Huntsville]

GOVERNMENT: Administrative Law. The City of Brundidge ("Brundidge") approved a solid-waste landfill in 1991. Brundidge entered into a host-government agreement with a private contractor to operate the landfill. In 1992, the Alabama Department of Environmental Management ("ADEM") issued a permit to authorize the Brundidge landfill to accept solid waste. From 1992 to 2007, ownership of the landfill changed three times. Brundidge did not object to ADEM's transfer of the permit to the new entities for any of those ownership changes. In 2007, TransLoad America, Inc. ("TLA"), purchased the landfill. In September 2007, the City of Brundidge Solid Waste Authority ("COBSWA"), a public corporation established by Brundidge, entered into a host-government agreement with

Brundidge Landfill, LLC, a subsidiary of TLA, authorizing that entity to operate the landfill and granting the City the right to collect administrative, or "tipping," fees from the landfill operations. In 2012, TLA filed for bankruptcy, and Brundidge Landfill, LLC, ceased operating the landfill. In October 2012, Brundidge Acquisitions LLC ("BA") was formed. The Coffee County Commission passed two resolutions authorizing the issuance of up to $6 million of Coffee County's debt for the purpose of purchasing the landfill. In December 2012, BA purchased the landfill from the bankruptcy trustee for $4 million. ADEM approved BA's request to transfer the permit from Brundidge Landfill, LLC, to BA. In January 2013, Brundidge and COBSWA filed a declaratory-judgment action in the trial court seeking a ruling that the Coffee County Commission lacked authority to provide funds for the acquisition and that BA lacked authority to lawfully operate the landfill without first entering into a host-government agreement with the City. Brundidge also filed an administrative proceeding with the Alabama Environmental Management Commission ("AEMC") to challenge the legality of ADEM's transfer of the permit from Brundidge Landfill, LLC, to BA without first seeking Brundidge's approval. An administrative law judge ("ALJ") ruled in favor of ADEM, and AEMC adopted the ALJ's findings and recommendations. Brundidge appealed that ruling and consolidated the declaratory judgment action with the administrative proceeding. In the declaratory judgment action, Brundidge and COBSWA filed a motion for summary judgment arguing that BA was a mere "shell" entity that was controlled and managed by employees of the Coffee County Commission. They asserted that the Coffee County Commission intended to keep the Brundidge landfill operating at a minimal level in order to direct additional waste disposal to a landfill located in Coffee County. The Coffee County Commission and BA filed separate summary judgment motions asserting that Brundidge and COBSWA lacked standing to challenge the expenditures of Coffee County. The summary judgments filed by the Coffee County Commission and BA were granted. In the administrative proceeding, the trial court entered a judgment affirming AEMC's decision to uphold ADEM's decision to transfer the permit to BA. Brundidge and COBSWA appealed both actions. **Affirmed.** (1) The Court first addressed whether Brundidge and COBSWA had standing. A party has standing to bring a challenge when it demonstrates the existence of (a) an actual, concrete, particularized injury in fact; (b) a causal connection between the injury and the conduct complained of; and (c) a likelihood that the injury will be redressed by a favorable decision. "It is the liability to replenish public funds that gives a taxpayer standing to sue." *Jordan v. Siegelman,* 949 So.2d 887, 891 (Ala. 2006)[15 ALW 30-4]. The Coffee County Commission argued that Brundidge and COBSWA were unable to prove that Brundidge has a responsibility to replenish the funds of Coffee County. However, Brundidge and COBSWA's injury arises from the Coffee County Commission's alleged violation of Brundidge's presumed authority to manage solid waste generated within the city

limits of Brundidge. Ala. Code 1975, § 22-27-48(a). "We, therefore, conclude that Brundidge and COBSWA's complaint presents a justiciable controversy that is ripe for review and that Brundidge and COBSWA have standing under § 22-27-48(a) to seek declaratory relief." (2) Because a correct judgment can be affirmed for any reason, even one not relied upon by the court, the Court considered the additional arguments raised on appeal. Brundidge and COBSWA contended that the provisions of the Solid Wastes and Recyclable Materials Management Act provide local governments with authority to manage solid waste within their own boundaries. They argued that the Coffee County Commission and BA have failed to comply with the Act by not first obtaining Brundidge's approval before BA acquired and began operating the Brundidge landfill. The Court examined the language of the Act and concluded that the actions of the Coffee County Commission do not offend the plain wording of the statute. It noted that there is no evidence that the Coffee County Commission is providing solid waste collection that would be prohibited by the Act. Rather, it merely provided the initial funding for BA to acquire the landfill. Other challenges to the application of the Act were considered and rejected. (3) Brundidge and COBSWA contended that the transfer of the permit to BA without Brundidge's approval is barred by Section 22-27-48(a). However, that statute does not address transfers of permits from one entity to another. It merely refers to approval or disapproval of new and modified permits for a facility. The judgment of the trial court is due to be affirmed. ***City of Brundidge v. Alabama Department of Environmental Management and Brundidge Acquisitions, LLC,*** 25 ALW 7-5 (2140325; 2140342), 2/5/16, Pike Cty., Donaldson; Thompson, Pittman, Thomas, and Moore concur, 43 pages. [ATTY: Appt: Richard Calhoun, Troy; Apee: Anthony Carter, Montgomery]

