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Addendum

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Your Trash—Another One's Treasure?

This Birmingham Bar Foundation program gives unwanted office furniture and computer equipment a new lease on life

Planning to upgrade your computer system? Moving into a smaller office? Redecorating your office? Planning to torch the stuff left behind after an unpleasant firm breakup? Before you take home those computers so your kids can spend more time ignoring you, before you pay for more storage space, before you bring in that new furniture or run off to get that burning permit, think seriously about the most meaningful way to dispose of office equipment you no longer need. Thanks to the Birmingham Bar Foundation, it can be meaningful not only to you but to those you don't even know.

One example is Junie Peavy, sister of one of the girls killed in the bombing of the Sixteenth Street Baptist Church in Birmingham, and a client at Oasis Women's Counseling Center. Oasis Center is a Birmingham non-profit group serving women and children who are in need. Peavy is now using dictation equipment donated by an attorney to tell her life story.

Birmingham Bar Foundation President Paul DeMarco brought the **Charitable Equipment Program** to the foundation in 2003. The program matches excess law firm equipment with charitable organizations that have corresponding needs, while the foundation serves as a conduit for getting the furniture and items to community groups who can actually put them to use. Since 2003, law firms and individuals have donated 500 items to 50 charities. DeMarco explains, "While law firms purchase the most advanced products with the

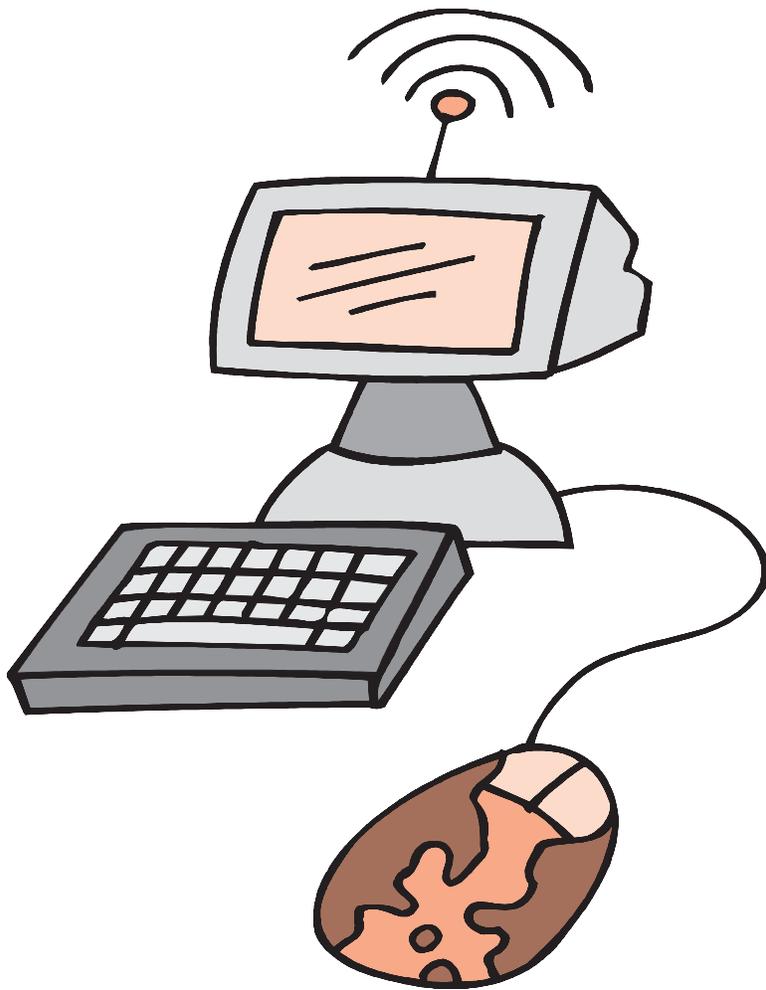
latest technology, charities are thankful for any equipment or furnishings that they receive. The legal community has shown a lot of enthusiasm and support for this service."

