



# ALABAMA COURT NEWS

Newsletter of the Alabama Judicial System

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## Chief Justice Sonny Hornsby Endorses Mediation as Another Way to Improve State's Civil Justice System

State Chief Justice Sonny Hornsby has endorsed mediation as an alternative method to improve the resolution of disputes in Alabama's civil justice system.

The chief justice, the state judges and the state bar association have joined together in support of using various methods of alternative dispute resolution (ADR) to reduce the cost and time involved for citizens who have disputes in court.

Hornsby said that, in other states, mediation or similar alternate methods of resolving disputes have been initiated because of backlogs in the trial of cases. "Since we do not have any significant backlogs, Alabama is in a position to use mediation and other dispute resolution methods to enhance our present court system," Hornsby said.

"Alabama is fortunate that its judges work diligently to manage their case loads and have kept pace with the growing number of cases filed. I commend each of our judges for this outstanding accomplishment," Hornsby added.

The chief justice recently announced that the State Supreme Court has created a Commission on Dispute Resolution. The purpose of this Commission is to coordinate and plan the future development of alternative dispute resolution in Alabama. The Commission will be composed of judges, lawyers, representatives from other branches of government and members of the public. The Commission will also gather input from other citizens of Alabama.

(See "Mediation" next page)

## Alabama is Leading the Nation in Court Technology Advancement

State Supreme Court Chief Justice Sonny Hornsby announced June 30, 1994, that the Alabama Judicial System has completed its efforts to automate the state's trial courts, except at two sites currently undergoing renovations. Alabama is one of the first states to computerize its courts' case load reporting system, financial operations, and jury management system and to link them to a centralized computer system. Hornsby said the public will benefit from having the trial courts automated because the computer system facilitates the tracking of criminal defendants, the enforcement of court orders, and the collection of restitution, child support and other monies owed to the state.

The major computer programs available to Alabama's trial courts are: the case load reporting system; the civil case tracking system; the on-line payment system; the statewide index system; the jury management system; the traffic case tracking system; and the witness subpoena system. The computer system is capable of tracking court-ordered payments, sending periodic notices to defendants who fail to meet their agreed-upon payment schedule, and providing reports to judges and clerks of payments made to enable the court to take further action if necessary.

Efforts to link the local court-houses with the Administrative Office of Courts in Montgomery began in 1983 with five pilot sites in Montgomery, Madison, Etowah, Houston, and Mobile counties. On assuming office in 1989, Chief Justice Hornsby recognized the need to accelerate automation efforts because of the volume of cases in the trial courts, the complexity of litigation, the need to easily

access information regarding cases, the need for capability to track defendants, and the need to enforce court orders requiring court costs, restitution, and child support.

"The operations of the courts have become big business," Hornsby stated. In FY 1993, the courts disbursed \$56.6 million to the State General Fund, other state agencies, and municipal and county agencies. In addition, child support collected by the courts totaled \$90.9 million, while \$7.6 million in restitution was collected. Last year, 768,000 cases were processed in Alabama's trial courts, whereas 10 years ago the case load was approximately 601,000.

"Technology has been an important component of our state courts' information system," said Chief Justice Hornsby. "We are committed to moving Alabama into the 21st century by using technology to help us operate the system in a more efficient and effective manner," he added.

According to information provided by the National Center for State Courts, Alabama's computer system is one of the most extensive and advanced systems in the nation. In 1990, Alabama's State Judicial Information System was featured in "Court Technology Reports," a publication of the National Center for State Courts. The organization annually selects four to six courts that have developed exemplary automated projects for special recognition.

James D. Thomas, Vice President, Court Services Division, National Center for State Courts, said Alabama is one of the nation's leaders in providing advanced technology for the operation of its court system.

(See "Technology" next page)

### Technology (continued)

"The benefits of this project are immeasurable in the courts' ability to track defendants, issue notices and summonses, and collect court costs, fines, restitution, and child support payments," Thomas said. Thomas was visiting in Montgomery.

