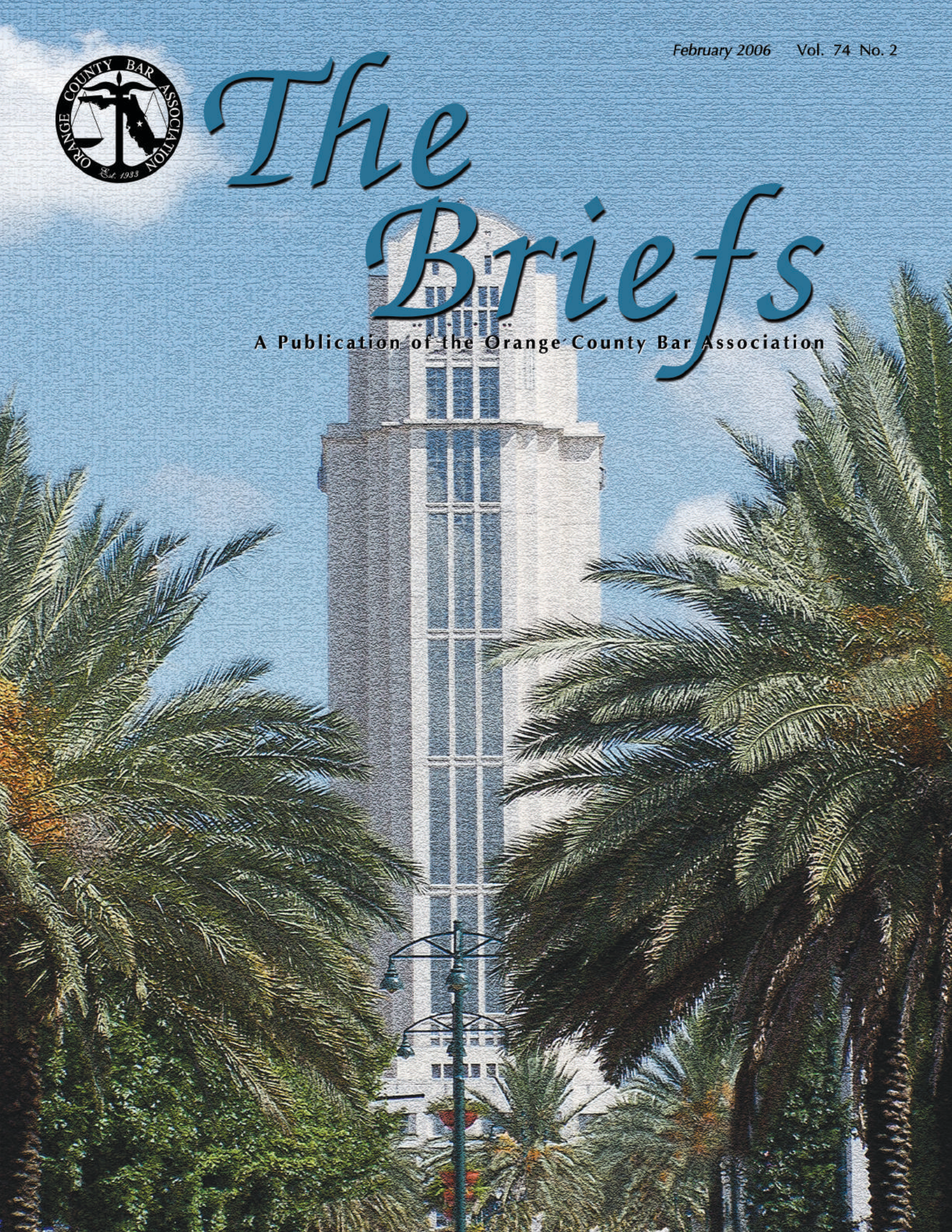




February 2006 Vol. 74 No. 2

The Briefs

A Publication of the Orange County Bar Association





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DEADLINE INFORMATION

Deadline for March Edition: 02/10/2006
The deadline for each edition will be the tenth day of each month. If that day falls on a weekend or holiday, the deadline will be the last working day prior.

Publication of advertising herein does not imply any endorsement of any product, service or opinion advertised. The opinions and conclusions, including legal opinions and conclusions contained in articles appearing in *The Briefs*, are those of the authors and do not reflect any official endorsement of these views by the Orange County Bar Association or its officers and directors, unless specifically stated as such.

Visit the OCBA's Website:
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A Heritage of Commitment

Bill Sublette

Please carefully examine the photograph below. In it you will find some of the most distinguished jurists in Orange County. Each has one common line on their resume, that of, "*Former President, Orange County Bar Association.*"

The men and women below did not achieve preeminence in their profession because of their bar service. Nor did they give so much of themselves to the Orange County Bar Association in order to achieve their preeminence. Rather, for each of the individuals below bar service was simply a byproduct of their innate desire to serve their profession and community. I know this to be true because if one looks at the body of work of each of these individuals one finds the common thread of leadership and a commitment to excellence running throughout their lives, both professional and personal.

So much is written today of the fading commitment to volunteerism our country faces. Critics abound who bemoan the supposed lack of leadership in our community today. I have news for the critics. As evidenced by the individuals below, volunteerism and leadership is alive and thriving in the Orange County Bar Association and future leaders of our profession and community will continue to spring from the ranks of the OCBA. Not because there is any pixie dust in Orange County Bar Association service or, for that matter, in being a lawyer; but because the Orange County Bar Association has provided, and will continue to provide, future leaders with an outlet for their desire to serve.

Professional associations throughout the United States

have, however, had to address the issue of declining membership totals over the past two decades, not because of a fading commitment to volunteerism within America's professions, but because of the explosion of charitable organizations and, hence, opportunities for volunteer service, in our communities today. Think about it. Half a century ago a typical community such as Orlando had perhaps 15-20 outlets for civic involvement consisting of five or six major churches, a handful of service clubs, the local hospital board, and a handful of professional associations. Today, there exist literally thousands of qualified, oftentimes highly specialized, charitable organizations in a county the size of Orange County.

The OCBA is not immune from the membership challenges professional associations face. While the OCBA's membership total has remained steady at the 2,800 member level for the past decade, as a percentage of lawyers in the community our membership has dropped. Seven years ago 74% of all Orange County lawyers belonged to the OCBA, whereas today just 60% of Orange County's lawyers belong to the OCBA. If this organization is to continue building upon its heritage of producing leaders of the caliber you see below, we must reverse this trend. It is for this reason that the OCBA's Executive Council is embarking upon a major membership drive for the first time in decades, perhaps ever, under the leadership of former president Paul SanGiovanni, with the assistance of Executive Council member Glenn Adams.

The OCBA's membership drive will seek to instill, or

Continued on page 4



Former Presidents of the Orange County Bar Association

First row, from left: Michael P. McMahon; Russell H. Troutman; John E. Fisher; Joel H. Sharp, Jr.; John F. Lowndes; Hon. Patricia C. Fawcett; Lee J. Colling; Hon. Charles T. Wells; Leon H. Handley; Robert W. Duckworth.

Second row, from left: Mayanne Downs; Hon. Maura T. Smith; Bruce B. Blackwell; Darryl M. Bloodworth; J. Lindsay Builder, Jr.; Hon. John Marshall Kest; Hon. Gregory A. Presnell; Hon. Robert J. Pleus, Jr.; Michael R. Walsh; Lawrence J. Phalin; Hon. Jeffery C. Arnold.

Third row, from left: Daniel L. DeCubellis; R. Lee Bennett; Warren W. Lindsey; Russell W. Divine; Scott R. McMillen; Julia L. Frey; Mary Ann Morgan; Brian T. Wilson; Paul L. SanGiovanni; Wayne L. Helsby; David B. King.

Photo credit: Terry D. Cuffel / Corporate Visual Services

reinforce, the understanding that bar service is a powerful outlet for professional, and community, service for the lawyer who wants to make a difference in his or her community. Whether through the *pro bono* representation of indigent clients, the protection of abused and neglected children as a *guardian ad litem*, service as a citizen dispute mediator, participation in the activities of the OCBA's charitable Foundation, or participation in any one of the innumerable charitable activities the OCBA and its committees and sections sponsor each year, there is no better outlet for volunteerism for the lawyers in our community than the Orange County Bar Association. Through our membership drive we will also seek to create an awareness of the role of the bar in our profession and community.

And, finally, but perhaps most importantly, we will seek an acknowledgment that each of us owes a debt of service to this wonderful profession of ours which has given us so much opportunity in our lives.

Our former presidents understand the importance of the Orange County Bar Association to our profession and community. It is why they remain involved with the OCBA after having led it as President. It is my hope that after reading this message you will encourage your colleagues who do not already belong to the Orange County Bar Association to join today. Together, we will keep this wonderful bar association of ours vibrant and strong.

Bill Sublette is a Partner with the law firm of Sublette, Sanders & Sanders, P.A. He has been a member of the OCBA since 1988.

Legal Aid Celebrates 45 Years of Service

JoAnn Tucker-Hall



The Legal Aid Society of the Orange County Bar Association, Inc. has provided services to the poor in our community for the past 45 years. Orange County Bar members who aspired to provide access to our judicial system founded the Society in 1961 for the poor in our community. As the services became known and as the population grew, requests for assistance overwhelmed the Bar volunteers. To meet this community need, the Bar added a staff component and became incorporated in 1967. At that time, the Society hired its first director and full time staff to offer free civil legal services. Currently, Legal Aid employs about 40 staff, including 17 attorneys. It coordinates the contributions of time and money from more than 2,700 volunteers, both attorneys and non-attorneys, and continues to earn recognition as one of the finest legal aid programs in the United States. This recognition is due to the extraordinary efforts of committed staff, volunteers and local bar associations.

Please join us in celebrating this special occasion at Sea World of Orlando on **Saturday, February 25, 2006**. The fun begins at 11:30 a.m. with Shamu's Backyard Cookout Party. We will feature all your favorites – hamburgers, hotdogs, grilled chicken, corn on the cob, potato salad, watermelon and fresh fruit salad. Also, there will be unlimited lemonade and iced tea, strawberry shortcake, cookies, brownies and more. Attendees will be able to enjoy all the attractions and exhibits until the close of the park at **8:00 p.m. Tickets are \$53.00 per person (ages 3 and older). Annual pass holder's tickets are \$37.00.** If you can't fit all of Sea World's fun into one day, you can take your ticket to the Pass Center where you can receive your Second Day Free Pass or upgrade to a Fun Card for an additional \$10.00 plus tax! To order tickets, please see the display ad on page 18, or go to the "News" section on the OCBA website (www.orangecountybar.org) and download an order form. For additional information or questions, please contact JoAnn Tucker-Hall at 407-841-8310 (ext. 3128) or Yvette Rodriguez Brown at 407-422-2454.

JoAnn Tucker-Hall is with the Legal Aid Society. She has been a member of the OCBA since 1999.



Editor's Note

Jessica K. Hew

Tad Yates and I would like to thank those of you who have commented on the "new and improved" *The Briefs*. We have received some inquiries as to the submissions for publication that we requested in the January 2006 issue. We wanted to take this time to give you more information as to what we are seeking.

Subject Matter: We are interested in articles that are representative of the law. As practitioners of the law, our members are encountering both new and old cases daily, whether you are reading about them or you are actually *making* them the law. It is this type of information that we are primarily seeking for substantive articles. If it is interesting to you, it is likely interesting to other members.

The practice of law is also a subject for submission. Do you have good practice tips? Do you have interesting "war stories" as to your practice? Do you have a story of how the law impacted a client? These items are also good material for the furtherance of our membership's professionalism.

If you have previously written material that you wish to submit in an updated fashion, we will accept it provided that there is no copyright problem with our reprinting the material in its revised state. We will need verification that the material can be published by us. As an example, when you write continuing legal education material, it is often copyrighted by the entity that sponsors the program; we will need to have you verify that we can in fact publish the work without problem from the sponsor.