When you have items to donate, the foundation will assist in pickup and provide a charitable contribution receipt for the item's fair market value. The equipment should be cleared of any information intended confidential before being donated. You are also encouraged to notify the bar foundation of charities in need of furniture and equipment. For more information, contact the Birmingham Bar Foundation at (205) 251-2231 or bbfound@bellsouth.net.

—Crystal H. McMeekin, executive director, Birmingham Bar Foundation



Birmingham attorney Gary Olshan donates computers to the Charitable Equipment Program.



Google It—You'll Feel Better and Work Faster!

*Don't waste valuable time searching the Internet for something or someone. Go straight to **google.com** and get results.*

Google claims to index over eight billion pages on the Internet. The basic Google search page is found at www.google.com and consists of little more than a text box into which you enter search terms. Typing a few words into that box most often will result in several million pages being found. Since only the first 1,000 of the total number of pages found will be displayed by Google as search results, you must focus the search so that the information you seek will be found among the 1,000 pages judged most relevant by Google.

In determining which pages are most relevant to your search terms, Google uses “Boolean logic.” This involves using various “operators” to define the nature of the search. If the “and” operator is used, pages which contain all of the search terms will be among the search results, even if those words do not appear in the same sentence or paragraph. If you enter search terms without specifying an operator, Google applies the “and” operator. If the “or” operator is used, pages which contain any one or more of the search terms will be among the search results. If search terms are placed within quotes, only those pages which contain the exact phrase within the quotes will be among the results. To exclude pages which contain a certain word or phrase,

precede the word or phrase by a minus sign.

Fortunately, at www.google.com/advanced_search?hl=en, Google offers an “Advanced Search” option which allows you to take advantage of the Boolean operators by simply entering search terms in the appropriate text boxes which appear at the top of the page. You can use any one or any combination of these text boxes that you choose. The Google Help Center provides a brief explanation (with examples) of the use of the Advanced Search function at www.google.com/help/refinesearch.html. At the bottom of the Advanced Search page, you will also find several “Topic-Specific Searches” which automatically restrict your search to government sites, university sites, etc.

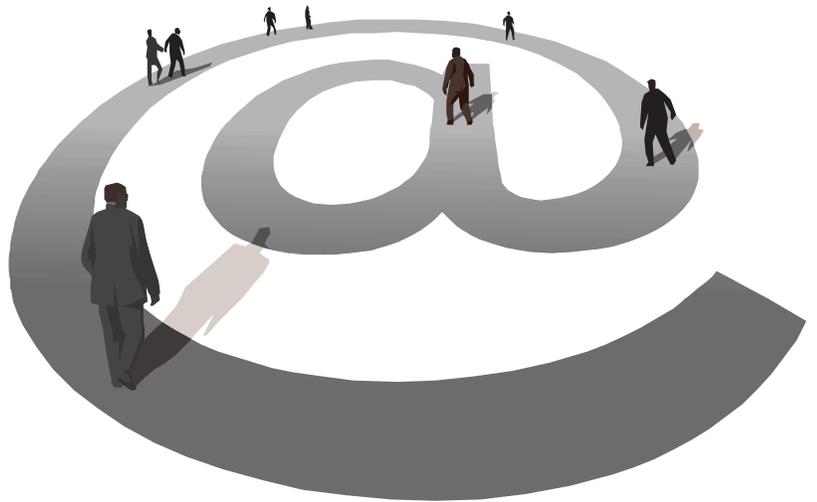
At www.google.com/intl/en/help/features.html, Google offers a number of “Web Search Features” which can be useful. These include package tracking, dictionary functions, telephone directories, street maps, Web page translation, and travel information.

Perhaps the best way to learn about using Google is to enter “Google help” (with quotes) in the Google search box. The more you know about using Google, the more uses you will find.

