#### **APRIL - JUNE 2025**

### ALABAMA BENCH AND BAR HISTORICAL SOCIETY

#### NEWSLETTER



# COME SEE US AT THE ALABAMA STATE BAR ANNUAL MEETING and LEGAL EXPO JULY 16—17, 2025



This year the Annual Meeting will be held at The Grand in Fairhope, AL.

Tim, and I will be at our booth #21. We are doing something different this year. You can spin to win! We have several nice items, including 2- Two Year Memberships, that will be on the wheel and everyone (age 18 up) can have a spin to win.

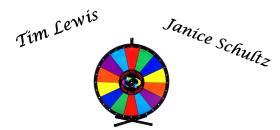
We have also given the State Bar a very nice prize to give away so be sure that we stamp your card.

So, make sure you come by booth #21 and say hello, spin our wheel, join or renew your membership, or just say hello. We look forward to seeing you!

Inside This Issue:	
Presidents Letter	p. 2
Good-by/Hello & Honoring a Icon	p. 3
Burning Down the House	p. 4
A movie that prejudiced an Alabama Jury	p. 5
Docent Appreciation Day	p. 6—7
Welcome New Members	p. 8
Membership renewals	p. 8
ABBHS Lunch & Learn	p. 9
Alabama Lawyers Hall of Fame	p.10
Membership Application	p.11



This is a picture of last years winner of the prize we donated to the Alabama State Bar for their drawing. Mr. James Esdale received a basket with a charcuterie board and lots of other goodies! You can't win if you don't come.



Preserving the History of Alabama

#### PRESIDENT'S LETTER

In the April-June 2023 ABBHS Newsletter, I wrote a short introduction to law firms in Alabama. It was short because the history of Alabama law firms on the whole has not been researched and written. It was introduction because I knew little about law firms in Alabama except some of the large, high-profile firms.

This edition of our Newsletter, I hope will began a deeper dive into small town lawyers and law firms in Alabama. We have two articles in this newsletter focusing on law firms, one written by Abner Riley Powell IV, about his law firm, one of the oldest continuously operating law firms in Alabama and an article that I wrote many years ago about Calvin Poole, a legendary lawyer from Greenville in Burler County. The article describes how Poole ingeniously used a movie to have a case overturned by the Court of Appeals.

This effort to include information about law firms and small town lawyers is intention. We want to encourage our members and others to write about their firms. Not as an advertisement but as history. Alabama has had brilliant lawyers throughout it's history and we don't want them forgotten.

As a member of the Lawyers Hall of Fame selection committee, I am keenly aware that our Chairman, Sam Rumore, and the committee members have been successful in keeping the Lawyers Hall of Fame from being the "Judges Hall of Fame" or the "Politicians Hall of Fame." It is important that we remember the lawyers who in their daily practice, help Alabamians with their legal issues. So please, if you have a story to tell about your firm, yourself, or a lawyer who you greatly admired, please let us publish the story so that lawyers who labored without fame or notoriety can be remembered.



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# ALABAMA BENCH AND BAR HISTORICAL SOCIETY SAYS FAREWELL AND HELLO

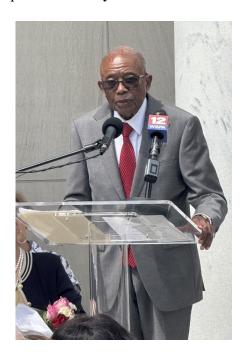
The beginning of 2025 brought some changes to the ABBHS Board of Directors.

We bid a sad farewell to Ms. Kay Dansby and wish to thank her for her 5 years serving on our board. While she is still active in her business, she has her eyes set on semi-retirement in the future. We wish her all the best!

We welcome Professor John Browning as a member of the ABBHS Board of Directors. Professor Browning aka Hon. Browning has been a contributor of several articles to our newsletter. With the experience he brought with him from his time on the Texas Supreme Court and his Editor-in-Chief's Column in the Journal of the Texas Supreme Court Historical Society, he will certainly be a huge asset to ABBHS! Look for his latest article on page 4 of this issue.