In short, we will consider publishing anything that is appropriate for publication in a professional magazine.

Form: We are looking for the traditional legal formats for professional magazines. This includes traditional substantive articles on a legal subject matter and case notes as to a case and its progeny, complete with the "Bluebook" format. This is not to indicate, however, that you can not submit an article on general issues for the practice of law, which do not cite to any cases. What we are looking for is well written and appropriate material.

Length: We have no page limitations. We assume that our membership, as professional writers, knows what needs to be included and what does not for your material. As such, we have no minimum or maximum limitation for length. We can tell you, however, that the average page holds 925 words per page. We hope that is helpful.

Deadlines: That dreaded word! We have a deadline of the 10th of the month prior to publication for the next month (i.e., February 10th for the March issue). Do not let this dissuade you, though. We are accepting submissions on a "rolling" basis. Think back to college and law school applications - you can send them whenever they are done and you have them ready. From there, we work on getting them approved, prepared and planned for the appropriate publication date. You will be informed of the material's acceptance, publication date, and the deadline for approval of your material's final editing and layout.

Photographs: We will want a recent head shot photograph of you to accompany your article. If you have appropriate photographs to accompany your submission, we welcome those as well. If you have photographs of your legal-related events, please also submit these to us with captions of the event and people depicted. We require these in digital format with a minimum pixel size of 640 x 480, however, 1024 x 768 or higher is preferred for publication.

As a note, during the month of February, the OCBA will have a professional photographer to take photographs of our members at the OCBA headquarters. This service is free of charge and any photographs taken can be, and will be, used by the OCBA in the directory and in *The Briefs*. Appointments can be set up with RCL Portrait Design at 800-580-5562. Go ahead; make that appointment so that our members will know who you are!

Now, that's not so hard, is it? We look forward to seeing what wonderful trails our members are blazing and reading all about it!

Jessica K. Hew is a Partner with Graham, Builder, Jones, Pratt & Marks, LLP. She has been a member of the OCBA since 1995.

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Congratulations to the members of the Orange County Bar Association 100 Club

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Is your firm part of the 100 Club? Any firm with two or more attorneys and 100% membership in the OCBA can be a member of the 100 Club. If you think your firm is eligible, e-mail a typed list of your attorneys to Susan Laviolette at susanl@ocbanet.org and she'll let you know!

Florida Emergency Physicians-Kang & Associates, M.D., P.A. v. Parker,
800 So. 2d 631 (Fla. 5th DCA 2001)
Protected liability on multi-million
dollar medical malpractice action.

Miller v. Jacobs & Goodman,
699 So. 2d 729 (Fla. 5th DCA 1997)
Declared liquidated damages clause
of attorney employment agreement
void and unenforceable.

Pettry v. Pettry,
768 So. 2d 8 (Fla. 5th DCA 2000)
Reversed conversion of rehabilitative
alimony to permanent alimony.

Wenzel v. Boyles Galvanizing Co.,
920 F. 2d 779 (11th Cir. 1991)
Affirmed a \$2.75 million dollar
personal injury award.

Boyles v. Mid-Florida Television Corp.,
467 So. 2d 282 (Fla. 1985)
Reversed the dismissal of a libel action
against an Orlando television station.

Stockstill v. Stockstill,
770 So. 2d 191 (Fla. 5th DCA 2000)
Reversed due to trial court's extensive
questioning and denial of motion to
recuse.

Whigham v. Shands Teaching Hospital,
613 So. 2d 110 (Fla. 1st DCA 1993)
Reinstated multi-million dollar medical
malpractice action against blood bank.

Pettry v. Pettry,
706 So. 2d 107 (Fla. 5th DCA 1998)
Reversed modification judgment due
to denial of due process.

Caiazza v. Tuff Realty Corp.,
805 So. 2d 29 (Fla. 5th DCA 2001)
Protected ownership of two
multi-million dollar Florida
corporations.

Owen v. Owen
867 So. 2d 1222 (Fla. 5th DCA 2004)
Reversed imputation of income with
directions to reduce by 50%.

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OCBA Luncheon Speaker

February 23, 2006



Harriett L. Elam-Thomas

*Former Ambassador to Senegal and Career Minister,
U.S. Foreign Service*

What of Diplomacy?

During her four-decade Foreign Service career, Harriet L. Elam-Thomas has demonstrated a life-long practice of bridging cultures and making connections between seemingly distinct people. With unique vision and insight, Ambassador Elam-Thomas placed a human face on diplomacy. Her varied overseas assignments have taken her to Greece, Turkey, France, Belgium, Senegal, Mali and Cote d'Ivoire, while her domestic assignments include Counselor (the most senior career position) and Acting Deputy Director of the U.S. Information Agency (now a part of the Department of State), Foreign Service Personnel in Washington, The United Nations in New York and The White House in Washington, D.C. Ambassador Elam-Thomas has fulfilled her commitment to serve the national interest through public diplomacy despite almost daily exposure to terrorist acts while serving as Cultural Attaché in Greece, Director of the Press and Cultural Center in Turkey and as the U.S. Ambassador to Senegal from January 2000 to December 2002.

Her performance abroad brought unprecedented recognition from the Prime Minister of Turkey, cultural leaders in Greece, as well as meritorious and superior honor awards from the Department of State. Additionally, Ambassador Elam-Thomas has been the recipient of three honorary doctorates: Simmons College in Boston, Mass.; The American University in London; and Suffolk University in Boston, Mass. She holds a B.S. degree in International Business from Simmons College in Boston and a M.S. in Public Diplomacy from the Fletcher School of Law & Diplomacy at Tufts University. She speaks French, Turkish and Greek. In October 2003, she became a member of the Senior Advisory Group for the European Command (EUCOM).

The Ambassador is currently Diplomat-in-Residence at the University of Central Florida. This assignment follows her three-year tour as Chief of Mission at the U.S. Embassy in Dakar, Senegal. Ambassador Elam-Thomas was born in Boston, Massachusetts. She and her husband Wilfred J. Thomas reside in Central Florida.

—Downtown Marriott Hotel • 11:30 a.m. – 1:00 p.m.—

***To RSVP for the luncheon, please e-mail George Enos, Events Manager,
at georgeE@ocbanet.org. Phone calls will not be accepted.***

February's luncheon is sponsored by the Paul C. Perkins Bar Association. Please take a moment to recognize the dedication and achievements of your colleagues and friends affiliated with the PCBA.

To ensure proper luncheon count, RSVPs are requested no later than 48 hours in advance. Those reserving less than 24 hours in advance will not be guaranteed a name badge. If you have made a reservation and find that you are unable to attend, please notify us as soon as possible via e-mail. We appreciate your effort to keep us up-to-date on your reservation status.



Bench Conference

The Honorable Deb Sammons Blechman

Orange County Judge - Civil Division

1995-2005 County Criminal/Traffic Division



Year of Investiture: 1995

Undergraduate degree: University of Central Florida, B.A., Magna Cum Laude, Pre-Law/ Political Science, 1976

Law school: University of Florida College of Law, J.D., 1980

Admitted to Florida Bar: 1980

Best experience as practicing attorney: Winning jury trials.

Worst experience as practicing attorney: When some opposing counsel would waste time on a case they could never have won.

Most memorable client, whom I would also like to forget: I once represented a psychopath who had a habit of calling me at home from his jail cell *very* late in the evenings. The way he spoke my name when I answered put a chill down my spine, every time. This was before the days of caller-ID.

Best experience on the bench: When criminal defendants write back or state in court that something I said changed their life, and also the extremely rich experience of watching bright young lawyers during the steep learning curve of their first year in practice.

Worst experience on the bench: A few lawyers take cases too personally, and resort to verbal shoving matches. They forget that diplomacy is a character strength that produces trust, respect and powerful authority.

Most memorable case: Too many to list. But my current favorite short story is about a bar fight at a country bar. The drummer of the band got hit in a fracas in which the defendant kept trying to stuff his blonde bombshell daughter back into his van so he could get away. The blonde kept jumping back out of the van and further inciting a riot, as she was rip-roaring drunk and nasty. I almost lost it when the defendant described his difficulty backing the van away from the fight after stuffing the blonde back into the van for the third time while the angry crowd charged them. He could not get the van into reverse, because the screwdriver he had rigged through a hole in his floorboard would not engage the gear shaft. (The State was trying to prove that the defendant hit the drummer, but the jury found that it was just a bloody riot and that nobody could tell who hit whom).

The case I want to forget: Hard fought but un-meritorious cases.

What I wish an attorney had told me regarding the practice of law: In the early days, I really wished I had a mentor - to have told me *anything* about the practice of law.

What I want to tell attorneys about the practice of law: The polestar of our mission is to run the justice system

fairly and effectively. To paraphrase Justice Wells at an OCBA luncheon: We don't have standing armies to enforce our edicts. We have only the public trust in our ability to mete out justice fairly. All lawyers are officers of the courts. Each of us is responsible for maintaining the sacred trust of our citizens. This sacred trust is under assault as never before experienced by our profession. Each of us needs to re-commit every day, to make sure that we are part of the solution, and not part of the problem.

What attorneys do well: Attorneys shepherd their clients with compassion and dignity, through some of the most complicated and potentially devastating problems of their lives.

Biggest pet peeve: When attorneys fail to critically analyze the merits of their case.

What I wish attorneys would do in court: Stipulate to what will be obviously proven anyway and focus on that which really needs to be resolved.

What I wish attorneys would do before court: Talk to each other. As Professor Weyrauch used to say: "Trial, is the failure of Diplomacy."

What young lawyers need to know but do not: Your case is not about you.

What every lawyer needs to know but does not: A win-win solution may yield the most just result, and it's really ok to exert client control to obtain a just result.

An exhibition of exemplary professionalism: When lawyers take their time to help unrepresented litigants in criminal court, or when experienced lawyers take their time to speak to a young lawyer about the expectations of our profession as it relates to something that happened in court. Additionally, the level of volunteer work by lawyers in this community, including the Young Lawyers Division, is outstanding.

Professionalism issues that need to be addressed: As mentioned above, Lawyers need to talk to each other and resolve issues which can be resolved without wasting the resources of their clients and the justice system. There will still be plenty of issues to litigate.

How I feel about the profession: I am honored to be among the exquisitely talented men and women who shepherd our citizens through their disputes. We strive to create just and fair results. It takes courage and great discipline to do this work, especially over time. I am concerned that the adversarial aspect of our system may become outmoded. We should work toward a greater reliance on mediation and resolution of disputes, lest we become increasingly seen as a drag on the economies of our fast moving society.

What I like best about being a judge: A judge gets a

Continued on page 24



Case Study

What is "As Is" in Florida Residential Real Estate Transactions?

— Douglas K. Gartenlaub



A common misunderstanding exists between what the courts of Florida consider to be the effect of an "as is" addendum and what the general public and many of the members of the real estate community believe an "as is" addendum does. The belief that a normal "as is" addendum relieves the seller of the obligation to disclose is not supported by current case law. The case law in Florida indicates, with some exceptions, that "as is" only means that the buyer is taking the property in its current condition subject to full disclosure. According to the courts of Florida, an "as is" provision does not generally relieve a seller of the obligation to disclose material defects of which the seller is aware.

In 1985 the Florida Supreme Court handed down the case of *Johnson v. Davis*, 480 So.2d 625 (Fla. 1985), which dramatically altered the duties of the buyer and seller in a residential home sale. The court in *Johnson* abrogated the Doctrine of *Caveat Emptor* in Florida in the specific circumstance of residential home sales. A significant effect of this decision was not only to make false representations actionable but, even more importantly, to make material omissions actionable. Following *Johnson*, sellers who know or knew of defects in their home could no longer remain silent and allow a buyer to purchase that home without disclosing the defects. This change was especially significant because tort law prior to *Johnson* had shied away from making omissions actionable.

