



Addendum

Published by the Alabama State Bar / www.alabar.org

JUSTICE THURGOOD MARSHALL: Watchdog for the Constitution

When he speaks, he is not just speaking for Black Americans but for Americans of all times. He reminds us constantly of the great promise this country has made of equality. . .

The Postal Service has released the Thurgood Marshall stamp, commemorating the achievements of the first African-American U. S. Supreme Court Justice. Although the series recognizes black Americans, Marshall's legacy touches the entire fabric of American jurisprudence. He was appointed to the Supreme Court in 1967 and served until his retirement in 1991. Professor T. G. Krattenmaker of Georgetown University Law Center calls him "the most important lawyer of the 20th century."

An activist as a lawyer, he viewed his judicial role differently. In response to a call by then-Chief Justice Warren Burger for more victim's rights, he called for the court "to stand above the political questions in which the other branches of government are necessarily entangled. The will of the majority might, if unchecked, become a tyranny of the majority. When we [judges] accepted the judicial mantle, we yielded our right to advocate publicly our favored solutions for society's problems." He urged his colleagues to "politely disregard any suggestion that you give up the robe for the sword."

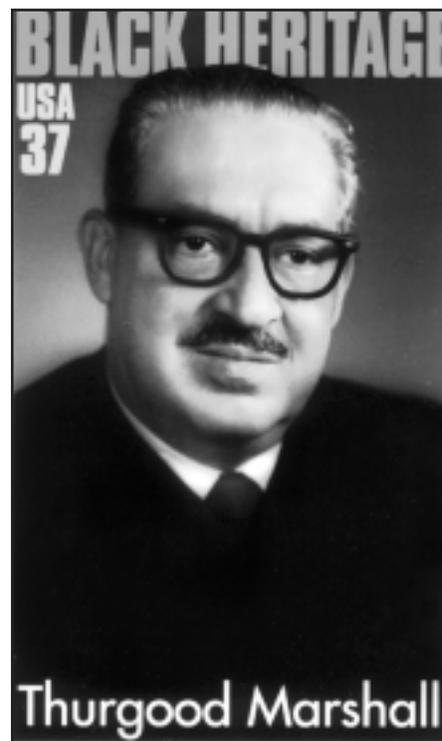
On the occasion of the 200th anniversary of the Constitution, Marshall said the celebration invited "a complacent belief that the vision of those who debated and compromised in Philadelphia yielded the 'more perfect Union'. The meaning of the Constitution was not forever fixed at the Philadelphia Convention." He believed that the

government they devised was defective from the start. "We the people" (the whole number of free persons)

did not include even women who did not gain the right to vote for over 130 years. Credit for the Constitution does not belong to the Framers, but to those who refused to acquiesce in outdated notions of 'liberty,' 'justice,' and 'equality,' and who strived to better them."

As noted by Duke Law Professor John Hope Franklin, "If you study the history of Marshall's career, the history of his rulings on the Supreme Court, even his dissents, you will understand that when he speaks, he is not just speaking for Black Americans but for Americans of all times. He reminds us constantly of the great promise this country has made of equality, and he reminds us that it has not been fulfilled. Through his life, he has been a great watchdog, insisting that this nation live up to the Constitution."

—Merceria L. Ludgood, Mobile



Creating a blog may be a way to increase the chances that someone searching for a lawyer will find you.

To Blog (or Blawg)

Try this effective Web resource to compile a wealth of information which may save you tons of time.

Take this quiz: Do you search the Internet every day looking for news? Do you like to share what you know with others? Do you have lots

of spare time? Are you a little obsessive? Keep reading.

The Web log

If you answered “yes,” you need a Web log. A Web log, or “blog,” is something like an online diary focusing on a particular subject. Blogs are designed to be simple in appearance and emphasize text over fancy graphics.

With most blogs, the creator frequently adds information, sometimes several times a day. This material is often a short statement about a particular item coupled with a link to another Web site. Blogs can be simply a collection of headlines that point the reader through online links to the source of the news.

Legal blogs

Law-related blogs have their own “cute” name, “blawgs.” There are countless numbers of blawgs now, for almost every different area of law. For example, there are blogs dealing with the appellate courts (www.appellateblog.blogspot.com), the U.S. Supreme Court (www.goldsteinhowe.com/blog), technology law issues (www.netlawblog.com; www.techlawadvisor.blogspot.com), fourth amendment law (www.fourthamendment.com), and first amendment law (www.actualmalice.blogspot.com). One blawg with the unfortunate name of “Ernie the Attorney” keeps an exhaustive list of legal blogs. (See radio.weblogs.com/0104634/.)