In summary, Hornsby said, "I believe individuals should be held accountable for paying any monies ordered by the courts. The new system will provide direct benefits to children for whom child support is ordered to be paid through the courts as well as to victims of crime who are owed restitution. "Through the means of the computerized tracking system, we can send a message to defendants that court orders will be strictly enforced."

### Mediation (continued)

Some of the benefits of ADR for Alabama citizens could include a reduction in the cost, time involved and stress of litigation. The system can also provide for more amicable settlements between parties. "It is for these reasons that the Alabama legal system is now committed to the implementation of ADR as viable options to formal litigation," Hornsby said.

"Resolving disputes without lengthy trials in Alabama is no longer theoretical and visionary. It is here today. Courts in Montgomery, Birmingham, Huntsville, Mobile, Decatur and other jurisdictions are already utilizing ADR," Hornsby said.

Presently, the focus is on mediation, where litigants meet with a neutral third party (the mediator) to help them reach a settlement. If a satisfactory resolution is not reached, the litigants may still pursue traditional court proceedings. Basically, all cases are appropriate for mediation. Some of the more common types of cases that are subject to be mediated include contract disputes, domestic cases, negligence, fraud, bad faith, product liability, and medical and legal malpractice.

In expanding the use of ADR in Alabama, several groups have been instrumental in ongoing projects furthering the cause of ADR. These groups include the Supreme Court of Alabama, the Alabama State Bar, the Circuit and District Judges Associations and the Administrative Office of Courts.

## Alabama Circuit and District Judges and Clerk Associations Officers for 1994

### Alabama Association of Circuit Judges

President:	Hon. Joseph P. Phelan, Montgomery
First Vice President:	Hon. Loy Campbell, Scottsboro
Second Vice President:	Hon. Braxton K. Kiser, Mobile
Secretary-Treasurer:	Hon. Ben M. Ladd, Ozark

\*The association is composed of the 127 circuit judges.

### Alabama Association of District Judges

President:	Hon. James M. W. W. Centreville
First Vice President:	Hon. William A. W. Greensboro
Second Vice President:	Hon. Al Johnson, City
Secretary-Treasurer:	Hon. Ralph G. W. Scottsboro

\*\*The association is composed of the 98 state district judges.

### Alabama Association of Clerks and Registers

President:	Hon. G. Daniel R. Columbia
First Vice President:	Hon. Earl N. Carver, Jr., Bessemer
Second Vice President:	Hon. Joseph N. W. Russellville
Third Vice-President:	Hon. Mary C. M. Marion
Secretary-Treasurer:	Hon. Kim S. B. Wedowee

\*\*\*The association is composed of the 74 state clerk and registers.

## Judge Offers Media Rules...

Circuit Judge Samuel H. Monk, 7th Judicial Circuit, recently had an article featured in the *National Judicial College Alumni Magazine* regarding media relations. Judge Monk wrote, "I want to be clearly understood that I do not consider myself an expert in bench-press relations. Though I have presided over at least two 'media events,' one of which so far has resulted in three books and a network television movie, I have never had a serious problem arise with the press."

Monk offered "a few 'rules' that may be helpful to consider" when attempting to deal with the media:

- Keep the press informed of what is going on in the courthouse. Make dockets, court calendars and case files, all of which are public records, readily available.

- To the extent ethical canons and statutes allow, answer reporters' questions, i.e., satisfy their curiosity. If you cannot, let them know who can properly do so. Reporters have insatiable curiosities and very short inter-

est spans until they become personal or they smell a good story.

- Treat reporters as you would the public—with respect. Understand they have jobs and deadlines to meet.

- Use a plain and simple opinion, rather than some rare bones, boilerplate or legalese to explain yourself, especially in an area of interest or legally-technical case.

- Logistically, make it easy for the reporters to do their jobs. If possible, reserve convenient courtroom seating for the press. If you refuse to allow spectators to be present while in session, exempt the press from this rule. Again, they have deadlines and other obligations to meet.

- Don't issue gag orders to the press and don't close hearings unless absolutely necessary. Gag orders directed to the media invariably will be struck down as invalid prior restraints of First Amendment rights. Gag orders directed to parties and counsel may increase media interest and should not be used absent compelling circumstances.