Specifically, the Supreme Court held:

... where the seller of a home knows of facts materially affecting the value of the property which are not readily observable and are not known to the buyer, seller is under a duty to disclose them to the buyer. This duty is equally applicable to all forms of real property new and used.

Johnson, 480 So.2d at 629.

This radical alteration in Florida law has spawned a great deal of litigation and controversy regarding the meaning and extent of the *Johnson* decision. Further, it is unclear what ability, if any, a buyer and seller have through contract to modify the dictates of *Johnson*.

It is important not to confuse the cause of action created by *Johnson* with traditional notions of fraudulent inducement or negligent misrepresentation. The tort created by *Johnson* is in many ways unique. In the traditional cause of action for fraudulent inducement, an intent to defraud is an element of the cause of action. No intent element exists in a *Johnson* cause of action. *Johnson* and its progeny have carved out of the law of fraud a unique place for non-disclosure cases involving the sale of a home.

A traditional case for fraud turns in large part on the state of mind of the tortfeasor. *Johnson* creates a duty to disclose if a seller knows of material defects affecting the value of the property. The fact finder is not required to delve into the murky area

of a seller's intent underlying the non-disclosure. See *Billian v. Mobil Corp.*, 710 So.2d 984 (Fla. 4th DCA 1998). In fact, the current state of law with regard to *Johnson* appears to make the cause of action closer to that of negligent misrepresentation, where one who supplies false information exposes oneself to liability if he or she fails to exercise reasonable care or competence in obtaining or communicating the information. *Billian*, 710 So.2d at 989. See also *Gilchrist Timber Co. v. ITT Rayonier, Inc.*, 696 So.2d 334, 337 (Fla. 1997).

The problem this standard creates for a seller is that the careless or ignorant seller who fails to disclose a fact later found to materially affect the value of the property is just as guilty as the intentional deceiver who actively conceals or chooses not to disclose material information. This change has created an entire area of litigation where any major defect found after closing may potentially lead to a claim under *Johnson*. The fact is that it is difficult to prove a negative and makes defending these cases difficult, time consuming, and costly.

The courts in Florida have on occasion mouthed the platitude that *Johnson* does not convert a seller of a house to a guarantor of the condition of the house. Courts have, however, failed to provide guidance that narrows the extraordinarily broad scope of the *Johnson* decision. See *Spitale v. Smith*, 721 So.2d 341 (Fla. 2nd DCA 1998).

The apparent strengthening of the Economic Loss Rule in Florida briefly provided a ray of hope which still lingers. The Economic Loss Rule restricts to a breach of contract action any dispute between the parties related to matters embodied in the agreement between the parties. The Economic Loss Rule offered the possibility of bringing a more controlled environment to residential real estate transactions. The Supreme Court's recent decisions receding from a broad interpretation of the Economic Loss Rule, however, have left limited case law to support contractual remedies to the expansive scope of *Johnson*.

The primary case supporting a contractual ability to limit *Johnson v. Davis* in the residential sales context is *Pressman v. Wolf*, 732 So.2d 356 (3rd DCA 1999). The court in *Pressman* construed an "as is" contract between buyer and seller and held that where the subject matter of the alleged misrepresentations or omissions was separately addressed in the parties' agreement, the *Johnson* cause of action was barred by Florida's Economic Loss Rule, thereby limiting the potential for a cause of action for breach of contract. The court relied heavily on the case of *Key Largo, Inc. v. RHI Hotels, Inc.*, 694 So.2d 74, 76 (Fla. 3rd DCA 1997), and the Supreme Court's ruling in *HTP, Ltd. v. Lineas Aereas Costarricenses*, 685 So.2d 1238, 1239-40 (Fla. 1996). Court rulings subsequent to *Pressman*, however, have generally failed to build on this premise. The failure to follow through on the ruling in *Pressman* may be in large part due to the Supreme Court's increasing willingness to recede from a

Continued on page 20



Professionalism Committee

Professionalism: Let's Be Friends

Michael P. McMahon, Esq.



I was asked to write an article on professionalism, but I do not think we can teach professionalism. Lecturing one another does not accomplish much. And, the few who most need to consider the subject are the ones least likely to read about it. I do think we can attain a higher level of professionalism; not by lecturing, but by encouraging one another. If each of us does something to acknowledge the professionalism of others and to assist other lawyers when we see a shortcoming, I believe progress can be made.

We lawyers know what professionalism is. We know it in our hearts. It is not important to compose words to express what we already know. What is important is to have a desire to conform our actions to what we know is the right thing to do.

For some, it is only natural to do the right thing. For most, temptations can lead us astray. The temptations vary. Perhaps it is the thrill of winning, or a financial reward. Most of the time, however, I think it is simply taking shortcuts because of the stress and pressure of having taken on more work than can be done, or having promised more than can be delivered. Each occasion we go astray, our reputations for honesty, reliability, and competence are depreciate.

Those are our most valuable assets. They are the assets which bring long term success and satisfaction.

Unfortunately, we can all be shortsighted. In the rush of daily practice, we can lose sight of what is important. And, all of us are tarnished when one of us fails.

We are competitors. It is in the nature of what we do as lawyers. But, adversaries need not be enemies. We can be friends as well. We can help ourselves by helping each other. It does not take a lot. A compliment to an adversary on a well-argued position, or a friendly suggestion when someone is going astray, can be enough. Friendliness can accomplish much.

This month our Bar will recognize one of us with the Professionalism Award. My thought is that we can all share in that award. It is an idealistic thought. But, professionalism is all about acting in accordance with our ideals. We just need to do what we know is right. And, lend a hand when one of us loses sight. We are all brothers and sisters at the Bar. Sometimes, we just need to be reminded of it.

Michael P. McMahon, Esq., is a Shareholder with Akerman Senterfitt, Attorneys at Law. He has been a member of the OCBA since 1977.

THANK YOU

Percy R. Luney, Jr.

AND

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OCBA Foundation

Building a Foundation

— Nick Shannin



Who went to the first ever OCBA Poker Tournament? I did - with more than 100 of my newfound poker aficionado friends. Proof resides in the picture in December's *The Briefs* showing me losing my chips to Mayor Buddy Dyer. (Warning: skilled politicians really do have a poker face!) Who, though, was the winner of the Tournament? The OCBA Foundation.

The chips used in the tournament weren't real, but the entry fee was, and the proceeds went to the non-profit Foundation. Many are unaware of this charitable organization, which is a separate entity from the OCBA. The Bar is here for its members: to provide needed services, to offer networking opportunities, and to enhance professionalism and camaraderie among the attorneys of Orange county. The Foundation, too, has the interests of the Bar at heart, but as it relates to the community outside of the Bar. The Foundation's three key objectives are:

- 1) To provide education, particularly on law-related subjects;
- 2) To enhance the understanding of the role of lawyers; and
- 3) To empower our constituents to access legal services.

Lofty goals. The Foundation has modest means by which to accomplish them. Still, through fundraising efforts such as the Poker Tournament and the Gala, we have supported or expanded numerous programs, such as Teen Court, Legal Explorers, the Juvenile Justice Award Fund, the Courthouse Information Program, Junior Achievement and the Law-Related Education newsletter to name a few. And we want to do more: expand our contact with our community, enhance the scholarship program established by the Young Lawyer Section, and promote the *pro bono* contributions of our members to the Legal Aid Society. But we can only do this with your help!

The easiest way to help is to sponsor the OCBA Foundation Gala. Last year's event was a sell-out, and this year should be even better, with our most-exclusive-ever venue: Isleworth Country Club! Your sponsorship information and invitation will arrive soon, but **save the date now for April 29, 2006**, and put it in pen. A great time will be had, but more importantly, a great charity will be promoted. Both the lives of lawyers and of members of our community will be better for it. See you all there!

Nicholas A. Shannin is a Partner with McDonough Wieland & Shannin, and currently serves as President of the OCBA Foundation. He has been a member of the OCBA since 1995.



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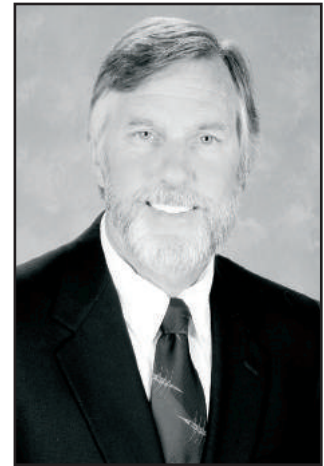
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Presentation Skills for Lawyers

Story Time: Reading to Your Audience

Elliott Wilcox



Have you ever heard an attorney stumbling or stammering while reading depositions to the jury? Ever felt sorry for someone attempting (but unable) to effectively read a passage to the congregation at your place of worship? Or have you ever read something aloud to a group and then thought to yourself, “They must think I’m an idiot - that sounded awful.”

Reading aloud requires different skills and preparation than that required to speak to an audience or read quietly to yourself. Regardless of whether you’re reading stipulations to a jury, quoting from a favorite text, or delivering a prepared statement to the press corps, these tips will improve your presentation the next time you read aloud to an audience.

Read the script in advance. No matter how great your command of the English language, and no matter how well you read, you should read the document aloud *before* you read it to your audience. Words that you’ve read silently dozens of times before can become troublesome when spoken aloud. You don’t want to stammer or trip over words in public. Find a quiet place and read the document. Not silently - read it aloud. There are several reasons why you should read the document in advance:

First, you want to ensure that the script is complete. We’ve all had the experience of reading through a contract or a fax, only to realize partway through that you’re missing a critical page. It’s better to discover the missing page in your office, rather than onstage or in the courtroom.

Second, you want to make sure that you can pronounce the words and capture the flow of the language. Think about reading any of Shakespeare’s works aloud - you wouldn’t want to pick up the text and just “wing it.” Reading the document in advance, you will discover words you can’t quite wrap your mouth around. Rather than fumbling your way around the word in public, you can practice pronouncing the word until it flows from your tongue with ease.

Third, you will discover that words written for the eye differ from words written for the ear. Things that made sense on the page aren’t as clear when spoken aloud. Your job as the narrator will be to convey the writer’s meaning to your audience. The audience won’t be able to see the commas, parentheses, brackets, ellipses, colons, and other grammatical tools that the writer uses to promote understanding. Reading the document in advance will highlight the sections that require you to pause, change your pace, or vary your vocal inflection.

Mark up your text. As you read through the material,

use pens and highlighters to add staging comments. These comments will help prevent you from speaking in a monotone voice. Highlight or underline the key words that you will want to emphasize (the words that will carry the sentence). Add dividing lines or slashes (“//”) between sentences to indicate extended pauses. Add directional lines over phrases to indicate when you should raise or lower your pitch. Write phonetic (foh-net-tick) spellings of difficult words or names so you don’t mispronounce them. Add staging comments like “whisper,” “slow down,” or “look at the CEO” to the margins. No one else needs to read your script, so feel free to scribble all over it, adding anything that helps you get the message across.

Blow it up. Make your text large enough to read. Words that were easy to read in your office (under perfect lighting and without any performance pressure) may be more difficult to read onstage or in court. If you are printing your own script, use 18 point font size or larger. If you will be reading a passage from a book, enlarge the text on your photocopier and tape it into the book. Make the script easy on your eyes, so that you will be free to concentrate on your delivery and connecting with the audience.

Maintain eye contact. Many lawyers make the mistake of talking to the script that they’re reading from. They keep their eyes on the paper the entire time and ignore their audience. Don’t talk to your script. You’re presenting to an audience - connect with them through eye contact. This is a fourth reason to read the material in advance. If you are familiar enough with the material, you can let your eyes wander from the page and connect with your audience. Use your finger to keep track of your place in the document, but maintain eye contact with your audience. A good rule of thumb is to look at your audience at least half the time. The best presenters can maintain eye contact with the audience over 75% of the time while reading from a script or document.