Creating a blog

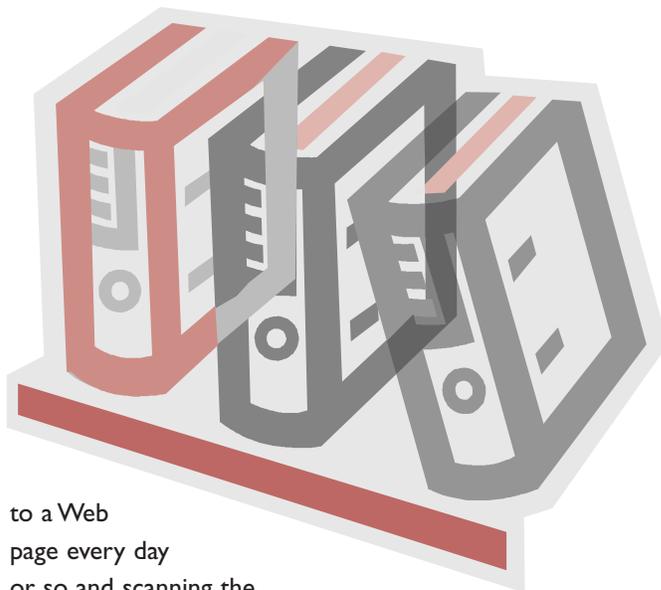
Blogs are easy to create and maintain. If you have ever filled in a form on a Web page, you have the necessary skill

to create a blog. They are inexpensive, too, because many Internet companies will host blogs for free. (See, e.g., www.blogger.com.)

If you are willing to invest the time to keep a blog current, creating one may be a way to increase the chances that someone searching for a lawyer will find you. Blogs are meant to be updated frequently. This constant addition of new content to a Web site causes some search engines, such as google.com, to rank a site higher in search results.

Blogs as a resource

Even if blogging is not for you, blogs are good resources for lawyers. The obsessive nature of most blog creators means that their blogs contain the latest news. Logging on



to a Web page every day or so and scanning the headlines is easier and faster than waiting for the printed copy of an expensive legal newsletter to make its way to your office. A few years ago, a lawyer might keep up with the latest developments in a legal area by subscribing to a legal e-mail list. (See, e.g., *Addendum* “TechNotes,” August 1997.) E-mail lists had drawbacks, however, such as too many irrelevant messages. Today, the better course is likely checking out a blog.

—Paul E. Toppins (paul@toppins.com), Tuscaloosa

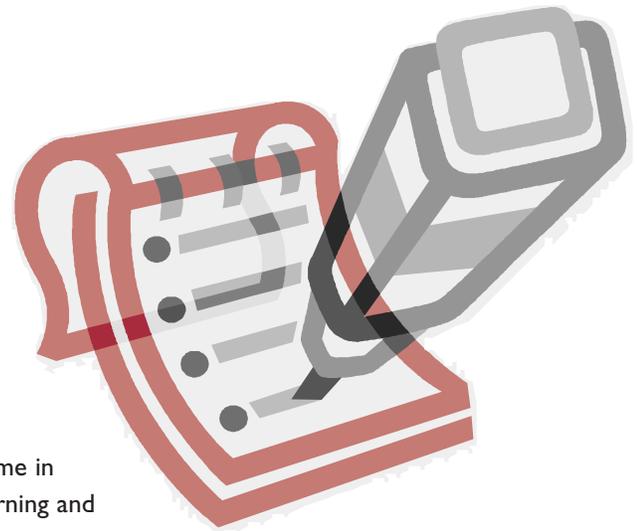
A Legacy of Teaching

After a lifetime in the courtroom, David Cromwell Johnson has left us 15 lessons that every lawyer should know.

For all of his theatrics and drama, David Cromwell Johnson was always concerned about his legacy as a lawyer. He wanted to make a mark on the people he came into contact with and the profession as a whole. In moments outside of the courtroom, he would wonder aloud how people would remember him.