—William B. Woodward, Jr., Huntsville

Trial Court's Record On Appeals to Go High Tech

E-Appellate could result in an even more efficient judicial system statewide



In the coming years, as technology becomes more readily available throughout the Alabama Judicial System, Alabama State Bar members can expect innovative modifications in the way courts do business. One being deployed under **Chief Justice Drayton Nabers** is a project being tested in four counties involving the process for appeals. By order dated March 1, 2005, the supreme court authorized the court system to experiment with methods to streamline the appellate process. E-Appellate is an Internet-based application where the clerk of the trial court uploads the record on appeal in electronic format. E-Appellate can provide a method for the clerk of the trial court to assemble and transmit the record on appeal in paperless format to the clerk of the appellate court. Also, the online site will act as a central location for the consolidated record, which attorneys to the appeal may access.

As the pilot site courts begin using E-Appellate statewide in the next few months, attorneys should become familiar with it. Upon receiving a notice of appeal, the trial court clerk will log onto E-Appellate and input data regarding the trial court case. The clerk of the appellate court will be notified immediately by e-mail that the notice of appeal has been filed. After the clerk of the appellate court docket the case, the clerk of the trial court will assemble the clerk's portion of the record on appeal, scan it into electronic format and upload it to the E-Appellate site. The court reporter will supply the clerk with an electronic copy of the transcript, which the clerk will also upload to the online site. The clerk of the trial court will prepare a "Certification of Completion of Transmittal" as provided for in Rule 11. The record on appeal will be deemed filed with the appellate

court upon the successful completion of the uploading process.

Attorneys and pro se parties will be notified automatically by e-mail after the clerks complete each phase of constructing the record on appeal. If an e-mail address is not available, the clerk will give written notice to the attorney or party. When the record on appeal is complete and uploaded to the site, attorneys and pro se parties will be given a username and password applicable to the specific case and may access the record at www.appellate.alacourt.gov/displayall.aspx.

In the current format, attorneys cannot file appellate briefs through E-Appellate. Briefs should be filed with the court in the traditional manner. Electronic brief filing, however, is a matter that the court system is exploring.

The pilot project currently applies to appeals filed in the trial courts of Lee, Madison, Montgomery and Russell counties. **Corrine Hurst** (clerk of Lee County), **Melissa Rittenour** (clerk of Montgomery County), **Jane Smith** (clerk of Madison County) and **Kathy Coulter** (clerk of Russell County) have graciously agreed to pilot the E-Appellate project in their offices. Coulter has put forth tremendous effort developing the strategy that has led to the revised appellate process by making use of technology. Additionally, Smith and her office have provided the pilot project with a substantial amount of appeals to test the online system. These four individuals and their offices have exerted remarkable effort and have assumed a tremendous amount of work in order to produce a more efficient judicial system.

For more about E-Appellate, visit <http://elegal.alacourt.com>, click on *E-Filing* and then choose *E-Appellate* folders.

—Nathan Wilson, Administrative Office of Courts, Montgomery

Alabama State Information On



In an August 24th news release, the Alabama State Bar responded strongly to false and misleading information concerning a proposed judicial selection amendment supported by the bar.

ASB President Bobby Segall says that the bar has attempted to address judicial selection in Alabama for many years. He stated that, "The vast amounts of money spent in appellate court judicial elections, mostly derived from special interest contributions, have eroded respect for, and confidence in, Alabama's judiciary, both on the part of lawyers and the public. Despite the fact that we have, for the most part, excellent appellate court judges, people do not believe that appellate judges who have received huge contributions from special interest groups can be truly objective and evenhanded. And, the problem has been exacerbated by recent demeaning political campaigns for judgeships."

The proposed constitutional amendment, endorsed by the ASB Board of Bar Commissioners earlier in 2005, can be found at www.alabar.org. Retired **Alabama Supreme Court Justice Gorman Houston**, a 19-year veteran of the court and participant in three statewide elections, will lead a non-partisan citizens' group to spread information about the judicial selection plan and educate the electorate.

Highlights include the creation of a broad-based Judicial Nominating Commission (much like those in use in six of Alabama's judicial circuits) and a Judicial Evaluation Commission. When there is a vacancy on an appellate court, the commission will nominate three people, one of whom the governor will appoint. At the end of a judge's term, the Judicial Evaluation Commission will publish its evaluation report, and the judge will stand for retention election.