Remember, the reason that you’re reading aloud is to communicate an idea, belief, or image to your audience. If you apply these tips the next time you read from prepared notes or from a document, you will help your audience pay attention to what you’re saying, and your presentation will be a success.

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Elliott Wilcox is the creator of Trial Tips Newsletter, a free weekly ezine for trial lawyers that reveals the simple, effective strategies and techniques you need to win more trials, guaranteed! Sign up now for your FREE trial advocacy tips at www.TrialTheater.com.



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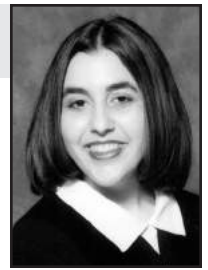




Entertainment Law Committee

Simplifying Intellectual Property

— Sandra R. Carbone



Many of us have heard a remark in casual conversation such as, "That's her patented dance move," or "Those seersucker suits are his trademark." As commonplace as the words "copyright," "trademark," and "patent" have become as colloquialisms, their informal uses are not always synonymous with their true meanings. In the realm of intellectual property law, they denote three categories of protected property rights, which have become increasingly important to clients even in many of the more traditional practice areas, which often overlap.

The "Intellectual Property Clause" of the U.S. Constitution, found in Article I, Section 8, Clause 8, provides Congress with the power to promote these rights. Copyright, the most well known of the three, protects works of authorship in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Copyright protection is virtually automatic, and easily obtained in the act of creating a writing such as a screenplay, song lyrics, a novel, or even building plans. A more extensive list is contained in the provisions of the Copyright Act of 1976, § 102(a). A formal filing process can be an additional safeguard to these rights through the U.S. Copyright Office and the Library of Congress.

Trademarks may be defined as any word, name, symbol, or device, or any combination thereof, which is adopted and used by a manufacturer or merchant to identify and distinguish his or her goods or unique products from those manufactured or sold by others, and to indicate the source of the goods, even if that source is unknown. This protection may be found under the Trademark Act of 1946, 15 U.S.C. § 1127, (Lanham Act § 45). Trademarks may be obtained by filing at both the state and federal levels. The four categories of protected trademarks - descriptive, suggestive, arbitrary, and fanciful - afford the trademark owner protection in their use in commerce. Trademarks appear in daily life, causing you to "Obey your thirst" (Sprite) or commanding you to "Just do it" (Nike). They range from

legendary symbols of the golden arches of McDonald's to Leo the Lion's roar used by MGM. A close relative, trade dress, is also used as product identification if it is nonfunctional and inherently distinctive (i.e., the yellow and black color of Cliff's Notes or blue triangular roof on International House of Pancakes).

Like copyrights, trademarks may be licensed or sold. They may also be used without permission from, or compensation to, the original creator if done in connection with comparative advertising; news reporting and commentary; and noncommercial use. If these exemptions do not apply, the trademark owner may assert the theory of unfair competition. Issues of unfair competition generally arise when one party intentionally uses the fame, goodwill, or notoriety that the other party has established through expensive advertising and publicity, in order to acquire the benefits of those efforts.

The final category, patent protection, is an area unto itself, and is found under 35 U.S.C. § 101. Patents fall into three categories - utility, design, and plant - and applications for patents must be thoroughly examined and compared with previous patents before being accepted and issued. Patents allow their inventors the exclusive right to make, use, and sell their products, devices, or processes for a set period of time. This allows a creator to reap the rewards of the new, useful, and non-obvious process or product that he or she developed, while subsequently contributing to the improvement of society by allowing the conscious collective to expand upon that technology. Unlike a copyright, a patent may not be renewed and is released into the public domain upon expiration. Licensure through the Patent Bar is required for attorneys in prosecution of a patent through the USPTO, but not for representation in infringement actions.

With a basic understanding of each category of intellectual property, you may better advise your clients of their potential rights, and in associating experienced counsel to preserve them. For additional information, visit www.uspto.gov and www.copyright.gov.

Sandra R. Carbone is an Associate with Alvarez, Sambol, Winthrop & Madson, P.A. She has been a member of the OCBA since 2003.

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OCBA Past Presidents: The Hon. Robert J. Pleus, Jr. (1976-77); Michael R. Walsh (1973-74); Lee J. Colling (1965-66); Leon H. Handley (1963-64).

Chief Justice Charles T. Wells, OCBA President from 1989-1990, was one of 34 former OCBA presidents who attended a recognition dinner on January 18, 2006, at the Citrus Club in downtown Orlando.



Executive Council members Glenn Adams, Paul Scheck, Jessica Hew, Gene Shipley and Tad Yates were on hand at the Past Presidents Dinner to welcome former presidents and leaders of the bar association.



At the Affiliate Outreach Conference held January 13-14 in Cape Canaveral, the YLS received a \$1,500 grant from the Florida Bar Foundation to benefit its Helmet Project, which was presented by YLS Secretary Sarah Reiner of Moran & Shams, P.A. The project will provide bicycle helmets and safety training to students at Lovell Elementary in Apopka. Pictured from left to right are conference coordinator Heather Pinder Rodriguez, Sarah Reiner, Florida Bar Young Lawyers Division President Jamie Billotte Moses, Jane Curran, Executive Director of the Florida Bar Foundation and OCBA YLS President Tom Zehnder.

Okay folks, the holidays are over, vacations are done, and everyone seems to be getting back to business! Calendars are filling up with committee meetings, luncheons, seminars, receptions, networking breakfasts.... who has time to practice law anymore?! Once again, OCBA members have been keeping busy and we have lots of news to share (and more great events to add to those calendars). So, here's what's up....

GrayRobinson attorney **David B. Canning** has been appointed to the 2006 Board of Directors for the East Orlando Chamber of Commerce. **Derek Bruce**, also with GrayRobinson, has been appointed to the 2006 Board of Governors and Executive Board for the Orlando Regional Chamber of Commerce. Bruce also serves as Associate General Counsel to the Orange County Property Appraiser and is an "AV"® rated attorney by Martindale-Hubbell. In addition to his law practice, Bruce is active in the Central Florida community, championing children's causes and economic development.

Jill Schwartz of Jill Schwartz & Associates has been elected to the board of directors of Hospice of the Comforter. Hospice of the Comforter is a community-based, non-profit Hospice serving terminally ill patients in Seminole, Orange and Osceola Counties since 1990. **Douglas A. Kelley** with Holland & Knight has been elected vice president of the board of directors of the Central Florida Bankruptcy Law Association for 2006. **Rachael McMorris Crag-Chaderton** with deBeaubien, Knight, Simmons, Mantzaris and Neal, LLP, was named the Women's Executive Council's 2005 Community Service / Volunteerism Award winner.

Elliott Wilcox recently published *The Trial Notebook: Lessons Learned from the Courtroom*, a book designed to improve trial advocacy skills and capture lessons learned during trial. Wilcox has also created a website, www.TrialTheater.com, to help lawyers improve their trial skills. **William R. Barker**, a sole practitioner in Orlando, recently returned from a one-year tour of duty with the U.S. Army. While stationed in Iraq and Kuwait, Barker was a senior transportation officer assigned to the 143D TRANSCOM, a United States Army Reserve unit. The TRANSCOM was responsible for port operations in Kuwait, and line haul of unit equipment and sustainment supplies into and from Iraq. Barker was awarded the Meritorious Service Medal for his duty performed. He has re-opened his practice involving general civil matters.

Meanwhile, local firms continue in their efforts to assist in hurricane relief efforts. **Dellecker, Wilson, King, McKenna & Ruffier, LLP**, recently hosted an event that raised money for Habitat for Humanity's Operation Home Delivery. Nearly

Kristyne Kennedy

\$7,000 was raised for the program that is bringing homes to the hurricane-affected regions of the Gulf Coast. Guests at the Cajun-themed party dined on fresh-shucked oysters on the half shell, Crawfish Jambalaya, red beans and rice, and enjoyed a traditional Zydeco band. **Akerman Senterfitt** has assembled a disaster recovery task force aimed to help clients navigate the effects of increasingly active hurricane seasons in Florida, the Gulf region and in international waters. The group plans to assist business owners, homeowner associations, and private individuals with recovery efforts and preventive measures to avoid future repeat damage and liability.

Don't forget to add even more great OCBA events to your calendars! Plan to attend the OCBA Young Lawyers' Section's annual **Evening with the Judiciary** on **March 2, 2006** (*note the date change!!*) This event always draws a big crowd and is a great opportunity to socialize with friends and members of the judiciary in a casual environment while enjoying great food and drinks. For more information, contact **Bill Denius** at wjdenius@kpsos.com or **Suzanne Paulus** at spaulus@dmulaw.com. The YLS has many other great events planned in the coming months. For more information visit the OCBA website at www.orangecountybar.org.

Get ready for the OCBA's 2006 Gala! This year, the fundraising gala will be held on Saturday, **April 29, 2006** at the beautiful Isleworth Country Club and will benefit the OCBA Foundation, Inc. You won't want to miss this annual event, so be sure to save the date now! For more information, contact **Nick Shannin** at nshannin@orllaw.com or (407) 425-7577. If all of that isn't enough fun for you, remember that the OCBA Social Committee is getting ready to plan another year of great events. The past year's events were all a big hit, including happy hours, poker tournaments, trivia, and more! Special thanks to all of our sponsors of the Social Committee's events, including the 2006 Winter Wine & Cheese Party Sponsors: **Ford & Harrison; CSX; Carlton Fields; and Rumberger, Kirk and Caldwell**. If you have ideas on future events or if you would like to participate in this committee, feel free to contact me at kennedyk@jacksonlewis.com.

Until next month, keep sending all of your news (about yourself or others) and other interesting information (no recipes, please) to me at kennedyk@jacksonlewis.com or fax (407) 246-8441.

Kristyne E. Kennedy is an attorney with Jackson Lewis LLP. She has been a member of the OCBA since 2001.



As a result of its wonderfully successful Charity Golf Tournament organized by YLS members Chelsie Roberts and Maria Hale, the OCBA YLS donated \$6,000 to the American Red Cross for Hurricane Katrina relief at the January OCBA luncheon. Pictured above from left to right are YLS Board member Judi Garabo, YLS President Tom Zehnder, American Red Cross representative Oscar Nieves and YLS Board member Kim Webb.



Yvette Rodriguez Brown (right), President of the Legal Aid Society, presents free Sea World tickets to some lucky winners at January's OCBA luncheon. LAS will celebrate 45 years of community service on February 25th with a big bash at Sea World.

The Orlando Sentinel columnist Scott Maxwell entertained members and guests at January's luncheon with his comments on the local political scene.



The OCBA's Social Committee threw a successful Winter Wine & Cheese party at The Monkey Bar on Wall Street. More than 120 members and guests warmed up to the idea of a mid-winter break!



OCBA Legal Aid News

John Hamilton Receives Pro Bono Award

Catherine A. Tucker



At the Seminole County Bar Association's December bar luncheon, John R. Hamilton of Foley & Lardner was the recipient of the 2005 Outstanding *Pro Bono* Attorney Award. The award is named for Edward R. Smith who was an attorney and entrepreneur and a generous supporter of Seminole County Bar Association Legal Aid Society.

John received the award for his work on behalf of the Seminole Legal Aid Society and its clients. In 2004, the legislature changed the civil indigent statute and required indigent litigants to pay the filing fee and court costs through a payment plan. At the time the Clerk of Court in Seminole County began charging filing fees to indigent clients and only offered a uniform plan which denied indigent litigants access to the judicial system. The policy had a devastating effect on the clients of the program. They were unable to commence actions in Seminole County due to their inability to pay the filing fee.