#### **HONORING A ICON**

April 24, 2025, marked a day that many will remember. Legendary attorney, Mr. Fred Gray, was honored by the Alabama Bar Association with a sculpture honoring him. Mr. Gray, who grew up in Montgomery's west side stated that he "never thought that one day my image would be in stone to honor my professional career." Best known for involvement in the Civil Rights Movement in Alabama and the Selma-to-Montgomery marches in 1965, Mr. Gray also stated, "I humbly accept this award for all those unknown heroes and clients whose names never appear in print media, whose faces never appear on television. They are the persons who laid the foundation so that you can honor me here today." Mr. Gray, ABBHS is indeed proud to have you as a member.





#### PAGE 4

#### Burning Down the House: Liability for a Slave Leads to a Shootout and an Alabama Supreme Court Case

By Hon. John G. Browning

Historians frequently point to acts of arson by enslaved people in the antebellum United States as a form of slave resistance.<sup>1</sup> Yet a long-forgotten episode from Alabama's history points to another motive- greed - in a sordid case that resulted in a gunfight that rivaled the O.K. Corral, and which went all the way to the Supreme Court of Alabama. It was a matter that involved two doctors, a judge, and a colonel and his two sons, and it exposed the rifts that existed in the upper echelons of "proper" society. The dispute also raised questions about a master's liability for the wrongdoing of his slave, questions that the state's highest court would have to resolve.

It all began when John A. Bell (son of Col. John R. Bell) bought an enslaved man named Pleas (or Pleasant) from E.M. Perine. Pleas was acknowledged to be smart but had a reputation as a troublemaker; a witness would later testify that Pleas was "of bad and desperate character, and given to the commission of injuries," Pleas had a strong supporter in John A. Bell, who according to one witness turned a blind eye to Pleas' misdeeds as long as they added to Bell's bottom line. According to that witness, Bell valued Pleas more than "three common field-hands," and proclaimed that if he had more slaves like Pleas, "they would steal me rich in a short time."

In February 1856, the house of Matthew Troy in Cahawba was burned to the ground. A few days later the home of Judge W.E. Bird met the same fate. Both Troy and Bird openly accused Pleas of committing arson, and they brought a case against John A. Bell for instigating the crime. Bell was said to have told his slave, "That's right, damn 'em; burn 'em up." At that time, to accuse a gentleman's slave or servant of such misconduct was tantamount to accusing the gentleman himself. In an age in which duels were still fought, honor would have to be served. Dr. Troy also filed a civil suit against Bell, claiming that Bell had unlawfully permitted Pleas "to go at large, and neglected or refused to exercise the dominion and control of [the slave] as required by law."

Angered by both the accusations and the lawsuit, Bell went to Dr. Troy's office and - according to eyewitness accounts, "commenced an assault upon Dr. Troy using a hickory stick and drawn pistol." Charles Bell (John's brother) quickly joined the fracas, firing his pistol. Another doctor named Hunter and Judge Bird (both of whom were related by marriage to Dr.Troy) ran to their in-law's defense. Col. John R. Bell arrived at the same time, and all involved exchanged gunfire from shotguns and pistols.

When the smoke cleared, Judge Bird had shot John A. Bell dead, while Dr. Hunter's bullet claimed the life of Bell's father. Charles Bell was remarkably unscathed and fled the scene. Judge Bird, Dr. Hunter, and Dr. Troy were similarly not wounded; however, Hunter, Bird, and Charles Bell were all arrested.

All the survivors were exonerated of any criminal charges. Seven felony counts were brought against Pleas, but the criminal case did not go forward while the civil case against Bell's estate went forward. The Supreme Court of Alabama reversed the circuit court's decision to combine the civil and criminal allegations against Bell and remanded the case. In the eyes of the Bell family, however, justice was not done. The inscription on the headstone of John A. Bell's grave reads "No murder hath eternal life abiding in him."