## HUMOR IN THE COURT

A proposed section on "Humor in the Court" is being sent to the minds of *Court News* editors. Any judges, clerks, or other judicial system employees or officials who have experienced a humorous ordeal or situation in their office or courtroom should submit it to the editor of this publication.

## Automated Legal Research in the Works

In 1993, Chief Justice Hornsby appointed a Judges Information System Committee to develop computer systems specifically designed to meet the needs of judges. In order to determine priority needs of the judges, the committee conducted a survey of all trial judges which revealed automated legal research to be the top priority.

After contacting several vendors of legal research data bases, the committee selected Westlaw which was considered the product best suited to meet these needs and a contract was negotiated with them.

Trial and appellate court judges will have access to the bulk of Westlaw in the following primary areas: case law; statutes; Shepard's Citations; and other various data bases necessary to conduct complete and thorough legal research.

Training sessions will be held in the new Judicial Building in Montgomery offering 1 1/2 hours of instruction time and 2 hours of assisted practice time on the following dates:

August 15-19, 1994

August 22-26, 1994

August 29-September 1, 1994

For more information, call Trisha Campbell at 1-800-392-8077, Court Assistance Division, AOC.

## Judicial Fellows Commission Invites Applications

The Judicial Fellows Commission is accepting applications for the 1995-96 Judicial Fellows Program. Four Fellows will be chosen to spend a calendar year in Washington, D.C. The Commission seeks outstanding individuals from a variety of disciplinary backgrounds who are interested in the administration of justice and who show promise of making a contribution to the judiciary. It also requires that candidates be familiar with the federal judicial system, have at least one postgraduate degree and two or more years of professional experience.

Information about the program and application procedure is available from Vanessa M. Yarnell, Administrative Director, Judicial Fellows Program, Supreme Court of the United States, Room 5, Washington, D.C. 20543. The application deadline is November 18, 1994.

## Alternative Sentencing Options Offered

In a meeting held at the Judicial Building in Montgomery on March 23, directors of various community-based corrections programs and other court officials in the state discussed alternative sentencing methods provided by their respective programs.

A variety of methods are being used in the various community-based alternative sentencing programs throughout the state for those charged and/or convicted of a felony or misdemeanor including: supervised probation; supervised pretrial releases; electronic monitoring; drug treatment referrals; the use of halfway houses or detention centers; community service work; job training, referrals, and placements; and continuing education programs.

Robert Moore, director of the Mobile Community Corrections Center, said in their program the offender must meet specific criteria to qualify for the program. He said as part of the program, each defendant must also report monthly and pay court costs, restitution and a \$25 per month supervision fee.

Most of the state's community service programs are run entirely by volunteers, such as the program in St. Clair County. Judge William E. Hereford said their program is operated at "absolutely no cost to the state."

Program Coordinator Mel O'Singa, a retired Brooklyn, NY, YMCA employee, has 15-20 volunteers composed mainly of retirees.

Hereford said he began the community service program "from day one on the bench (1991) coordinating with PALS." However, the program has been expanded not only to picking up trash and clean up the county, which he said the community appreciates and supports, but now includes washing dishes at the senior citizens center, cleaning cages at the humane society and painting fire hydrants for the fire department.

Hereford said few people (about 10%) of those who appear in his court get probation without community service. And the consequences if they don't cooperate: "I'm here to enforce the law," said Hereford. "If they are late for their community service work or don't show up, it's off to prison—they, as a rule, don't get a second chance," he added.

Hereford believes the community service program is a "great benefit for all concerned." "Volunteers benefit by helping the community—offenders benefit by giving something back to the community and hopefully realizing learning experience, and it is certainly a good alternative sentencing practice for the judge."

## AOC Employees Honored

On Wednesday, May 24, 1994, at the Alabama Juvenile Probation Officers' Institute, three Administrative Office of Courts employees were recognized for their outstanding service and support of juvenile probation officers throughout the state.

The Alabama Chief Juvenile Probation Officers at their annual conference presented distinguished service awards to **Cary Thornton**, **Jimmy Blackwell** and **Mike Carroll**. These three outstanding AOC employees were honored for their efforts to upgrade the "juvenile system" and computerize every juvenile probation office in the state.