Segall pointed out that the plan has come under grossly unfair and misleading attacks by Twinkle Andress Cavanaugh,

chair of Alabama's Republican Party. Others have raised good-faith concerns. The following outlines points made by others and the bar's response:

POINT/COUNTERPOINT FACTS

The Truth About Merit Judicial Selection in Alabama

I.

A. Point: Liberal trial lawyers and Democrats are behind proposal.

B. The Truth: The ASB has supported a merit selection process for appellate judges for years, including during the time Democrats were dominant on the appellate courts. In 1997, under the leadership of **ASB President Warren Lightfoot**, the board of bar commissioners endorsed a proposal very similar to the one now proposed. The committee proposing the present plan was chaired by former bar **President Bill Clark**. The committee, comprised of a majority of Republicans, studied the issue for two years before proposing the plan to the board of bar commissioners.

A. Point: Proposal ends accountability of judges

B. The Truth: This proposal provides more accountability than the present system of special interest-dominated, big money, contested elections. There is no accountability now until after a judge has served a term. After each term, accountability is limited to withstanding whatever challenge is mounted by specific opponents.

Under this proposal, when one initially seeks appointment to a judicial vacancy, his or her qualifications are evaluated by a judicial nominating commission and then by the governor. These evaluations hold applicants accountable for their pre-application professional and personal conduct. After a judge completes each term, an objective

Bar Responds to Inaccurate Merit Judicial Selection

evaluation conducted by the Judicial Evaluation Commission is made public. The public then votes in a retention election. The public's attention is focused solely on the judge's prior service. That is accountability in the truest sense.

III.

A. Point: Proposal erodes right to vote

B. The Truth: Although the public does not vote for the initial selection of a judge, it does vote in retention elections.

IV.

A. Point: Judicial Nominating Commission made up of lawyers, and dominated by trial lawyers

B. The Truth: The Judicial Nominating Commission is not comprised entirely of lawyers and is not dominated by trial lawyers. Rather, the nine-member commission is comprised of four non-lawyers, four lawyers and one sitting judge. Three of the four lawyers are appointed by the Board of Bar Commissioners and only one of the three can be a trial lawyer. One must be a member of the Alabama (civil) Defense Lawyers Association and one must be a member neither of the trial lawyers nor defense lawyers associations. The predominantly black Alabama Lawyers Association appoints the fourth lawyer. Lawyers have nothing to do with the appointment of non-lawyers, and the appellate courts select the judge who serves on the nominating commission.

The Judicial Evaluation Commission also includes non-lawyers. Of the 11 members, only four are practicing lawyers. Others include the Alabama Supreme Court chief justice and the presiding judge of either the court of civil or criminal appeals, determined by the chief justice. The dominant category of membership consists of five non-lawyers.

V.

A. Point: Motivation behind this proposal is to bring back days of “jackpot justice” by putting liberal Democrats on courts dominated by Republicans

B. The Truth: This proposal protects judges presently serving (or at least those elected in November 2006—the proposal, under the best of circumstances, will not be law by the time of that election) from ever again being subjected to contested, partisan, mud-slinging elections. Accordingly,

assuming Republican judges are elected in November, those judges should have a decided advantage in remaining on the court. Also, whatever party is dominant in Alabama should maintain dominance on the court because the ultimate appointment is made by the governor. There is no interest in changing the present makeup of the court, only in eliminating elections that destroy the faith lawyers and the public put in the judiciary and, therefore, in our system of justice.

VI.

A. Point: Purpose behind proposal is to select Alabama appellate court judges the same way federal judges are

B. The Truth: This is simply false. See above paragraphs.

VII.

A. Point: It could be too easy to defeat sitting judges

B. The Truth: This point is regarded as a good faith concern, but experience with systems similar to the one proposed by the ASB has been to the contrary. The defeat of sitting judges has been, by far, the exception rather than the rule. And, there is no reason to believe that Alabama's experience will be any different. Special interest groups, including trial and defense lawyers, and the Business Council, are no more aggressive in Alabama than in many other states.