GOVERNMENT: Administrative Law—Medicaid Eligibility. Denise Hardy was admitted to a nursing home in December 2012. In March 2013, James Hardy, Hardy's brother, filed an application with the Alabama Medicaid Agency ("the Agency") on behalf of Hardy seeking to have the Agency pay for Hardy's nursing-home care. To determine Hardy's eligibility, the Agency calculated Hardy's income and resources. It determined that Hardy had inherited a one-half interest in a house from her father and that her interest had been placed in "The Denise Ann Hardy Irrevocable Trust" ("the trust"). Hardy is the settlor and the beneficiary of the trust. The trust instrument provides that distributions can be made for the health, support, and best interests of the beneficiary. However, it also states that the intent of the trust is for supplemental care and specifically states: "I do not want this trust eroded by my creditors nor do I want my public or private assistance benefits to be made unavailable or terminated." If the trust disqualifies the beneficiary from receiving public or private support benefits, the trustee can unilaterally terminate the trust. The Agency sent Hardy a letter informing her that her application for Medicaid benefits was denied. Hardy filed an administrative appeal. An administrative law judge ("ALJ") conducted a hearing. James Hardy testified that Hardy had borrowed money from him and that she had signed a promissory note for $17,107.74. The amount attributable to Hardy from the house was $16,385. Hardy presented evidence of a federal tax lien against the house in the amount of $9,019.52. The ALJ issued a recommendation to the Acting Commissioner of the Agency ("the Commissioner") to uphold the Agency's decision to deny Hardy's application for Medicaid benefits. The ALJ concluded that Hardy's beneficiary interest in the trust is a countable resource but that the value of the house should have been reduced by the federal tax lien, which made the correct value $11,875.25. Since this amount exceeded the $2,000 countable-resource limit for eligibility, Hardy was not entitled to benefits. The Commissioner adopted the ALJ's recommendation. Hardy appealed and filed a petition for judicial review in the circuit court. After a hearing, the circuit court granted Hardy's petition and ordered the Agency to pay Medicaid benefits. The Agency appealed. **Reversed.** 42 U.S.C. § 1396p(d)(3)(B)(I) deals with the issue of a trust and how it affects a person's eligibility for Medicaid. In the case of an irrevocable trust, if there are circumstances under which payment could be made for the benefit of the individual, the portion from which payment could be made is considered a resource available to the individual. In this case, the ALJ's decision, which was adopted by the Agency, was supported by the facts and by relevant law. "Therefore, based on the applicable standard of review, we reverse the circuit court's judgment overturning the Agency's decision denying Hardy Medicaid benefits." ***Alabama Medicaid Agency v. Hardy,*** 25 ALW 7-6 (2140565), 1/29/16, Montgomery Cty., Donaldson; Thompson, Pittman, Thomas, and Moore concur, 22 pages. [ATTY: Appt: James Hartin, Montgomery; Apee: Kyla Kelim, Fairhope]

CLE Calendar

Webinar

- ***"2015 Alabama Workers' Compensation Law Update,"*** 60-minute webinar to be presented by attorney Donald B. (Bo) Kirkpatrick, with Carr Allison in Birmingham, on **Tuesday, March 15,** at 2:00 p.m. Earn 1 hour of GENERAL credit.

On-site Event

- **6th Annual Probate & Estate Planning Conference for Alabama Attorneys**
  Thursday and Friday, May 19-20, Birmingham Marriott, 3590 Grandview Parkway, Birmingham, AL

Faculty: Judge Sherri Friday, Jefferson County Probate Court; **R. David Allen, Jr.,** Law Office of R. David Allen, Jr., Birmingham; **Melanie B. Bradford,** Bradford & Holliman, Scottsboro; **Jack Carney,** Carney Dye, Birmingham; **John W. Charles,** The Anderson Law Firm, Montgomery; **Brooke Everley,** Everley Law, Birmingham; **Connie Glass,** The Elder Law Firm of Connie Glass, Huntsville; **Jennifer Q. Griffin,** Kendall Maddox and Associates, Birmingham; **Bradley W. Lard,** Bradley Arant Boult Cummings, Birmingham; **Jennifer McEwen,** Maynard Cooper & Gale, Birmingham; **Jim Naftel,** Maynard Cooper & Gale, Birmingham; **Judy Shepura,** Dominick Feld Hyde, Birmingham; and **Sid Summey,** White Arnold & Dowd, Birmingham

Highlights: Alabama Uniform Trust Code options for fixing broken trusts; asset protection in estate planning; use

of special needs trusts; tips on administration of an estate from a probate judge; understanding the role of the personal representative; techniques for avoiding probate; Medicaid planning—how to protect assets from the nursing home; management of property during probate proceedings; effective use of powers of attorney; common issues in litigation and probate; ensuring a thorough accounting and settlement of the estate; and ethics of representing estate clients, beneficiaries, and trustees.

CLE: Earn up to 12 hours of CLE, including 11 hours of GENERAL and 1 hour of ETHICS credit. For more information or to register, call us at 800-274-6774 or visit us at www.mleesmith.com/probate-estate-al-2016.