Among these clients was a grandmother who wanted to establish custody of her grandchild that was abandoned by her parents. John Hamilton agreed to represent the

grandmother and Seminole Legal Aid. He filed a mandamus action against the clerk and prevailed in the case. Indigent clients are now able to obtain a payment plan in accordance with their income and ability to pay. The case required an enormous amount of time and had a major impact on the lives of indigent persons in Seminole County.



John Hamilton receives Outstanding Pro Bono Attorney award from The Honorable Donna McIntosh.

John is a partner at Foley & Lardner and a member of the firm's litigation department and its Appellate and General Commercial Litigation Practice Group. He is board certified in Appellate Practice and Civil Litigation. He is a graduate of the University of Kentucky. He is also the recipient of *pro bono* awards for his work through the Legal Aid Society of Orange County Bar Association, winning the New Lawyer Award in 1994 and an individual Award of Merit in 2002. He has handled a variety of *pro bono* cases at trial and appellate court. He is a former Board of Trustees member of Legal Aid Society of OCBA.

Catherine A. Tucker is the Deputy Director/Pro Bono Coordinator of the Legal Aid Society of the OCBA. She has been a member of the OCBA since 1986.

Join the Legal Aid Society as it Celebrates 45 Years of Service

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Send all payments to JoAnn Tucker-Hall. Complete the form below and fax to 407-648-9240 or mail to Legal Aid Society, 100 E. Robinson St., Orlando, FL 32801. A receipt of your payment will be mailed to you with your tickets. If you have any questions, contact Yvette Rodriguez Brown at 407-422-2454 or JoAnn Tucker-Hall at 407-841-8310 ext. 3128.



There will be a Character Appearance, a Tropical Bird Appearance and interactive D.J. along with a Backyard Cookout Extravaganza!



YLS on the Move!

Chelsie Roberts



On January 13-14, 2006, I attended the Florida Bar Young Lawyers Division's Affiliate Outreach Conference in Cape Canaveral with several current and past YLS members and their families. On Friday afternoon, we joined other young lawyers from across the state for serious discussions on funding and membership challenges - some groups had as few as 10 members and no budget. On Friday night, we enjoyed dinner at the Kennedy Space Center's Apollo/Saturn V Center and had not-so-serious discussions about the height of NASA's Vehicle Assembly Building.



From left to right are:
Woody Rodriguez,
Chelsie Roberts,
Liz McCausland,
Tom Zehnder,
Maria Hale and
Wiley Boston

On Saturday morning, several affiliates presented projects to members of the YLD's Board of Governors and Jane Curran, Executive Director of the Florida Bar Foundation, in hopes of earning grant money to fund their project. The YLS received a \$1,500 grant to benefit the Bike Helmet Project, an idea inspired and presented by YLS Secretary Sarah Reiner. The grant will allow the YLS to purchase bike helmets for students at Lovell Elementary School in Apopka and, in conjunction with the Orange County Sheriff's Office and Children's Safety Village, provide bicycle safety training to all students. Thank you to Sarah for the time and effort she dedicated to this worthwhile project!

Although I enjoyed learning that the VAB is the tallest single-story building in the world, the most significant aspect of the weekend for me was appreciating that service and community involvement do not require an unlimited budget or abundant membership - just a legitimate need and the will to fulfill it.

Special thank you to Tenesia Connelly Hall, committee members Yvette Rodriguez Brown, Eileen Fernandez, Jennifer Wimberly, and Tom Zehnder and everyone who donated items for the Seniors First clothing drive in December. More than ten bags were delivered to the seniors just before Christmas and provided much needed clothing, blankets and toiletries.

The next YLS luncheon will be on Thursday, February 16th at the Citrus Club from 11:45 a.m. - 1:00 p.m. RSVP to George Enos at georgeE@ocbanet.org. The cost is \$18.00 for those who RSVP in advance (\$10.00 for solo practitioners and government attorneys) and \$20.00 for walk-ups. Upcoming lunches will be on March 16th, April 20th and May 18th.

Happy hours return on Friday, February 17th! The location is yet to be determined, so watch for details in future e-mail blasts or contact Judi Garabo at garaboj@gtlaw.com or Kristen Cox at kcox@shutts-law.com for more information.

Join the YLS, local attorneys and several members of the local judiciary at the annual Evening with the Judiciary on Thursday, March 2, 2006 at the Winter Park Farmers Market. This year's theme is festive Key West, complete with margaritas, punch, wine and beer. Food and entertainment will also be provided. For more information, contact Bill Denius at wjdenius@kpsos.com or Suzanne Paulus at spaulus@groneklatham.com.

A Habitat for Humanity event tentatively planned for March has been postponed. Watch your YLS e-mail blasts for a new date or contact Shane Fischer at sfischer@boginmunns.com or Suzanne Paulus at spaulus@groneklatham.com for information.

March means election season in the OCBA and the YLS has five at-large positions open on the Board of Directors. Each position involves a 2-year commitment. Nominating petitions, which are available online at www.orangecountybar.org and will also be available at the February YLS lunch, must be signed by five OCBA members and submitted to the OCBA office by March 1, 2006 at 5 p.m. Ballots will be sent in the mail in mid-March and must be returned to the OCBA office by 5 p.m. on March 27, 2006. Please also be sure to complete the information card enclosed with the ballot to be included in the upcoming YLS Directory.

Finally, mark your calendars for this season's exciting events:

- Spring Party/Relay for Life - March 24, 2006
- Great Oaks Village - April 16, 2006
- YLS Happy Hour - April 21, 2006
- OCBA Gala - April 29, 2006
- YLS Happy Hour - May 19, 2006

If you have any questions about YLS events or would like information on how to get involved with the YLS, e-mail me at croberts@fordharrison.com.

Chelsie J. Roberts is an Associate with Ford & Harrison LLP. She has been a member of the OCBA since 2003.

Portrait Service Available to OCBA Members!

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photo session with
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All photos will be taken at the OCBA Center in February.

strong application of the Economic Loss Rule.

In the recent case of *M/I Schottenstein Homes, Inc. v. Azam*, 813 So.2d 91 (Fla. 2002), the Supreme Court in fact overturned a portion of the *Pressman* ruling. Specifically, the court overturned the portion of *Pressman* that held that misrepresentations or omissions of facts contained in the public record were not actionable as a matter of law. The court limited this portion of *Pressman* to only those circumstances where the facts at issue were contained in the recorded chain of title of the property. With regard to other issues contained in the public records at large, the court indicated it was a factual issue for determination by a trier of fact. *M/I Schottenstein Homes, Inc.*, 813 So.2d at 95. Although the case did not specifically deal with the "as is" portion of the *Pressman* ruling, it certainly tarnished the precedential value of *Pressman* as it shows the reluctance of the Supreme Court to recede from or limit *Johnson*.

This reluctance to construe "as is" clauses as they are generally understood or believed to apply by the public at large seems to be an increasing trend. In the relatively recent case of *Solorzano v. First Union Mortgage Corporation nka Wachovia Mortgage Corporation*, 896 So.2d 847 (Fla. 4th DCA 2005), the court indicated that the defendant's reliance on the "as is" provision was misplaced. The court stated that an "as is" clause in a contract for sale of residential property does not waive the duty imposed upon a seller under *Johnson v. Davis*. Also see *Syrvrud v. Today Real Estate, Inc.*, 858 So.2d 1125, 1130 (Fla. 2d DCA 2003). In *Syrvrud*, the court indicated that an "as is" clause does not waive the duty imposed by *Johnson v. Davis* to disclose hidden defects.

Interestingly, *Syrvrud*, in dicta, does make an offhand reference that may provide some guidance in drafting a more binding "as is" addendum. Specifically in *Syrvrud*, the court indicated that "if the provision in question disclaims representation warranties and guarantees concerning the property but does not specifically provide for a waiver of the duty to disclose, how is it to be interpreted?" Although asked in an interrogatory format, it appears this question implies that a specific enough reference to a waiver of a duty to disclose might have the effect of waiving the duties under *Johnson*.

The answer, unfortunately, to the question of the status of "as is" addendums or contracts for the purchase and sale of residential real estate in Florida is that it is unclear. Since

the inception of *Johnson v. Davis*, there has been increasing litigation in the State of Florida regarding this issue. Unfortunately, *Johnson v. Davis*, is often used in cases of buyer's remorse where a diligent buyer should have done further investigation.

These cases are tried based on 20/20 hindsight and it is difficult to recapture the actual knowledge of the seller upon closing. A common theme in many of these cases is the seller's misunderstanding of an "as is" addendum. Therefore, *Johnson v. Davis* litigation can be expensive and often requires trial to resolve liability. Unfortunately, since the advent of the *Pressman* decision, there has been little or no follow-up from the courts in determining what contractual language could be used to control the obligations created in *Johnson v. Davis*.

Is an addendum of contract which indicates that the buyer has had an opportunity to inspect the property and is fully aware of the conditions sufficient to relieve a seller of its obligations? The case law is unclear. Clearly, a clarification of what contractual language, if any, will relieve a seller of the seller's obligations under *Johnson v. Davis*, is warranted. With the current pace of residential sale activity in Florida, this clarification cannot come soon enough.

Douglas K. Gartenlaub is a Partner with Graham, Builder, Jones, Pratt & Marks, LLP. He has been a member of the OCBA since 1996.

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From the Classroom to the Bar

The OCBA has developed exciting new partnerships with both Barry University School of Law and Florida A&M University School of Law. To support local law students, The Briefs will entertain questions from students interested in aspects of the practice of law that might not be covered in the classroom. To that end, we hope that experienced attorneys will volunteer to respond with insight and candor to the many questions that are sure to arise.

William C. Vose
Robert Wesley
Jamie B. Moses

Ruth Singer, FAMU law student, writes:

Q. There is a great deal of hype surrounding the acquisition of summer employment. With many firms seemingly unwilling to hire first year students, what sort of alternative activities would you recommend for those who may not be fortunate enough to obtain a paying job with a firm? Are there any that would be particularly attractive to future potential employers?

Responses to Ruth's question come from both private- and public-sector practice:



A. William C. Vose, State Attorney's Office: The State Attorney is generally not funded to hire non-certified interns. However, we do offer certified internships (for credit) through most law school clinical programs, such as Florida, Florida State, Nova, Barry and others. We do not participate in the FAMU Clinical program at this time due to technical problems inherent in FAMU's curriculum where students are not available

for work for the minimum number of hours required. We do allow non-certified law students to work in the office on a non-paid basis after a screening process. Any applicants should send a cover letter and a complete resume to our personnel section, Attn: Anna Akers and Tamra Crane, 415 N. Orange Ave., P.O. 1673, Orlando, FL 32802.

William C. Vose is Chief Assistant State Attorney with the State Attorney's Office. He has been a member of the OCBA since 1973.



A. Robert Wesley, Public Defender's Office: Be more creative in your job search and do whatever you can to be exposed to a law office atmosphere before graduation. Law students seem to only recognize a legal community made up of mega-firms and traditional public law offices. In fact, the backbone of our profession is the sole proprietor and small, freestanding offices. A busy solo practitioner may be easier to convince that she or he can

enjoy a more relaxed few months with extra family time simply because you're available to do whatever is needed in their office during the dog days of summer.

Finding a summer home in a small firm will assure you more client contact and will probably give you better insight into the pressures, and rewards, of the practice of law. And, there is a greater likelihood of continued part-time employment with a small firm once they have come to rely upon your research, document prep and good technical skills.