VIII.

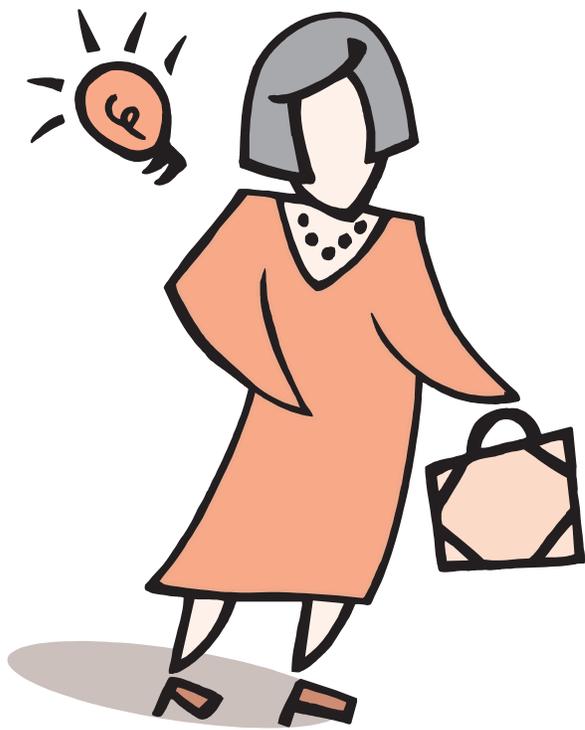
A. Point: Proposal is radical and out of mainstream across United States

B. The Truth: Alabama is one of only seven states that still elect judges in contested partisan elections. States that have examined the grave harm contested elections do to their judges and to the public's confidence in the judiciary have changed to selection systems similar to this proposal.

IX.

A. Point: Problem has been exaggerated—not that much money has been spent in Alabama

B. The Truth: According to the *Montgomery Advertiser*, for the last decade (ending with 2004 elections), Alabama was first in the country in money spent on supreme court elections. Candidates for the Alabama Supreme Court spent \$41 million compared to \$27.5 million spent by the second highest spender, candidates for the Texas Supreme Court.



Taking in the Newly Licensed Attorney

Keeping an open mind *and* an open door can pay off in the long run

I recently made the unilateral decision to

take a newly licensed attorney into my solo practice. At the time, I had been in solo practice for five years and was beginning to understand more accurately the law of large numbers. The call which prompted my decision came early one morning from a young lady who identified herself as a newly admitted attorney looking for a position in a law firm in the local area.

The voice on the other end of the phone sparked my interest because she sounded, above other considerations, sincere. Upon her brief explanation of herself and her credentials, I asked her to come into the office and meet with me. She was shocked! It has not been a great employment year for new law school graduates, and she, along with many of her counterparts, had received a great number of rejections upon inquiry for positions.

Appearing for our scheduled interview, we discussed why she was interested in joining with me to provide legal services to the surrounding northeast Birmingham community. Her interest in the practice of law was apparent, and her devotion and dedication to the profession appeared genuine.

I viewed this young woman as sincere, confident and, most of all, down to earth. I realized she was young and just starting out and perhaps would take up a great deal of my time with my explaining how and why I did things a certain way. I was wrong. Instead, I learned that I had acquired a very valuable asset to my practice—someone who was very bright and knew the anatomy of a lawsuit. I only had to point her in the direction I wanted to go and off we went, together. In short order, she has helped me be a better lawyer by providing me with information that helps me do my job

more efficiently and effectively, as well as being a sounding board for general and case-specific concerns. She has added value to my practice and my relationship with *our* clients.

In a very short time, she has so impressed me with her abilities that I have made her a partner in the firm.

—William G. Barnes, Birmingham

Position Available

Auburn University Office of General Counsel

The Office of General Counsel of Auburn University is accepting applications for university counsel. Responsibilities include assisting the general counsel in matters related to the board of trustees, and providing legal advice to the president and other administrators on matters having legal ramifications. These areas include compliance of university activities with applicable law and established legal precedent, and review of legal documents executed in the name of Auburn University.