1 See for example, Daniel Immerwahr, "Burning Down the House: Slavery and Arson in America," Journal of American History (April 2023); Stacy Groening," Pyrophobia: Euro-American Fear of Slaves and Fire in Charleston, South Carolina, 1820-1860 (unpublished master's dissertation, University of Calgary (August 2009).

2 Bell's Administrator v. Troy, 35 Ala. 184, 188 (1859).

3 Id. at 194.

4 Id. at 184.

5 Id. at 186.

6. Interestingly, Charles was no stranger to violence. Less than a year before, he had been arrested on attempted murder charges involving a William Quarles.

#### HOW GARY COOPER AND PAULETTE GODDARD PREJUDICED AN ALABAMA JURY

When Deputy Sheriff Werth W. Thomas went to the Ritz Theater in Greenville, Alabama, on the night of Monday, October 25, 1948, he had no idea that the movie he saw that night, UNCONQUERED, would cause any trouble at all, much less be the reason for a new trial in a mur der case. The problem was not that Deputy Thomas went to the movie; the problem was who he took with him: the jury sitting in the case of State of Alabama v. Archie Seekers, a local minister charged with murder. Unbeknownst to Deputy Thomas, UNCONQUERED, directed by the great Cecil B. DeMille, and starring Gary Cooper and Paulette Goddard, was a movie about the Indian wars in colonial America and contained multiple scenes of murder, mutilation, torture, and violent death. The day after seeing the movie, the jury found Seekers guilty of second de gree murder. The attorney for Seekers, Calvin Poole, described by friends as "a very resource ful lawyer, who has the uncanny faculty of being at the right place at the right time," had found out about the jury's "night at the movies" before the verdict and, concluding that he wanted to see the movie for him self, that night, he attended the show. He did not like what he saw. The next day, Poole filed a motion for a new trial, submitting in support of his motion, three affidavits stating that the jury saw UNCONQUERED on Monday evening and describing the violent nature of the movie. The motion was denied and the defendant appealed to the Court of Ap peals.

On appeal, Judge Robert B. Carr, writing for the Court, acknowledged that this was a case of first impression in Alabama, although not in other jurisdictions:

"We have been unable to find any case in this State in which the question of instant concern, in identical factual form, has been reviewed. We do note, however, that our appellate courts have adhered strictly to the practice of carefully safeguarding the deliberations of the jury. To this end they have consistently recognized the importance of keeping the jury free from all outside or improper influences."

Fortunately for posterity, the Court quoted, in full, Poole's affidavit. According to one source, Poole's affidavit was "a masterpiece of dramatic criticism as he graphically recounted the gory details and skillfully pinpointed the prejudicial effects" of the movie:

"At one point in the picture, one of the companions of the hero was shot by an Indian and killed. The arrow entered the exact point of the body-just below the left nipple-that had been demonstrated to the jury on my person by the two funeral directors just before the adjournment of the trial on the af ternoon of October 25th. The scene was so realistic that I actually flinched when the arrow struck its victim. When he was hit, he fell from his horse and his death agonies were shown in all their terrible and gory details. It was impossible to disassociate the portrayal of the death on the screen from the death of Patterson, the deceased, as related by Mrs. Patterson in the Seekers case. In another scene, the wife of one of the leading characters was also shot through the heart, by a gun. Her death was likewise portrayed with all its agonizing suffering; and the blood of the victim flowed from a wound in the same spot on her person as had been portrayed on the witness stand in the Seekers case."

#### Poole concluded:

"All in all, the picture was of such a nature as to leave in the minds of the jurors the recollection of death, suffering, and sorrow; and to blot all sense of proportion that should govern the mind of a juror in the trial of the defendant who was entitled to have his plea of self defense tried without passion and prejudice."

The Court reversed and remanded the case for a new trial. Poole had won the case with the aid of Cecil B. DeMille, Gary Cooper, Paulette Goddard, and a cast of thousands!

Editor's Note: The case is styled Seekers v. State and can be found at 44 So. 2d 628 (1949), cert., denied, 253 Ala. 420, 44 So. 2d 633.