With that having been said, our offices normally welcome 40 or more interns every summer - some paid, some unpaid; some receiving school credit and many seeking only exposure and experience. We routinely have undergrads studying anthropology,

legal studies, political science, social work, psychology and other majors with us in the summer. We invite some student practitioners, working for school credit as Certified Legal Interns, from law schools around the country. Applications from 2L students are usually received six or more months in advance of the summer session, again from a variety of schools. Some opportunities are extended to 1L students, especially those with criminal justice system experience. Of course, an invitation to join us as a Summer Intern - paid or unpaid - depends upon the background and abilities of the applicant and our budget circumstances at the time.

But again, by all means, find a place to feel for yourself what the practice of law is all about.

Robert Wesley is the Public Defender with the Public Defender's Office. He has been a member of the OCBA since 1996.



A. Jamie B. Moses, Fisher, Rushmer, et al.: In my opinion, the question to ask yourself when making a summer employment decision is: "How can I best explain my choice? Where does it fit in with my desire to practice law upon graduation?" If you do not obtain a paying clerkship for the summer, then you should look into nonpaying legal opportunities. Is there a professor that needs research assistance? Will a local lawyer let

you job shadow? If it is not economically possible to do such work on a full time basis, see if you can do something part time. As an interviewer, I would be impressed by a student that worked during the summer to pay the bills or save for school, but also sought out an opportunity in the legal profession, even if it was not a paying opportunity. Demonstrating initiative and dedication to your future profession is impressive.

If these types of opportunities don't present themselves, then whatever choice you make should be well thought out. What will you be able to say when explaining your resume? If working as a nanny for a family friend allowed you to live there for free and take an extra class at the law school (assuming that's true), then that's a good explanation for your choice. If you think you would like to do family law and an opportunity to volunteer at a children's counseling facility arose, that would be a good choice. If you think you want to do business law, why not take a business course over the summer while working whatever job you have? Again, that non-legal job might give you the flexibility to take a class you might not have otherwise been able to if clerking.

The bottom line is summer clerkships for first years are difficult to come by. As such, a law student should not expect that he or she will necessarily have a clerkship for the summer. All students should have an alternative plan if the traditional legal job does not present itself. What is most important to me, as an interviewer, is that the candidate's choices are well thought out and have some rhyme and reason to them.

Jamie B. Moses is a Shareholder with Fisher, Rushmer, Werrenrath, et al. She has been a member of the OCBA since 1995.



Florida Bar News

Board of Governors Report



Mayanne Downs

At its December 16, 2005, meeting in Amelia Island, The Florida Bar Board of Governors:

- Voted unanimously to approve a motion expressing the sense of the board that the board considers it unprofessional and unethical for lawyers to mine metadata from electronic documents. Metadata is hidden information in an electronic document that can reveal changes, authors, notes, and other potentially confidential information about how a document was created and edited. The board also asked the Professional Ethics Committee to study the issue and determine whether it would best be addressed by a rule amendment or an ethics opinion.

- Received on first reading policies to guide Bar staff counsel when they oversee undercover UPL investigations. It will be presented for a final vote to the board at its February meeting.

- Approved a strategic plan for the Bar for the next three years that calls for, among other things, encouraging support of state legislative candidates who support judicial independence, getting adequate state and local funding for the courts, and supporting the Supreme Court's certification of new judges.

- Approved a legislative position opposing proposed state House and Senate bills as originally filed that would creating a licensing and regulation system for paralegals. The board noted that it further believes more meaningful recognition of paralegals can be achieved by continuing discussion with the legal profession and judicial branch before enactment of this particular legislation.

- Endorsed a proposed amendment to Rules 3.131 and 3.132 of the Rules of Criminal Procedure on pretrial release and detention proposed by the Fast Track Committee of the Criminal Procedural Rules. The committee suggested to the Supreme Court that temporary rules it adopted after striking down a bill that conflicted with the rules be made permanent. The committee also submitted, if the court wants to consider an alternative, a rule based on the bill, which passed in 2000. That bill denied non-monetary bail on first appearance to defendants charged with a violent crime, which the court held was an infringement on its procedural rule-making authority.

- Voted to ask the Professional Ethics Committee for an opinion on the propriety of lawyers making electronic copies of old files and records they must keep, and whether rules should be changed to accept digital copies on court records and other filings. The issue has become increasingly important as lawyers have turned to electronic copies to preserve files as part of their hurricane preparedness plans.

- Approved a poll on Floridians' knowledge of civic issues, including the separation of powers, as a parallel to a similar nationwide ABA poll. The results will be used by Bar President Alan Bookman as he meets with newspaper

editorial boards and makes public appearances around the state.

- Approved creating a new certification area of State and Federal Government and Administrative Practice. Rules setting up the new area now go to the Supreme Court.

- Heard President Alan Bookman announce he is appointing a committee, pursuant to an order from the Supreme Court, to draft a proposed rule on attorney contingency fees in medical malpractice cases. The court is considering a rules petition that would prevent clients from waiving fee limits set under a constitutional amendment approved by voters in November 2004.

- Approved the recommendation of the Program Evaluation Committee to conduct a survey to lawyers with disabilities in Florida to see what barriers they face.

If you would like to discuss issues contained in this report, please contact Mayanne Downs at mdowns@kbdlaw.com or 407-422-2472.

Mayanne Downs is a Partner with King, Blackwell, Downs & Zehnder, P.A. She has been a member of the OCBA since 1988.

*The law firm of Scarborough Hill & Rugh
is pleased to announce that*

STEVEN R. MAIN

*has been named a partner
with the firm.*

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Continued from page 8

bird's eye view of the enormity, the richly varied textures, the emotions and complexities of society's problems. A judge sees life's dramas played out every day in a moving tapestry of humanity, advocacy and pursuit. A judge gets to watch, and possibly influence a future generation of, talented young lawyers as they perfect their craft and their commitment to the goals of justice. A judge gets to go home every night knowing they have tried their best to do what is fair and that some of the litigants from that day have a better understanding about the way we ought to relate to one another in this complex world.

What I like least about being a judge: Other than people wasting time and being undiplomatic, it's all phenomenal. And those aggravations wash away when those folks move aside for the next case anyway.

What book every attorney should read: Anything and everything by Stephen Covey. His insights on principle-centered leadership could help every one of us create careers filled with meaning as well as success.

My favorite legal movie: *My Cousin Vinny*

Any comments to the OCBA: I've enjoyed twenty-five years of practice with the lawyers in this community. At this point, I'm nostalgic and honored to be among you. I am grateful and humbled for the trust you have put in me as a judge. We have as good a group of hard working, talented, decent human beings in our Bar as anywhere on earth. Let us strive to make sure that our young lawyers carry on the ideals of professionalism that have allowed our community to trust us with their greatest problems.

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&

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South Florida Office

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Now with offices in South, Central and North Florida, we can provide responsive, thorough, and effective legal representation to employers, carriers, self-insureds, and servicing agents throughout the entire State of Florida.

We are also pleased to announce that **Gregory S. Raub** and **Anthony M. Amelio** have become Workers' Compensation Board Certified and have been named partners.

In addition, **Allison M. Twombly**, a recent graduate of the University of Florida, has joined the firm as an associate with our Winter Park, Florida office. **Sandra D. Wilkerson**, also a graduate from the University of Florida, has joined our Fort Pierce, Florida office as an associate.



New Members

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Announcements

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Steven R.S. Main - *Scarborough, Hill & Rugh*

New Shareholder

E. Ginnette Childs - *Zimmerman, Kiser & Sutcliffe, P.A.*

New Associates

Patrick H. Willis - *Fisher, Rushmer, Werrenrath, et al.*

Cherie L. Silberman - *Fisher, Rushmer, Werrenrath, et al.*

Joseph R. Coker - *Fisher, Rushmer, Werrenrath, et al.*

Efrain Aponte - *deBeaubien, Knight, Simmons, Mantzaris & Neal, LLP*

Speaking Engagements

Carol E. Donahue - *Donahue & Associates*, recently was the speaker on "Legal Issues for Older Relatives" for Walt Disney's Adult Caregivers Support Network through their employee assistance program, Pacificare.

Ian L. Gilden, Esq. - *Ian L. Gilden, P.A.*, recently presented, "Legal Aspects of Protecting the Elderly," at the Elder Issues and Intervention Training for Emergency First Responders. Attendees consisted of law enforcement personnel and emergency services providers from various agencies in Seminole County, Florida.

Lyndel Anne Mason - *Zimmerman, Kiser & Sutcliffe, P.A.*, spoke December 21, 2005 at the morning loan and credit officers' meeting at Riverside Bank of Central Florida on the topic, "The New Bankruptcy Law and Its Impact on Lenders."

News to Note

Inn of Court - The First Central Florida American Inn of Court is accepting nominations for the 2006 "Arnie Wilkerson Memorial Court Service Award." The award honors persons working in the court system (excluding lawyers and judges) who display the highest standards of character, integrity, and dedication to the judicial system and to the public. Deadline: May 9, 2006. Nominations should be sent to: The Honorable Thomas Mihok, Circuit Judge, Orange County Courthouse, 425 N. Orange Ave., Ste. 1120, Orlando, FL 32801 or by e-mail to: ctjutm1@ocnjcc.org. For additional information, see the OCBA website at www.orangecountybar.org.

Law Library - The Orange County's Law Collection is now available at FAMU College of Law. General legal reference material continues to be housed at the Orlando Public Library. For details, contact FAMU College of Law at 407-254-3268.

Seminar Date Change - The Diversity Committee seminar, "Successful Lawyering in a Diverse Society," previously scheduled for April 20, 2006, will now be held March 24th at the OCBA Center beginning at 1:00 p.m. Additional information will be posted on www.orangecountybar.org within the next few weeks.



IMPORTANT BULLETIN



Election of Officers and Members of the Executive Council of the Orange County Bar Association

The following positions are open for election:

Vice President / President Elect (1 yr.)

Secretary (1 yr.)

Treasurer (1 yr.)

Three (3) Executive Council Seats (3 yrs.)

Election of Trustees of the Board of Trustees of The Legal Aid Society of the Orange County Bar Association, Inc.

The following position is open for election:

One (1) seat on the Legal Aid Society Board of Trustees; the elected Trustee will serve from June 1, 2006 through May 31, 2009.

Election of At-Large Members of the Board of Directors of The Young Lawyers Section of the Orange County Bar Association

The following positions are open for election:

Five (5) At-Large Board of Directors (2 yrs.)

Anyone interested in running for any of these positions should file a written petition at the Association office, 880 N. Orange Ave., Orlando, FL 32801, signed by not less than five (5) members of the Association.

Petitions must be received in the Association office no later than 5:00 p.m. on March 1, 2006. Petitions may be mailed or couriered.

Nominees must endorse their written acceptance on the petition and may NOT accept nominations for more than one (1) office.

No nomination for office of Vice President shall be accepted unless nominee shall have served on the Executive Council at least one (1) year.

Thereafter, the nominating petitions will be canvassed and tabulated by the President and Secretary, who shall thereupon certify the names of all members who have been properly nominated.

Voting shall be by secret ballot mailed to each member of the Association on or before March 15, 2006.

Voted ballots must be returned to the Association office no later than 5:00 p.m. on March 27, 2006.

In the event of a run-off election, the ballots will be mailed on or before April 5, 2006, with the voted ballot returned no later than 5:00 p.m. on April 17, 2006.

Blank petitions are available at the Association office and on the website at www.orangecountybar.org.