Minimum qualifications are a professional law degree, i.e. J.D./LL.B (Juris Doctorate/Bachelor of Laws) and admission to practice law in the State of Alabama, along with five years of appropriate demonstrated professional experience exhibiting the level of legal expertise required to satisfy the responsibilities of this position. Salary will be commensurate with education and experience.

Minorities and women are encouraged to apply.

Refer to Requisition #21239 and apply online at: www.auemployment.com. If you need assistance, contact Auburn University's Department of Human Resources at (334) 844-4145 or your local state employment service office. Internet access is also available through your public library.

Review of applications will begin after September 30, 2005. Auburn University is an Affirmative Action/Equal Opportunity Employer.

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The Alabama Family Trust—Another Point Of View

Recent changes make establishing a trust more affordable for your clients

The Alabama Family Trust is a state instrumentality established in 1994 by the Alabama legislature and codified under Section 38-9A-1 *et seq.* of the *Alabama Code*.

Established in response to OBRA 1993, the trust provides Alabama residents with a means to protect excess resources while also preserving Supplemental Security Income benefits through Social Security, as well as the highly coveted medical benefits of Medicaid.

Since its inception, the trust has helped hundreds of beneficiaries set aside excess resources to fund future supplemental needs, thus sustaining and improving quality of life.

The trust has proven to be an excellent vehicle for Medicaid beneficiaries receiving tort settlements, family contributions and bequests without disrupting Medicaid eligibility. Nursing home residents can accomplish spend-down and provide a cushion for extra needs not covered by Medicaid. The trust also provides structure and administration to preserve ongoing eligibility where the costs of corporate or institutional management may be unavailable or prohibitive.

The trust has recently developed a framework that allows more economic administration and greater access to beneficiary accounts. In the past, due to severe state budget shortfalls, an account was required to be established with a minimum of \$5,000. Since July 2005, the minimum cost to establish a trust now stands at \$500 and the same board of trustees' decision allows access to all but \$100.

As a practicing Alabama lawyer, I have witnessed countless win-win situations where the beneficiaries' needs are secured within the regulations of Medicaid and Social Security.

Our board of trustees and advisory board are committed to serve and strengthen this precious Alabama jewel. For more information, contact David Tapley, executive director, Alabama Family Trust, at (800) 711-1303. —Lynn Campisi, president, Alabama Family Trust, Birmingham

Letters

Second Place Can Be for Winners, Too



For some 25 years, I avoided comment on presidential politics in the Alabama State Bar. Seldom during this period did the bar have a contested election for the office of president-elect, the winner automatically succeeding to the presidency. In those instances when we had contested elections, the bar was fortunate to have had two well-qualified persons who had exhibited demonstrated leadership in and on behalf of the profession. I cannot remember a time when the candidate who did not prevail ever sought the office again. This has been a great loss, in my judgment, to the bar.

Rocky Watson's gracious "Ponderings from Bucks Pocket" in the last **Addendum** prompted me to express my view that it's time that Rocky or other extremely qualified and dedicated leaders be encouraged to again seek office. I have seen too many bar leaders who finished second in such contests move on to other interests. This has resulted in a tremendous loss of talent and commitment these candidates had to offer the organized bar.

Oftentimes, geography, long-held friendships and early commitments of support have dictated the outcome of some elections. Fortunately, both candidates usually have been well-qualified by service to the bar or the profession generally to hold the office. Another factor in determining the outcome of the elections is the poor voting percentages of our membership. Seldom has over 50 percent of the membership seen fit to mark and return their ballots in the election for president-elect.

One of the greatest leaders of the American Bar Association was the late Morris Harrell of Dallas. He literally was drafted to seek the office again after losing an election to one of his predecessors. Morris did run a second time and not only the ABA, but the profession, benefited significantly from his willingness to run again. We, in the Alabama State Bar, need to encourage those seasoned and eminently qualified persons who seek the presidency and come in second to offer their services again in the near future.

Sincerely yours,

Reginald T. Hamner, Montgomery

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