#### ABBHS DOCENT APPRECIATION DAY TRIP

The Alabama Bench and Bar Historical Society proudly sponsors the Docents who are so dedicated to touring guests through the Heflin-Torbert Judicial Building. These docents do not receive pay, but, give of there time freely. As a small compensation to our loyal docents ABBHS holds two events in their honor. One is the Docent Appreciation Day. This usually will comprise of a visit to another historical site such as Old Cahaba or The American Village or sometimes fun things like this years trip to the animal safari. The second event is a Christmas Party. This is held every year in conjunction with the State Law Library Christmas Party. A delicious catered meal is followed by a Dirty Santa time that is always enjoyed by all. The gift selection is always very diverse!

This year we went to the Safari Park, Montgomery, AL. As you can see in the pictures, there was a great variety of animals to see and feed. Unfortunately, not all the animals are pictured below. After filling the bellies of the animals at the Safari, we traveled to Highland Home, AL for a nice buffet lunch at the It Don't Matter Family Restaurant. I believe all our bellies were full also!

Pictured below is Tim Lewis, Callie Deitz, Holly Grimes, Peggy Massey, Holly, Callie and Hall Copeland, Peggy feeding a pretty bird and the docents best side!



















Make no butt's about it, we all had a great time.

## THE POWELL LAW FIRM ONE OF THE OLDEST IN ALABAMA

The Powell Law Firm, P.C. was established in Andalusia, Alabama by Abner Riley Powell, Sr. in 1907. He read law at the University of Alabama School of Law. Prior to attending law school, he was the editor of the Elba *Clipper* Newspaper. His father was Napolean Bonaparte ("Bony") Powell who was the longtime mayor of Opp, AL prior to the turn of the century. Abner Riley Powell, Sr. died in 1942.

Abner Riley Powell, Jr. ("Big Ab" or "Abner") attended the University of Alabama for undergraduate and Law School. Abner completed the full sever year curriculum in four years and graduated Alabama's School of Law at age 20 in 1937. While in undergraduate school at US, Abner played on the golf team and was a member of Sigma Nu Fraternity (where he was a pledge brother with Coach Paul "Bear" Bryant). Abner returned to Andalusia in 1937 and practiced law with his father. He served as Chancery Court Judge for many years. His private practice focused primarily on all types of litigation. Abner passed away in 1987.

Abner (Ab) Riley Powell, III (Ab") attended the University of Alabama for undergraduate school and played on the golf team, Ab was also a member of Sigma Nu Fraternity. Ab graduated from UA School of Law in 1967 and returned to Andalusia to practice law with his father. As a young lawyer, Ab was a City Court Judge in Opp, AL for several years. Although only a Municipal Court, the colorful and outlandish stories from those years in Opp City Court are still told in South Alabama legal circles today. Ab was appointed Circuit Judge by Governor George Wallace in 1976 and was, at that time, the youngest Circuit Judge in the United States. He left the bench and returned to private practice with his father in about 1985. Ab was a courtroom legend in South Alabama. He represented several large businesses and handled numerous personal injury and plaintiff's cases garnering multiple million-dollar verdicts. It was said that there was never a jury that did not love Ab Powell. Ab died in 2019.

Abner Riley Powell, IV ("Riley" attended the University of Alabama for undergraduate studies and followed his grandfathers/fathers footsteps by becoming a member of Sigma Nu Fraternity. Riley attended UA School of Law and graduated in 1993. He then returned to Andalusia to practice law with his father. Riley has specialized in all kinds of civil and criminal litigation and has, so far, tried almost 400 jury trials throughout South Alabama. In 2004, Riley opened a second office of The Powell Law Firm, PC in Gulf Shores, AL. The new office now has four younger attorneys on board that will insure that the firm will continue for many more years into the future.