ORANGE COUNTY BAR ASSOCIATION LEGAL EDUCATION SEMINARS

<u>SEMINAR</u>	<u>DATE</u>	<u>COMMITTEE</u>
"WAGE & HOUR/OVERTIME PAY"	FEBRUARY 15, 2006	LABOR & EMPLOYMENT LAW COMMITTEE CHAIR- JEFF FEULNER
"CLOSING THE DEAL"	FEBRUARY 22, 2006	REAL PROPERTY LAW COMMITTEE CHAIR- PAT HANCOCK
"BUSINESS COURT II REVISITED"	MARCH 8, 2006	BUSINESS LAW COMMITTEE CHAIR- CHRIS HILL
"SUCCESSFUL LAWYERING IN A DIVERSE SOCIETY"	MARCH 24, 2006	DIVERSITY COMMITTEE CHAIR- BARBARA SMITH
"MEDICAL MALPRACTICE LITIGATION IN A POST-TORT REFORM WORLD"	TO BE ANNOUNCED	MED-LEGAL COMMITTEE CHAIR- LAWRENCE KOLIN
"ABUSE PREVENTION & CONSUMER PROTECTION"	MARCH 31, 2006	BANKRUPTCY COMMITTEE CHAIR- JAMES T. HARPER
"DRAMATIC DEVELOPMENTS IN DIGITAL ENTERTAINMENT"	APRIL 2, 2006	ENTERTAINMENT LAW COMMITTEE CHAIR- LAWRENCE KOLIN
"ESTATE, GUARDIANSHIP, & TRUSTS"	MAY 10, 2006	ESTATE, GUARDIANSHIP & TRUST COMMITTEE CHAIRS- IAN GILDEN, LANCE RAGLAN
"A CONSTRUCTION LAWSUIT FROM START TO FINISH"	MAY 25, 2006	CONSTRUCTION LAW COMMITTEE CHAIR- JOHN SAMAAAN
"EMPLOYMENT LAW"	JUNE 14, 2006	LABOR & EMPLOYMENT LAW COMMITTEE CHAIR- JEFF FEULNER

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Classifieds

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c/o Orange County Bar Association,
P.O. Box 530085 • Orlando, FL 32853-0085

Employment

AV-RATED DOWNTOWN LAW FIRM Seeks 3+ years experienced attorney to service Legal Service Plan administered by the firm. Good people skills are necessary for primarily telephone consultations with a strong team approach; fulltime status. Non-Smoker. Diverse legal background and Spanish speaking a must. Reply to PPL, Managing Partner, P.O. Box 87, Orlando, FL 32802-0087 or fax to 407-992-3595.

LAND USE/REAL ESTATE ATTORNEY: Bogin, Munns & Munns, an AV rated law firm, with seven offices in Orlando and Central Florida, seeks experienced land use/real estate attorney with 3 to 5 years or more experience to assist with dynamic and expanding real estate practice. Creative compensation arrangements available with great opportunity for growth and advancement. Send resume in confidence by fax to: 407-578-2128 or e-mail to bmm@boginmunns.com.

BOGIN, MUNNS & MUNNS, an AV rated law firm, with seven offices in Orlando and Central Florida, seeks two real estate attorneys, one with one to three years experience and one with 5 to 10 years experience to assist with dynamic and expanding real estate practice. Creative compensation arrangements available with great opportunity for growth and advancement. Send resume in confidence by fax to 407-578-2128 or e-mail to bmm@boginmunns.com.

BOGIN, MUNNS & MUNNS, an AV rated Orlando firm seeks bi-lingual attorney with 3-5 years experience in plaintiff personal injury including trial experience. Outstanding opportunity to join growing dynamic firm with excellent benefits and compensation package. Send resume in confidence by e-mail to bmm@boginmunns.com or fax to 407-578-2128.

STUMP, CALLAHAN, DIETRICH & SPEARS, an AV rated firm, seeks associate with 2 or more years of civil litigation/trial or real estate experience with strong research and writing skills. Please send cover letter, resume and writing sample to P.O. Box 3388, Orlando, FL 32802-3388, or fax response to 407-425-0827.

ESTABLISHED CIVIL TRIAL PRACTICE in Downtown Orlando looking for an Associate attorney for Construction Law and Commercial Litigation. Excellent work environment, and compensation package. Please fax resumes to: (407) 386-1902.

BOGIN, MUNNS & MUNNS AN AV RATED Orlando law firm, seeks experienced attorney for high volume, growing corporate/tax practice. Excellent opportunity to join rapidly growing, dynamic law firm. Experience with structuring real estate transactions helpful. Exceptional team atmosphere and opportunity for growth and advancement. Send resume in confidence by fax to 407-578-2128 or e-mail to bmm@boginmunns.com.

ALVAREZ, SAMBOL, WINTHROP & MADSON, P.A., A Full Service AV rated firm has an immediate opening for the Commercial Litigation Practice Group. Successful candidate will have a minimum five years plus experience. Please forward resume in confidence to, Firm Administrator, Alvarez, Sambol, Winthrop & Madison, P.A., P.O. Box 3511, Orlando, Florida 32802 or email to hrrf@aswmpa.com.

SHUTTS & BOWEN NEEDS CONSTRUCTION LITIGATOR - Shutts & Bowen's growing Orlando office is looking for a junior associate with at least one year's experience in construction litigation. The ideal candidate will have the excellent communication, research and writing skills necessary to work with a busy practice group that values teamwork, training and mentoring. Excellent salary and

partnership potential. Please send resumes to: Rejeana Barth, 300 South Orange Avenue; Suite 1000; Orlando, FL 32801.

REAL ESTATE ATTORNEY: Lowndes, Drosdick, Doster, Kantor & Reed, P.A., an AV-rated law firm located in Orlando, Florida, seeks an attorney with a minimum of three years transactional real estate experience to assist with dynamic and expanding real estate practice. Applicant must possess good academic credentials, excellent writing skills and excellent references. Compensation will be commensurate with experience. The law firm offers outstanding financial stability with steady practice growth, sophisticated clientele, outstanding credentials and excellent facilities. Send resume and writing sample in confidence to John F. Lowndes, Esq. or Nicholas A. Pope, Esq., Post Office Box 2809, Orlando, FL 32802.

MID-SIZED CENTRAL FLORIDA based law firm with national civil litigation defense practice seeks appellate attorney with 3-5 years experience. Preferred experience in motion preparation and practice, trial briefing and appeals. Send resume, transcript and writing sample to Managing Partner, P.O. Box 945401, Maitland, FL 32794.

AV RATED LAW FIRM in Orlando seeks attorney with three or more years of experience in wills, trusts, and probate. Experience in corporate transactions also helpful. Outstanding opportunity for growth and advancement. Send resume in confidence to reply box 307.

REAL ESTATE ASSOCIATE - Shuffield, Lowman and Wilson, P.A., an AV rated firm, seeks an attorney for its Orlando office. Position requires 2+ years exp. in commercial real estate. Excellent academic background. Reply in confidence to: Firm Administrator, P.O. Box 1010, Orlando, FL 32802, or swendel@shuffieldlowman.com.

CORPORATE ASSOCIATE - Shuffield, Lowman and Wilson, P.A., an AV rated firm, seeks an attorney for its Orlando office. Position requires 2-5 years exp. in corporate transactions. Excellent academic background. Reply in confidence to: Firm Administrator, P.O. Box 1010, Orlando, FL 32802, or swendel@shuffieldlowman.com.

ORLANDO AREA LAW FIRM with major corporate clients seeks a litigation attorney with three to five years of experience for a challenging and rewarding career. Ideal candidate will possess strong experience in complex litigation matters, including trials. Experience in real estate or vacation ownership law a plus. Qualified candidates will be able to work in a fast paced environment, manage multiple projects at the same time, and be willing to work the necessary hours to respond to business demands, deadlines, and have an entrepreneurial attitude. Must possess strong academic background and demonstrated written and oral communication skills, including the ability to communicate matters concisely and effectively to clients. Member of The Florida Bar is a requirement. E-mail resumes to jcrandall@korshaklaw.com.

HOLLAND & KNIGHT LLP is seeking a litigation associate with 3+ years experience in construction law. Candidate must have immediately transferable skills and a strong academic background. Holland & Knight LLP offers a highly competitive salary and benefits package. All inquiries are handled in confidence. Send cover letter and resume to Debbie Eubanks, P.O. Box 1526, Orlando, FL 32802. EOE/AA/MF/D/V.

GROWING DOWNTOWN FIRM seeks experienced litigation attorney. Send resume and writing sample to Office Manager, P.O. Box 2311, Orlando, Florida 32802-2311.

MID-SIZED CENTRAL FLORIDA based law firm with national civil litigation defense practice seeks associate attorney with 2-5 years experience. Product liability experience a plus. Send resume, transcript and writing sample to Managing Partner, P.O. Box 945401, Maitland, FL 32794.

AV RATED LAW FIRM IN ORLANDO seeks attorney experienced in business litigation, estate and business planning. Outstanding

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The ORLANDO OFFICE seeks (1) a land use & zoning associate with 3+ years of experience. Prior governmental experience is not required but may be beneficial, (2) a public finance associate with 2 to 4 years of experience in public finance or state and local government transactions practices, and (3) real estate associates with 3 to 5 years of transactional commercial real estate experience. Environmental, land use or tax and entity formation experience a plus.

The MIAMI or ORLANDO OFFICE seeks (1) an employee benefits attorney with 4+ years of extensive employee benefit experience in designing, drafting, and assisting employers with administration and compliance issues for qualified (defined contribution and defined benefit) and nonqualified employee retirement plans, executive compensation plans, and welfare and fringe benefit plans for ongoing and terminating plans and in mergers and acquisitions. Thorough working knowledge of ERISA and the internal revenue code required.

The JACKSONVILLE OFFICE seeks (1) a commercial litigation associate with 3 to 4 years experience.

Strong academic credentials and excellent writing skills required for all positions. Florida Bar membership or willingness to sit for next examination required. Send resume/cover letter to: Danielle Shannon, Akerman Senterfitt, One SE Third Avenue, 28th Floor, Miami, FL 33131. Fax: 305-374-5095 or Danielle.Shannon@akerman.com. See full listing of current hiring needs at www.akerman.com.

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ESTABLISHED CIVIL TRIAL PRACTICE in Downtown Orlando looking for an Associate attorney for Construction Law and Commercial Litigation. Excellent work environment, and compensation package. Please fax resumes to: (407) 386-1902.

ASSISTANT COUNTY ATTORNEY - Job Req. #003782; Starting Salary: \$56,000 to \$95,000 - The Orange County Attorney's Office is accepting applications for two Assistant County Attorneys. One of the positions will deal primarily in the areas of land use and environmental law. The other position will deal primarily in the areas of local government and state legislative affairs.

Requirements are graduation from an accredited law school, possession of a Florida license to practice law and at least three years' experience as an attorney, preferably in a law firm, corporate law office or local government agency. Depending on the position, preference will be given to applicants with a background and experience in land use, environmental law or state legislative affairs. Applicants considered for an interview will be required to provide a resume, writing samples and a law school transcript.

Apply by March 4, 2006, online at www.orangecountyfl.net or at Orange County HR, 450 E. South Street, 1st Floor, Orlando, FL 32801. Resumes cannot be accepted in lieu of an OC employment application. Orange County Government is committed to providing equal opportunity in employment and services to all individuals.

SPECIALTY DEFENSE FIRM seeks Associate Attorneys with 2-5 years litigation experience for its Maitland and Tampa offices. SIU/Anti-fraud insurance defense experience preferred. Fax/Mail resume to: Office Manager (407) 647-9966, KINGSFORD & ROCK, P.A., 2300 Maitland Center Parkway, Suite 101, Maitland, FL 32751.

EXPANDING A-V RATED Orlando firm seeks experienced condemnation attorney with five or more years of experience. Outstanding opportunity to join growing dynamic firm. Send resume in confidence to Brief's reply Box 311.

CONSTRUCTION LITIGATION ATTORNEY: Michael C. Sasso, P.A., an AV rated law firm located in Winter Park, Florida, seeks associate to assist with expanding practice. Experience is a plus but not necessary. Great opportunity for growth, advancement and opportunity to work with three Board Certified construction attorneys. Send resume in confidence to msasso@sasso-law.com or fax to 407-629-6727.

