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The Briefs

A Publication of the Orange County Bar Association



2006-2007 Orange County Bar Association Officers & Executive Council

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The Briefs

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DEADLINE INFORMATION

Deadline for August Edition: 07/10/2006

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:
www.orangecountybar.org



OCBA's New Modest Means Program is No Modest Endeavor

— Thomas P. Wert

Did you know that if you were a single mother of one making \$17,000 annually you would not qualify for Legal Aid assistance? Over the years, the Legal Aid Society has been forced to turn away countless applicants with significant legal needs because they make a little more than 125% of the federal poverty guidelines, i.e., LAS's income ceiling. Meanwhile, the price of quality legal services has continued to rise well beyond the average wage earner's ability to pay. A large segment of our low/moderate income community cannot obtain legal counsel for basic needs such as marital issues, residential evictions, personal bankruptcy or simple estate planning. The courts also continue to struggle with the large number of litigants who are not represented by lawyers. Well, the OCBA believes it can help. This month, we are rolling out a new program that we hope will begin to put a dent in the problem: the OCBA Modest Means (MM) Program.

The Modest Means Program will provide legal services to low/moderate income people, sometimes referred to as the "working poor," who cannot afford standard rates for legal services but nevertheless are able to pay a reduced fee. The program grew out of a push by the American Bar Association for innovations in methods of providing legal information, services and representation to those who cannot afford it. Locally, our Lawyer Referral Service Committee also recognized that certain clients that do not qualify for Legal Aid have nowhere to turn. When this need was discovered, OCBA Executive Director Brant Bittner and Past President Brian Wilson urged the Executive Council to form a committee to explore what could be done and the Modest Means Committee was born.

OCBA members Austin Aaronson, Glenn Adams and Malcolm Galvin took the lead on the Modest Means project and, after extensive research, we found out that this is cutting edge stuff. There are very few programs nationwide which provide legal services for a substantially reduced rate. An August 2005 study by the ABA revealed that, while 66% of lawyers do some sort of free legal service to people of limited means, only 33% reported doing any "substantially reduced fee" *pro bono* legal work. A few voluntary bar associations have had some success promoting such services. The Contra Costa (California) Bar Association has built a model for representation of the working poor in family law cases, which several others, e.g., San Diego and Houston, have followed. Nevertheless, moderate income programs are still a relatively rare breed.

Since Legal Aid is the starting point for people who cannot afford standard legal services, it was clear that Legal Aid had to be involved in the Program. Early on, the Modest Means Committee consulted with Cathy Tucker and Larri Thatcher of the Legal Aid Society, who I am told were ecstatic that someone might step forward to fill this void in consumer legal

services. The Committee, in collaboration with Legal Aid, then proceeded to develop the Modest Means Program, which is based upon the Contra Costa model.

The procedures developed for the MM Program are as follows:

- Legal Aid will screen applicants to determine if they qualify for the Modest Means Program (There are certain income criteria and an applicant cannot qualify for Modest Means without first contacting Legal Aid);
- If the applicant qualifies and has the means to pay the required fees, the applicant will be referred to OCBA Modest Means Manager, Renee Collier;
- Renee Collier will then provide the qualified applicant with a referral to a lawyer for the specific need from the Modest Means Panel.

The basic fees* to be charged by lawyers participating in the Modest Means Program are as follows:

- Bankruptcy: \$2,000 for Chapter 13 cases and \$1,000 for Chapter 7;
- Family Law: \$100/hour (\$850 retainer for dissolutions/custodial disputes and \$350 retainer for child support issues);
- Landlord-Tenant: \$100/hour (\$350 retainer);
- Wills: \$100 flat fee for a simple will, \$150 for a reciprocal will package and \$250-\$350 for certain "planning packages," which include items such as a will, a designation of medical agent and a power of attorney.

Last month, the Committee went about drafting foot soldiers for the MM Program. The OCBA held a workshop at the Bar Center for lawyers interested in participating on the various panels and attendance was outstanding. As a result, we now have more than 25 OCBA members committed to participating in the Program and the list is growing.

We are, of course, very excited and optimistic about the MM Program's success, but we need your help. Projects such as Modest Means are of critical importance to the increasing number of people in this community living near poverty levels, who need legal representation to improve their lives. As with Legal Aid, lawyers who participate in Modest Means can truly make a difference to those who otherwise have nowhere else to go for help. Please consider signing up for one of the Modest Means panels. If you are interested in participating, you should contact Renee Collier at the OCBA at (407) 422-4551, Ext. 238.

*Amounts exclude administrative costs, application fees and certain other fees for more complex cases. Nothing herein is meant to imply that total fees will not exceed the initial retainer amount. If a participating lawyer determines the estimated fees will exceed the initial retainer amount, nothing prohibits the lawyer from requesting an additional retainer.

Thomas P. Wert is a partner with Roetzel & Andress, LPA. He has been a member of the OCBA since 1993.

