



**STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL**

**STEVE MARSHALL
ATTORNEY GENERAL**

**OFFICE OF THE ATTORNEY GENERAL
CONTINUING LEGAL EDUCATION SEMINAR**

**Office of the Attorney General
Multipurpose Room
Thursday, December 14, 2017**

**MORNING SESSION
10:00 AM – 11:00 AM**

**Supreme Court of Alabama: A View from the
Appellate Bench**

Hon. William B. Sellers, Associate Justice
Supreme Court of Alabama

SUPREME COURT OF ALABAMA
A VIEW FROM THE APPELLATE BENCH
William B. Sellers, Associate Justice

I. SUPREME COURT OF ALABAMA

A. The Court Sitting in Divisions

The Supreme Court sits in two Divisions, the Senior Division named after the most senior Associate Justice and the Junior Division, the second most senior Associate Justice. The Chief Justice sits on both Divisions assuring the possibility of at least 5 votes, a majority of the Court.

Bolin Division (Senior Division)

Consists of the Chief Justice and the Associate Justices who are first, third, fifth, and seventh in order of seniority among the Associates Justices: Stuart, C.J., and Bolin, Murdock, Main, and Bryan, JJ.

Parker Division (Junior Division)

Consists of the Chief Justice and the Associate Justices who are second, fourth, sixth, and eighth in order of seniority among the Associates Justices: Stuart, C.J., and Parker, Shaw, Wise, and Sellers, JJ.

B. Cases Considered in Division

\$ Direct Appeals in Civil Cases
\$ Civil Cases involving in excess
\$ of \$50,000 or equitable relief
\$ Cert Petitions (Civil and Criminal)

C. Cases Considered at General Conference

\$ Oral argument where OA is granted
\$ Death penalty cases
\$ Disbarment proceedings
\$ Utility rate cases
\$ Certified Questions accepted from
\$ federal courts
\$ Cases in which constitutionality of
\$ a statute is at issue
\$ Cases not receiving 5 votes in Division
\$ Advisory Opinions
\$ Cases in which a prior case is overruled

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Mandamus Petitions

- II. Planning for Appellate Review
 - A. Preserving Issues on Appeal
 - \$ Fair trial v. Perfect Trial
 - \$ Harmless Error
 - \$ Probable Prejudice
 - \$ Objections
 - \$ Error or Plain Error
 - \$ Reviewing Record on Appeal

 - B. Appellate Time Lines
 - \$ Notice of Appeal
 - \$ Completion of the Record
 - \$ Briefs
 - \$ Submission
 - \$ Decision
 - \$ Rehearing
 - \$ Certificate of Judgment

- III. Effective Advocacy in Brief Writing
 - \$ Be concise; its called a brief!
 - \$ Find Achilles Heel
 - \$ Only discuss material facts
 - \$ Cite to record and cases
 - \$ Address adverse arguments,
authority and evidence
 - \$ Analysis v. Synthesis
 - \$ Know the standard of Review

- IV. Oral Argument
 - A. Requesting Oral Argument
 - \$ Time
 - \$ Cost
 - \$ Effectiveness

 - B. Preparing for Argument
 - Arguing Issues (questions posed to attorneys)

 - C. Arguing the Case
 - \$ Address the issue directly
 - \$ Court is not persuaded like a jury
 - \$ Prepare for questions
 - \$ Lighting system; red for confidence

- V. Rendering Decisions
 - \$ Administrative Process
 - \$ Reviewing briefs and record
 - \$ Circulation of proposed ruling
 - \$ Internal processes for special writings
 - \$ Opinions v. Affirmed Without
 - \$ Releases

- VI. My Judicial Philosophy
- A. Perspective from tax/business/office practice
 - B. Stability
 - C. Respect for Precedent
 - D. Deference to trial court

- VII. How I handle cases
- A. Weekly Miscellaneous Docket
 - B. Intake and Assignment
 - C. Drafting an opinion
 - D. Circulating and voting
 - E. Questions about process:
 - 1. Oral Argument
 - 2. Affirm without
 - 3. Dissents