ASSOCIATE ATTORNEY - AV Rated Management Labor and Employment firm in Orlando Office. One to two years experience preferred. Send resumes to: Wayne L. Helsby, Esq., Allen, Norton & Blue, P.A., 1477 West Fairbanks Ave., Suite 100, Winter Park, FL 32789; (407) 571-2152; (407) 571-1496 Fax; whelsby@anblaw.com.

AV DEFENSE FIRM seeks civil trial lawyer. Salary commensurate with experience. Send resume to: Patricia Schnepf, Firm Administrator, McEwan, Martinez & Dukes, P.A. via fax: 407-843-1258 or email: pschnepf@mmdorl.com.

AV RATED INSURANCE DEFENSE FIRM seeks Associate for Central Florida Office with 2-5 years exp. Fax resume to 407-622-7890.

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WINDERWEEDLE, HAINES, WARD & WOODMAN, P.A. seeks a paralegal experienced in handling commercial closings, examining title and preparing title commitments and policies. Family friendly, team atmosphere, generous benefits. Fax resume to (407) 645-3728.

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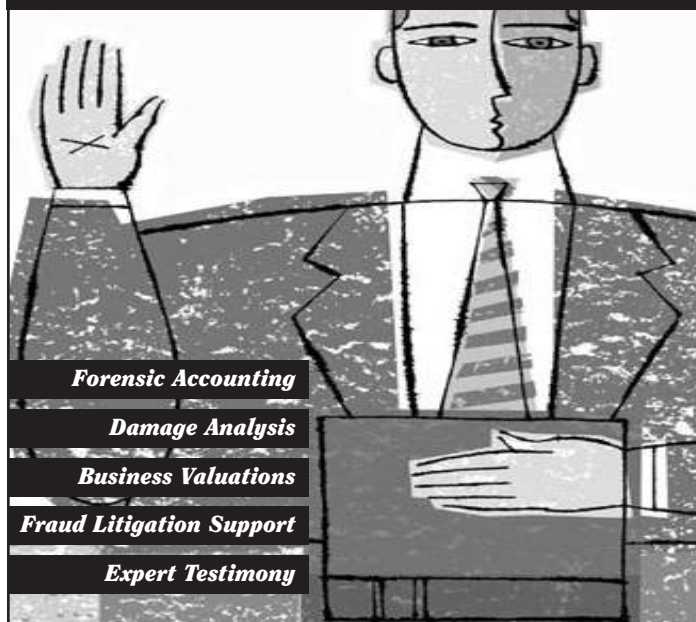
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880 N. ORANGE AVE.
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2006

February - March Calendar

OCBA Luncheon • February 23, 2006

Ambassador

Harriett L. Elam-Thomas

RSVP by February 21st to georgeE@ocbanet.org

February

- 1 Social Security Committee**
12:00 p.m. • Bar Center
- 2 Elder Law Committee**
12:00 p.m. • Bar Center
- 3 CFAWL Luncheon**
Legislative Process Program
11:30 a.m. • Citrus Club
- Criminal Law Committee**
12:00 p.m. • Bar Center
- 7 Paralegal Committee**
TBA
- OCALSS Meeting**
6:00 p.m. • Bar Center
- 8 Estate Guardianship & Trust Committee**
12:00 p.m. • Bar Center
- 9 Real Property Committee**
12:00 p.m. • Bar Center
- Young Lawyers Board Meeting**
5:30 p.m. • Bar Center
- 10 Diversity Committee**
12:00 p.m.
255 S. Orange Ave., Ste. 1401
- 14 Executive Council Meeting**
11:30 a.m. • Bar Center
-  **Valentine's Day**
- 15 Solo & Small Firm Committee**
12:00 p.m. • Bar Center
- Labor & Employment Mini-Seminar**
"Wage, Hour & Overtime Pay Claims"
12:00 p.m. • Bar Center
- 16 Paul C. Perkins General Meeting**
11:30 a.m. • Bar Center
- Young Lawyer Section Luncheon**
12:00 p.m. • Citrus Club
- 17 Family Law Breakfast Meeting**
8:00 a.m.
425 N. Orange Ave., Rm. 2310

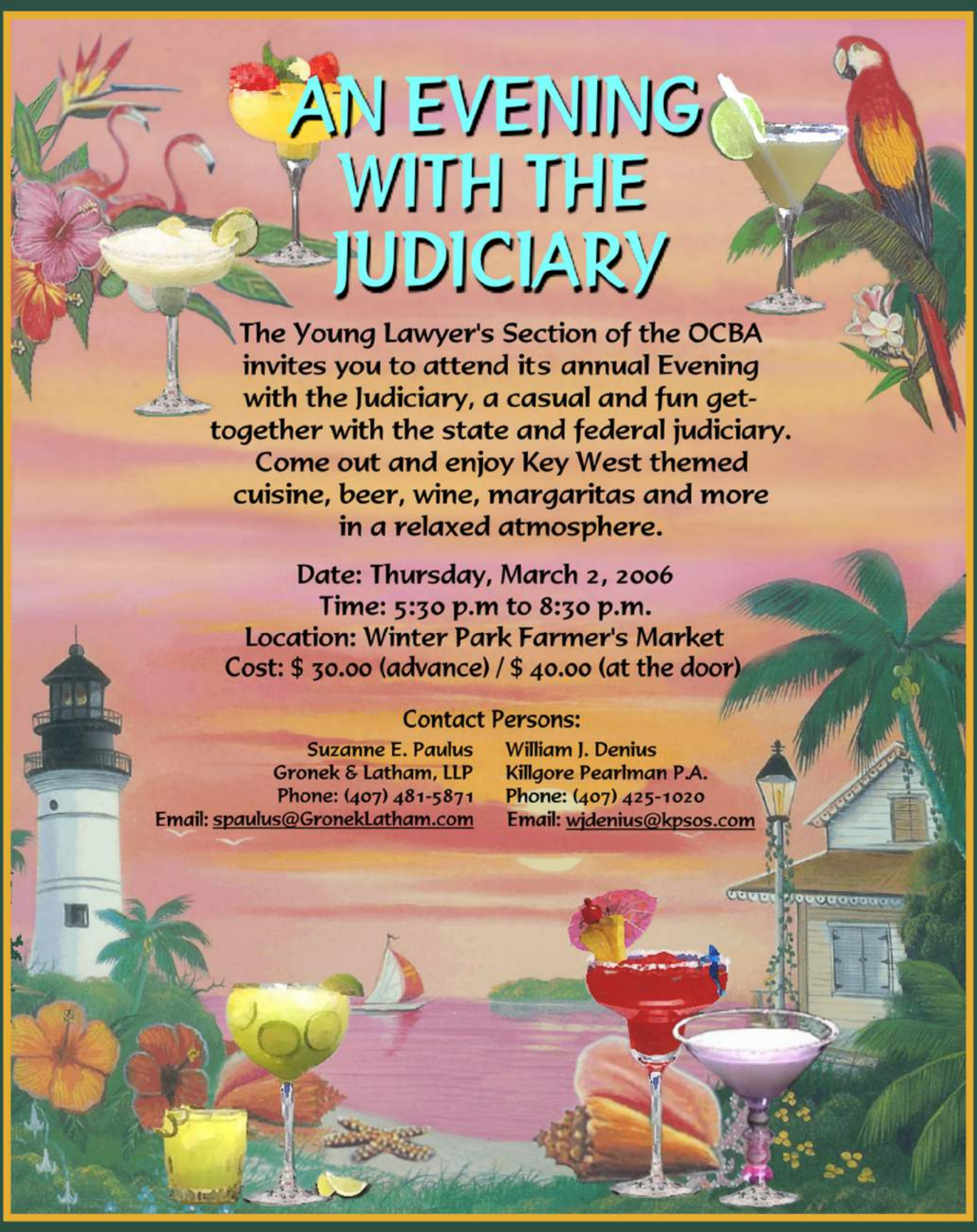
- 21 Professionalism Committee**
8:00 a.m. • Bar Center
- Inn of Courts**
5:30 p.m.
Dubsdread Country Club
- 22 CFACDL**
11:45 a.m. • Sorosis Club
- OCBA/Economic Forensics Seminar**
"Understanding Financial Statements"
10:00 a.m. • Bar Center
- Real Property Law Seminar**
"Closing the Deal"
1:00 p.m. • Bar Center
- Business Law Committee**
12:00 p.m.
255 S. Orange Ave., Ste. 1401
- 23 OCBA Luncheon**
Ambassador
Harriett L. Elam-Thomas
"What of Diplomacy?"
11:30 a.m. • Downtown Marriott
- 24 Bankruptcy Law Committee**
12:00 p.m. • Bar Center
- 25 Legal Aid Society**
45th Anniversary Celebration
11:30 a.m. - 8:00 p.m.
Sea World
- 27 CFAWL Board Meeting**
12:00 p.m. • Bar Center
- 28 Legal Aid Society Board Meeting**
11:45 a.m. • 100 E. Robinson St.

Technology Committee
12:00 p.m. • GrayRobinson, P.A.
301 E. Pine St., Ste. 1400

March

- 1 Social Security**
12:00 p.m. • Bar Center
- 2 YLS Evening with the Judiciary**
5:30 p.m. • Winter Park
Farmer's Market

- Elder Law Committee**
12:00 p.m. • Bar Center
- 3 Criminal Law Committee**
12:00 p.m. • Bar Center
- CFAWL Bar Luncheon**
11:30 a.m. • Citrus Club
- 7 OCALSS**
6:00 p.m. • Bar Center
- 8 Business Law Seminar**
"Business Court II Revisited"
11:45 a.m. • Bar Center
- Judicial Relations**
12:15 p.m.
Orange County Courthouse
21st Floor Conference Room
- Estate Guardianship & Trust Committee**
12:00 p.m. • Bar Center
- 9 Real Property Committee**
12:00 p.m. • Bar Center
- Young Lawyers Board Meeting**
5:30 p.m. • Bar Center
- 10 Med-Legal Committee Seminar**
"Medical Malpractice Litigation In A Post-Tort Reform World"
9:00 a.m. • Bar Center
- Diversity Committee**
12:00 p.m.
255 S. Orange Ave., Ste 1401
- 14 Executive Council Meeting**
11:30 a.m. • Bar Center
- 15 Solo & Small Firm Committee**
12:00 p.m. • Bar Center
- 16 Young Lawyers Luncheon**
11:45 a.m. • Citrus Club
- Paul C. Perkins General Meeting**
6:00 p.m. • FAMU College of Law
- 17 Family Law Committee**
8:00 a.m.
425 N. Orange Ave., Rm. 2310
-  **St. Patrick's Day**

The background of the flyer is a vibrant tropical scene. At the top, there are several tropical cocktails: a yellow drink with a red flower garnish, a white drink with a lime wedge, and a green drink with a lime wedge. To the right, a red and yellow parrot is perched on a branch. In the bottom left, a white lighthouse stands on a grassy hill. In the bottom right, a small white house with a brown roof is visible. The background is a mix of pink, orange, and green hues, suggesting a sunset or sunrise. The title "AN EVENING WITH THE JUDICIARY" is written in large, bold, blue letters with a black outline, centered in the upper half of the image.

AN EVENING WITH THE JUDICIARY

The Young Lawyer's Section of the OCBA invites you to attend its annual Evening with the Judiciary, a casual and fun get-together with the state and federal judiciary.

Come out and enjoy Key West themed cuisine, beer, wine, margaritas and more in a relaxed atmosphere.

Date: Thursday, March 2, 2006

Time: 5:30 p.m to 8:30 p.m.

Location: Winter Park Farmer's Market

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Contact Persons:

Suzanne E. Paulus
Gronek & Latham, LLP
Phone: (407) 481-5871

Email: spaulus@GronekLatham.com

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