When the project is completed by November 1994, we anticipate Alabama's having the premiere juvenile mainframe system in the nation.

### APPOINTMENTS/RETIREMENTS

- **Loyce Bell**—official court reporter for Judge Zogby, retired April 30, 1994.
- **Shannon Y. Vallas**—a special roving court reporter, was appointed official court reporter on May 23, 1994, for Judge Braxton Kittrell.
- **Jack Dixon**, Supreme Court, retired May 31, 1994.
- **Lois Gipson**, Supreme Court, retired May 31, 1994.

### Deaths

**Retired Circuit Judge Bowen W. Simmons**, 22nd Judicial Circuit, age 99, died April 20, 1994. Judge Simmons also assisted the Alabama Supreme Court.

**Retired Circuit Judge James Russell McElroy**, age 92, 10th Judicial Circuit, died June 28, 1994.

**Retired Circuit Judge Joe G. Barnard**, age 64, 10th Judicial Circuit, died July 18, 1994.

## Judicial DataCenter Highlighted in Technical Newsletter

AOC's Alabama Judicial DataCenter (AJDC) was recently featured in the technical newsletter of Syncsort. AOC's main system software comes from IBM, but several companies offer enhancement or replacement software that is used to complement the system's software. This is where Syncsort comes into play.

Many of the programs that are produced by AOC's applications staff must put information in a particular sequence. That might mean sorting by case number or by a certain date. When the programmer develops the program, he or she instructs the program to use the sort feature in the mainframe. Syncsort's product has proven to be faster and more efficient than IBM's Standard sort so it was re-

placed with the "new and improved" Syncsort version. The AJDC has upgraded several other products and has earned the reputation with the software community for being a leader in innovation and aggressive software testing. The DataCenter is known for being on the "bleeding edge" of new software releases which influenced Syncsort to choose the AJDC to "beta test" (or "guinea pig") their new release of sort.

The test product was installed over night and started monitoring the results the next day. As the workload on the mainframe increased, the staff realized the new sort was performing much better than expected and they were able to adjust the system to allow even more jobs to run simulta-

neously. In reporting the results to Syncsort, the staff was told that they were testing with a much greater workload than they ever been tested before and that the increase surpassed Syncsort's figures and benchmarks. Syncsort was so pleased with the performance that they wrote an article for their technical newsletter in order to spread the word about the latest release of sort.

The article explained AJDC's role in the judicial system and how they assist the courts in doing their jobs. The newsletter was translated into many different languages and is distributed to several countries around the world. AJDC is a faster, more productive machine and has received positive publicity and feedback at the same time.

## Additional Election Criteria—Employees' Retirement System Board of Control

On June 24, 1994, a memo was sent to administrators to notify UJS employees of an election to be conducted pursuant to Section 36-27-23, *Code of Alabama 1975*, as amended, to fill an upcoming employee vacancy on the Employees' Retirement System Board of Control.

The new eligibility requirement created by Act No. 94-616 was not included in that memo. Section 36-27-23, *Code of Alabama 1975*, now requires that in order to be eligible to run for this position the candidate must be "vested in the system."

As the names of candidates are submitted by the Comptroller's Office

to the Employees' Retirement System during the month of July, the vesting of each will be verified. Only those candidates meeting this criteria will be placed on the ballot. In order to minimize confusion due to this change, a letter confirming eligibility to run and placement on the ballot will be mailed to each candidate.

Employees who are members of the Employees' Retirement System who are vested in the system desiring to run for this position may still file a notice of intent to run with the Comptroller's Office. This notice must contain: 1) employee's name, 2) Social Security number; 3) department;

and 4) signature.

This notice must be received by the Comptroller no later than Friday, July 29, 1994 at 3:00 p.m. It is the employee's responsibility to verify delivery and receipt by the Comptroller. Completed notices should be sent or delivered to: Robert L. Childers, State Comptroller, Administrative Office of Courts, Room 100 Alabama State House, 11 S. Union Street, Montgomery, AL 36130-2602.

For further information, contact Betty Beville or Robert Holmes, Finance Division, Administrative Office of Courts.



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