Throughout its existence, The Powell Law Firm, PC has been an integral part of South Alabama law and has mentored countless young attorneys who have moved on to establish other firms and/or obtain much individual success. Some of those attorneys mentored and/or employed by The Powell Law Firm PC include, but are not limited to, Hon. Griffin Sikes, Judge Ashley McKathan, Judge Frank "Trippi" McGuire, Hon. Lee Enzor, Hon. John Peek, Hon. Walt Merrell, Hon. Grant Baldwin, Hon. Corey Bryan, Hon. John Scherf, Hon. Beatty Pearson, Hon. Meredith Peters, Hon. Art Brunson, Hon. Michael Eldridge, Hon. Thomas Hughes, Hon. Ian C. Meadows, Hon. Isabelle Kruse, and Hon. Grayson Waldon.



Abner Riley Powell, Jr.



Abner Riley Powell, III



Abner Riley Powell, IV



Patrick Smith Gregory Reid

#### Mid-December-Mid March 2025/2026 RENEWALS

Your renewal in Alabama Bench and Bar Historical Society is much appreciated.

Renewal letters are normally mailed the beginning of the month. Please let us know if you have a change of address.

#### RENEWALS

William Smith
Hunter Phares
Matt Green
Vaughan Drinkard, Jr.
Andrew Rutens
Johnny Hardwick

APRIL - JUNE 2025 PAGE 9

#### ABBHS LUNCH & LEARN MAY 14,2025



The Alabama Bench and Bar Historical Society was pleased to present Charlene Scott and her Power-point presentation showing her journeys to 13 of the Presidential Libraries.

After a thirty year career in the legal field, she embarked on her journey as a travel writer and blogger. She is a professional freelance writer specializing in various genres of nonfiction. Her favorite topic is history.

This lead her on journeys to ten states where the 13 NARA (National Archives and Records Administration) Presidential Libraries are located. She is currently working on her book titled 13 Presidential Libraries.

I believe everyone in attendance thoroughly enjoyed her telling and showing us about her experiences while visiting the libraries. She has written a digital guide for the libraries and it is available on Amazon. Look for "A Digital Guide to Presidential Libraries" by Charlene Scott

Be sure to check out her blog—www.roadrunnerjourneys.com You will be surprised at the amount of information she has garnered during her travels.



This is the Bill Clinton Presidential Library in Little Rock, Arkansas, one of the Presidential Libraries that Charlene showed and talked about. It's unofficial nickname is "The Doublewide" as it strangely resembles a doublewide trailer, but please, don't refer to it as that if you visit!



The Harding Presidential Library and Home in Marion, Ohio, honors the life and legacy of Warren G. Harding, the 29th President of the United States. This National Historic Site comprises Harding's restored 19th-century home and a museum dedicated to his presidency.

ALABAMA LAWYERS HALL OF FAME MAY 2, 2025

#### CAMILLE WRIGHT COOK 1924-2018

Born in Tuscaloosa; earned B.A. and J.D. from University of Alabama; began career as Assistant Professor of Business Law at Auburn University; returned to alma mater in 1968; first female tenured Professor at UA; served as Assistant Dean of the Law School and Director of Continuing Legal Education; led establishment of Mandatory Continuing Legal Education for ASB; served as Assistant Academic Vice President at US; member of Governor's Working Party to draft a new State Constitution; served on Smithsonian Council and American Law Institute; fellow of American Bar Foundation; received Rawles Award of Special Merit and Algernon Sydney Sullivan Award; beloved educator for over 45 years; honored community volunteer.

#### JAMES O. HALEY 1912-2002

Licensed to practice law in 1936; graduated from Birmingham School of Law in 1938; lieutenant in the Navy during WWII; partner at Lange Simpson; recognized as one of the best civil defense trial lawyers; president of Birmingham Bar Association and Chairman of the first Practice & Procedure Section; member of International Association of Insurance Counsel, International Academy of Trial Lawyers; American College of Trial Lawyers fellow; appointed Jefferson County Circuit Court Judge in 1968; retired after 12 years; joined Cumberland School of Law's faculty; recognized as the state's preeminent authority of workman's compensation; published "Handbook in Workman's Compensation" in 1982; remained active with Hare, Wynn, Newell and Newton until his death.