The way I remember him has little to do with the victories or clients or any of the glory associated with his practice. Rather, my memory of him revolves around the lessons that he taught. The lessons could be humbling, and many times they were learned under difficult circumstances, but they are valuable. I have listed 15 lessons that David stressed; of course there are hundreds more, but these 15 stand out as keys to his success and happiness.

- A lawyer should always go to the scene regardless of how big or small the case is. It gives a perspective that cannot be gained through pictures or videos.
- Interview your witnesses prior to trial. Do not rely on notes or timelines made by the other side.
- The only way to consistently get good results is to outwork the competition. Luck comes from hard work, not from picking up pennies.
- A successful cross-examination can only be accomplished through absolute and total preparation over time. The night before should be a time to review, not to prepare.
- An examination of a witness is complete when you have the facts that you need in front of the fact-finder. Ask your questions and sit down.
- Treat everyone in the courthouse with as much respect as you treat the judge.
- The only way to practice law is with honesty and integrity.
- Never guarantee anything to a client except for hard work.
- Bad news must be delivered immediately.



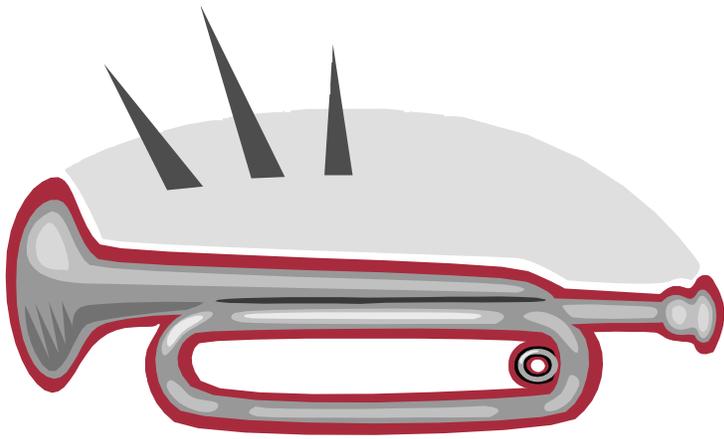
- Find time in the morning and afternoon to return messages. This is a sign of respect to other lawyers and is your duty to your clients.
- Read a book every month. If you enjoy the book, share it with others.
- Demand three things from your client without compromise: 1) Be honest; 2) Be silent about your case in public; and 3) Pay the fee.
- In a criminal case, never put your client on the stand unless you are absolutely sure that you have *lost* the case.
- When dealing with the press, proceed with caution. A bad day with the press can destroy your client's case.
- The people you surround yourself with say as much about your character as your actions. Work with people who are passionate about the law and serving clients.

I hope that when you use this list, you will think of David, and, in a small way, we will ensure his legacy as a lawyer and a teacher.

—Christopher B. Parkerson, Birmingham

Important Notice Regarding Your Continuing Legal Education

Attorneys who hold an occupational license during any part of a calendar year are required to earn and report 12 hours of continuing legal education by December 31st of the year the license is held, even if the attorney has changed to special or inactive status or recently changed from special status or inactive status, except as provided by Rule 2.C.1. (MCLE Rule 2.5)



Blue Coats and Baritones

Occupation and Opera at the Demopolis Courthouse: A Historical Treasure Reveals Its History

Where bayonets once ruled, baritones and minstrels engaged local residents in operas and other entertainment for 25 years.

The plain building on the northwest corner of the Demopolis city square conceals a history perhaps unrivaled by any other municipal structure in Marengo County. The building's most visible link to a colorful past, that belies its non-descript exterior, remains a wooden bell tower standing firmly over the front entrance like a sentry topped by a blunt tin roof. Originally constructed for a Presbyterian congregation in 1843, the church served briefly as the Marengo County Courthouse when a garrison of federal troops moved the county seat from Linden to Demopolis during Reconstruction.

Linden was too quiet a place for the Yankees, so they confiscated the church for headquarters during their supervision of the county. When the military authorities abandoned occupation of Marengo County, another civil war erupted between Demopolis and Linden in 1869 over the latter city's claim to county seat status. Linden prevailed, forcing the City of Demopolis to purchase a church that once housed an enemy.

