

PROBATE COURT OF MOBILE COUNTY

MEMORANDUM

To: Attorneys of the Mobile Bar

In Re: Proof of Lost Wills

In accordance with Alabama Law and the case of *Barksdale vs. Pendergrass*, 294 Ala. 526, 319 So.2d 267 (1975), the Probate Court will require that the following elements be proven by testimony and evidence prior to issuing an order relating to a petition for the probate of a **LOST WILL**, viz:

- (a) The existence of an instrument in writing, signed by the Testator, or some other person in his presence and by his direction, and attested by at least two witnesses, who must subscribe their names thereto in the presence of the Testator;
- (b) The loss or destruction of the instrument;
- (c) The nonrevocation of the instrument by Testator;
- (d) The contents of the Will in substance and effect;
- (e) Such other requirements as set forth in §43-8-160, et seq., *Code of Alabama*;
- (f) See also *Anderson vs. Griggs*, 402 So.2d 904 (Ala. 1981);
- (g) See also *Lovell vs. Lovell*, 270 Ala. 720, 121 So.2d 901 (1960);
- (h) See also *London vs. Harris*, 507 So.2d 468 (Ala. 1987).

END OF MEMO