#### GEORGE WASHINGTON LANE 1806-1863

Admitted to the bar in 1826; went into private practice in Athens; served as a member of lower house of Alabama State Legislature (1829 -1832); elected judge of county court (1832); chosen to serve as circuit court judge (1835); left the bench after 12 years; opened law firm in Huntsville; served as a Whig elector in the 1848 election; President Buchanan gave him a "recess appointment" as Federal District Judge and the appointment was carried over by President Lincoln and confirmed by the Senate; faced alienation for his allegiance to the Federal government; considered one the bravest supporters of the Union; died in Louisville, Kentucky.

#### ALEX W. NEWTON 1930-2015

Graduated from University of Alabama in 1952; served as Company Commander in U.S. Army Infantry during Korean War; began law school at UA in 1957; served as Alabama chair of American College of Trial Lawyers; president of University of Alabama School of Law Foundation and International Society of Barristers; member of board of directors and Alabama chair of International Academy of Trial Lawyers, American Bar Association, Alabama State Bar, and Birmingham Bar Association; committed to community development; served as a Director of the Birmingham Airport Authority, Vice-President of Birmingham Racing Commission, and member of the St. Vincent's Hospital Foundation

#### LOUIS CHARLES WRIGHT 1922-2001

Graduated from Alabama Polytechnic Institute in 1943; entered U.S. Naval Officer Training; named commanding officer of the USS LCI (FF)-572 in 1944; graduated from UA School of Law in 1949; elected as Circuit Solicitor of 16<sup>th</sup> Circuit in 1955; practiced with Dortch, Allen, Wright and Wright (1965-1969); retired from Naval Reserve at the rank of Commander in 1967; elected as a State Representative from Etowah County in Alabama Legislature(1967-1969); served as a judge with Court of Civil Appeals (1969-1987); president of Etowah County Bar; member of Alabama Law Institute and American Bar Association; loved the judicial system to which he dedicated his professional career.



# BENCH and BAR



HISTORICAL SOCIETY

Your Annual membership contribution enables the Society to fulfill its mission of preserving Alabama's legal history, promoting better understanding of the legal system and judiciary, and recovering historical legal artifacts. Your participation provides for publications, programs, projects, and grants.

ABBHS is a 501(c)3 nonprofit organization. Contributions are tax deductible, within legal limits, and will be acknowledged by ABBHS. Operations are financed by memberships in the Society and by contributions from the public. All society board members and officers serve without compensation.

#### Membership Application

Name:			Phone			
			Fax			
Address:						
City:			State:	ZIP:		
Email:						
Make check payable to ABBHS or include your credit card information below.						
Check One - America	an Express	Visa	Master Card _			
Credit Card#		Expiration Date:		Security Code:		
Please include your cre Name:						
Address:				· · · · · · · · · · · · · · · · · · ·		
City:			State:	ZIP:		
Membership Fees:						
Individual:	\$75.00/2-year					
Individual:	\$40.00/year					
Student:	\$10.00/year					
Founders	\$100/year					
Law Firm:	\$1,000/year -	(Includes a	ll attorneys of the f	irm in any one location)		
Contributions:	\$100 - \$5000					

You can also join on our web site—www.alabamabenchandbar.org

Mailing Address: P. O. Box 722, Montgomery, AL 36101-0722

PAGE 12 APRIL - JUNE 2025



## Preserving the History of Stabama

#### ALABAMA BENCH AND BAR HISTORICAL SOCIETY

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We're on the Web! www.alabamabenchandbar.org

The Alabama Bench and Bar Historical Society is devoted to preserving the history of the state's judicial and legal system and making the citizens of the state more knowledgeable about the state's courts and their place in Alabama and United States The Bench and Bar is interested in preserving documents, artifacts, and memorabilia of the courts, as well as of judges and members of the state bar, and wishes to encourage the publication of scholarly research on bench and bar topics. The Society especially wishes to preserve the biographical information and stories of attorneys and judges who played prominent roles in the history of the state's legal system. To pursue its goals, the Alabama Bench and Bar Historical Society may sponsor publications, exhibitions, displays, lectures, and public programs.

Alabama Bench and Bar Historical Society P. O. Box 722 Montgomery, AL 36101-0722