Several times a phoenix, the former courthouse found new life—and another historic chapter—when it was christened the Demopolis Opera House in 1876 and governed by the local Opera

Association until 1902. Where bayonets once ruled, baritones and minstrels engaged local residents in operas and more light hearted entertainments for 25 years. Traveling troupes and entertainers who played the Opera House stage included “Blind Tom,” a famous African-American piano prodigy; the London Theatre Company; and Barnett's New York Comedy Company. Charles Callendar was a white booking agent for black minstrel groups of the era, and Callendar's minstrels were frequent stars at the performance venue.

Demopolian Leonard Newhouse served the Opera Association as its secretary. He was the grandfather of eminent playwright Lillian Hellman, who based her play *The Little Foxes* upon the financial machinations of her Demopolis relatives. In 1903, the old courthouse became City Hall and ultimately evolved into the current home of the Demopolis Fire Department. Recognizing the building as a cultural and historical treasure, city and arts leaders are currently focused on its preservation and use as a centerpiece for future celebrations. Plans for the dedication of a historical marker in fall 2003 and a Hellman retrospective in spring 2004 are well underway.

—William G. Gantt, Birmingham

Addendum (USPS 013-915), the official newsletter of the Alabama State Bar, is published six times a year (December, February, April, June, August, October) by *The Alabama Lawyer* Board of Editors, P.O. Box 4156, Montgomery, AL 36101-4156. Contributions from members are welcomed and encouraged. Views expressed are those of the authors, not necessarily those of the board of editors, officers or board of commissioners of the Alabama State Bar. Subscriptions: ASB members receive *Addendum* as part of their annual dues payment; \$15 of this goes to subscriptions for *The Alabama Lawyer* and *Addendum*. Copyright 2003. The Alabama State Bar. All rights reserved. Periodicals postage paid at Montgomery, AL. Postmaster: Send address changes to

Addendum, P.O. Box 4156,
Montgomery, AL 36101-4156.

Editor:

Susan S. DePaola, Montgomery

Associate Editor:

Ashley Hamlett, Montgomery

Technology Editor:

Paul E. Toppins, Tuscaloosa

Contributing Committee

Members:

Kirtley Brown, Marion

Neva C. Conway, Montgomery

William G. Gantt, Birmingham

Merceria L. Ludgood, Mobile

Christopher B. Parkerson,

Birmingham

It's All Philosophy

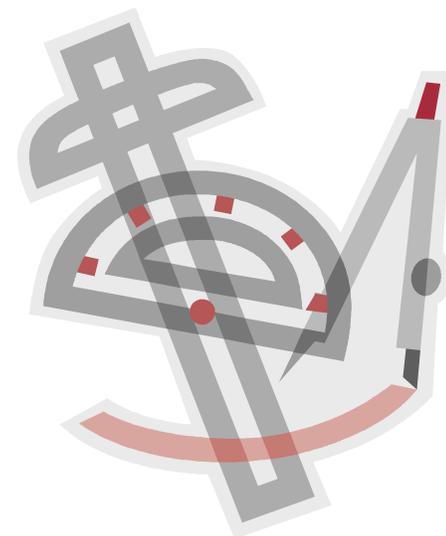
From a 60-year perspective, I believe that our lives flow—except for uncontrollable events—from our often unrecognized philosophies. I use the dictionary meaning of philosophy as, “The system of values by which one lives.” Almost every decision involves ethical choices that are integral parts of our philosophies.

Think about the decisions in our lives. In our youth, our friendships, career goals, summer jobs, school courses, heroes, religious beliefs, successes and failures, all involved choices. In later years, the choices widened to include blue-collar occupations or professions, life styles, work with good incomes or small reward, lives of protest, service, submission to duty, or of “quiet desperation,” in Thoreau’s words.

Many of these choices resulted from our values—many unconsciously. However, not all. In explaining why he had been a farmer all his life, a friend, Bob Rentz, told me “because it was all that I ever knew.” Other choices are forced upon us by adversity.

Where does our “system of values” come from? Is it innate or learned, and is it determinative of our lives? What values count the most? Finally, are these merely academic questions for philosophy students?

No, these questions and the search for their answers are the themes of our lives. Our values—truth, honor, nobility, courage, loyalty, compassion, tolerance, love, respect, steadfastness, hope, devotion to duty, kindness, and service—are the building blocks of our character, our essence. These values,



blended with feelings and emotions, direct virtually every decision, personal and professional.

For lawyers, in particular, these values must be our Holy Grail. We are at the precipice. Lawyers are philosophers, realize it or not, and we must rededicate ourselves to the nobler values. We have lost our way. We must climb the nobler path—the harder path—always moving toward the highest ideals. In *The Thoughts of the Emperor M. Aurelius Antoninus*, he says this succinctly, “If it is not right, do not do it; if it is not true, do not say it.”

More recently, the late Jesse Stuart, a writer and beloved high school teacher and principal in Kentucky, who began teaching in a one-room school, says in an introduction entitled, “Writing and Reading and Jesse Stuart,” in *Adventures in Reading*,

“One of the most important things is your character. I would rather have a B pupil with an A character Than an A pupil with a B character.”

Some years ago, a local judge, after listening to my argument in a case, ruled against my client. But, possibly to assuage my feelings, he said I was an idealist. I took this description to be a great compliment. Grant us strength to continue this journey!

—Kirtley Brown, Marion

PAPERLESS COURT

A big change is in store for Alabama lawyers as the Bankruptcy Court implements a paperless system. The question is: Are you ready?

How well do you handle the concept of a paperless court system? The very idea once made me shudder. No manila folders? No red rope expandable file to clutch, spill or rip! Lawyers who practice bankruptcy have firsthand experience with a paperless system. In January 2002, the Middle District of Alabama put its pilot program for paperless filings and case management in place. It began with a handful of lawyers who agreed to participate as the pilot group and expanded within a matter of weeks. The transition has been a big change but has gone amazingly smoothly.

The attorney must register for on-line access to the Court and install special software. The software has features that provide for secure login and password for the attorney. The login and password are the attorney's signature on electronically filed documents so there's no need for additional software to electronically sign pleadings and related schedules. Interestingly enough, signatures appear on screen in the historical form that indicates a copy of a signature: */s/ Carol Barrister*. Client signatures are secured by use of a declaration which is actually signed, scanned into the attorney's system and transmitted as a part of the pleadings. Filing fees are paid via a credit card agreement between the attorney and the Court. The Court does not accept debtor credit cards.

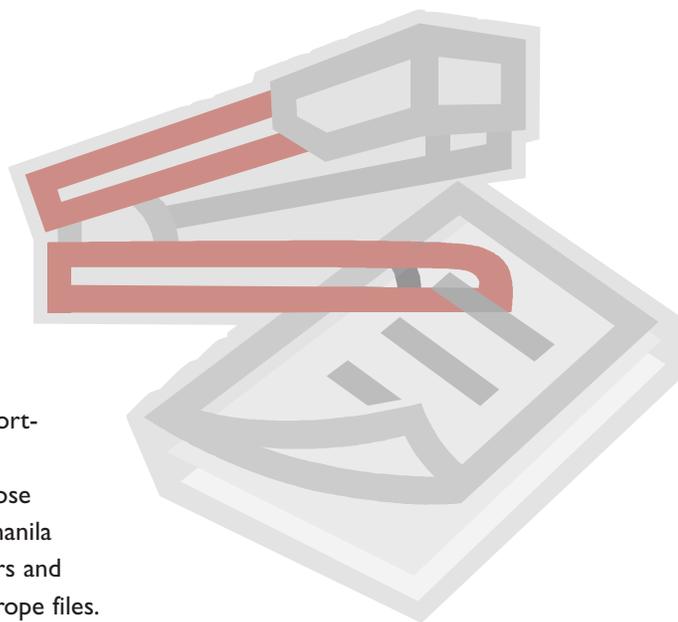
With the system, dockets, court calendars and even the judges' calendars are electronic. Any of it can be printed but the need for paper copies has diminished rapidly as court personnel have become comfortable with the concept.

Last-minute pleadings can still be filed in cases. There is technically no live access to the system so a trip to the courthouse for that hasty response is occasionally necessary.

And, enhancements to the system are on the way. The Court is continually involved in assessing the process, recognizing the shortfalls and looking for remedies to make the new paperless world at the bankruptcy court as

comfortable as those old manila folders and red rope files.

—Neva C. Conway, *Montgomery*



Notice of and Opportunity for Comment on Amendments to the Rules of the U.S. Court of Appeals for the Eleventh Circuit

Pursuant to 28 U.S.C. Section 2071(b), notice and opportunity for comment is hereby given of proposed amendments to the Rules of the U.S. Court of Appeals for the Eleventh Circuit. In addition, pursuant to 28 U.S.C. Section 2071(e), notice and opportunity for comment is hereby given of amendments to 11th Cir. R. 33-1(c)(3) and 33-1(d) that were approved by general administrative order of the court to take effect April 1, 2003.

A copy of the proposed amendments, and of the amendments to 11th Cir. R. 33-1(c)(3) and 33-1(d), may be obtained on and after April 1, 2003 from the Eleventh Circuit's Web site, www.ca11.uscourts.gov. A copy may also be obtained without charge from the Office of the Clerk, U.S. Court of Appeals for the Eleventh Circuit, 56 Forsyth Street, NW, Atlanta, Georgia 30303; phone (404) 335-6100. Comments on the proposed amendments and on the amendments to 11th Cir. R. 33-1(c)(3) and 33-1(d) may be submitted in writing to the clerk at the above street address by May 5, 2003.

Have You Heard?

Committee, Task Force and Local Bar News

COMMITTEES

•Alabama Bar Directory

The committee is updating all information for this year's June publication. Send suggestions for changes in content and/or format to Leslie Klasing, chair, Emond, Vines, Gorham & Waldrep, 2101 6th Ave., N., Suite 700, Birmingham 35203.

•Bench and Bar Relations

The committee is looking at the feasibility of establishing a statewide vacation so attorneys can plan vacations or other events without affecting ongoing court dockets.

•Military Law

Guard and reserve judge advocates are answering questions on state and federal laws protecting guard and reserve members. A CLE seminar on military law will be May 16–18 in Birmingham. For information, call (877) 749-9063, ext. 1980. Chair Bryan Morgan urges attorneys to read the Soldiers' and Sailors' Relief Act 50 U.S.C. App. 500, *et. seq.*; the Uniformed Services Employment and Reemployment Rights Act 38 U.S.C. 4301, *et. seq.*; and the new provision of Alabama law protecting guard/reserve and providing for a pay differential, Ala. Code 31-12-1, *et. seq.*

•Public Relations

Two new television/radio spots have been produced, "To Render Service" and "Protect and Serve," featuring state bar services and the role of lawyers protecting freedom as both citizen soldiers in the reserves and through their work in the courtroom. Preparations are underway for Law Day, featuring school poster, photography and essay contests.

TASK FORCE

•Study the Creation of an Appellate Practice Section

The task force, with the support of the Alabama appellate courts, asked the state bar to approve the formation of a section, and has approved by-laws, elected officers and established committees. The section will present a program during the state bar's annual meeting in July. For more information, contact William H. Webster, treasurer, at P.O. Box 239, Montgomery 36101-0239 or will@whlpc.com.

LOCAL BAR

•Colbert County

New officers are **Tim Milam**, president; **Reagan Wise**, vice-president; and **Mitchell Hays**, secretary/treasurer.

Pro Bono Award Nominations

The Alabama State Bar Committee on Volunteer Lawyer Programs, (formerly the Committee on Access to Legal Services), is seeking nominations for the Alabama State Bar Pro Bono Award. Nomination forms can be obtained by contacting:

Linda L. Lund, Director, Volunteer Lawyers Program
Alabama State Bar
Post Office Box 671, Montgomery, Alabama 36101
(334) 269-1515

The Alabama State Bar Pro Bono Award recognizes the outstanding pro bono efforts of attorneys, law firms and law students in the state. The award criteria includes but is not limited to the following: the total number of pro bono hours or complexity of cases handled, impact of the pro bono work and benefit for the poor, particular expertise provided or the particular need satisfied, successful recruitment of other attorneys for pro bono representation, and proven commitment to delivery of quality legal services to the poor and to providing equal access to legal services.

Nominations must be postmarked by May 15, 2003 and include a completed Alabama State Bar Pro Bono Awards Program Nomination Form in order to be considered by the Committee.

LAWYERS RENDER SERVICE

ALABAMA STATE BAR

2003 ANNUAL MEETING



July 16–19, 2003

Adam's Mark Hotel, Mobile

MARK YOUR CALENDARS NOW

and check www.alabar.org for updates!

Periodicals Postage
Paid
Montgomery, AL

Addendum

Published by the
ALABAMA STATE BAR

P.O. Box 4156

Montgomery, Alabama 36101