Marriott International, Inc.

v. Perez-Melendez,

855 So. 2d 624 (Fla. 5th DCA 2003)

Affirmed million dollar personal injury
verdict based on the "two issue rule".

Savoie v. Southeast Bank, N.A.

529 So. 2d 1275 (Fla. 5th DCA 1988)

Reversed and remanded mortgage
foreclosure for exercise of option
to purchase.

Petry 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.

Winn v. Winn,

669 So. 2d 1155 (Fla. 5th DCA 1996)

Reversed "woefully inadequate"
permanent alimony.

McGhee v. Volusia County,

679 So. 2d 729 (Fla. 1996)

Clarified sovereign immunity/scope
of employment rules for deputy
sheriffs.

Atkins v. Atkins,

611 So. 2d 520 (Fla. 1st DCA 1992)

Reversed inadequate permanent
alimony award.

Brewer v. Flankey,

660 So. 2d 761 (Fla. 5th DCA 1995)

Reversed final judgment establishing
a prescriptive easement.

Rykiel v. Rykiel,

795 So. 2d 90 (Fla. 5th DCA 2000)

Reversed dissolution judgment due to
excessive awards against husband.

Acadia Partners, L.P. v. Tompkins,

759 So. 2d 732 (Fla. 5th DCA 2000)

Prevented multi-million dollar
judgment addition in complex
business litigation.

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Florida Attorney General Candidate Forum

Sponsored by the OCBA and Tiger Bay Club of Central Florida



TIGER BAY CLUB
of Central Florida, Inc.

OCBA Luncheon - Thursday, July 27, 2006
11:30 am - Downtown Orlando Marriott

RSVP to reservations@ocbanet.org. Phone calls will not be accepted.

Forum Moderator: Scott Maxwell, *Orlando Sentinel*



Senator Walter G. "Skip" Campbell, Jr. (D), a native of New York, was elected in 1996 to the Florida Senate, where he currently serves as the Minority Leader Pro-Tempore. He graduated from the University of Florida in 1970 and from the University of Florida Law School in 1973.



Congressman Bill McCollum (R), a native Floridian, represented the people of Central Florida in the U.S. Congress for 20 years, retiring from the House of Representatives in 2001. He earned his bachelor's degree and law degree from the University of Florida.



Representative Joe Negron (R), a native Floridian, is the State Representative for District 82, serving Palm Beach, Martin, and St. Lucie counties. He earned his undergraduate degree from Stetson University and his law degree from Emory University School of Law.



Representative Everett Rice (R), former Sheriff of Pinellas County, is a State Representative in the Florida House, where he represents District 54. He received his undergraduate degree from the University of South Florida and his law degree from Stetson University. He is also a graduate of the FBI National Academy.



Senator Burt Saunders (R), is a State Senator representing portions of Lee and Collier counties. He attended the University of South Florida and received his law degree from William and Mary Law School; he earned a Master of Laws Degree in Ocean and Coastal Law from the University of Miami.

Cost: Complimentary for OCBA members

Guests: \$40 per person

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.

For further biographical information, visit the OCBA website at www.orangecountybar.org.



Professionalism Committee

How Can We Implement an Improvement in Professionalism in the Practice of Law in Our Community?

The Hon. Howard D. Friedman



A Message from the Incoming Chair of the Professionalism Committee of the Orange County Bar Association

I would venture to guess that if a survey were taken, virtually every attorney polled would agree that he or she is committed to practicing law in accordance with the highest ethical standards and the highest degree of professionalism. In reality, however, when some lawyers get into the “trenches” with real issues and real clients, these lofty ideals can be compromised.

In the practice of law, we are in a unique position to know the rules in at least one legal area of specialty. We as lawyers are blessed with the knowledge, intelligence and ability to find avenues and solutions to assist in solving our clients’ legal problems. Having the letters “J.D.” or “L.L.M.” after your name doesn’t necessarily make you a professional. Passing the bar exam doesn’t necessarily make you a professional. The naked pursuit of our clients’ lawful objectives “for hire” doesn’t make us professionals. What makes us professionals is having honor, integrity and ethical standards above reproach in the pursuit of our clients’ lawful objectives. If widely known, practicing with the highest ethical standards, including with honor and integrity, will serve to earn us respect among our peers in the legal community. Striving for this ideal should, however, not be the standard for only a few driven individuals; this pursuit should be the rule.

Please consider the realm of permissible behavior in the practice of law. Permissible behavior would span the continuum of “How can I be a model of professionalism?” at one end and “What can I get away with?” on the other. The former end of the continuum would be honorable, commendable and highly ethical behavior. The latter end of the continuum would be egregious, unprofessional behavior, one scintilla less than meeting probable cause for a bar grievance. Such unprofessional behavior is often decried, “I can’t believe that lawyer pulled that!” When we encounter unprofessional behavior do we “rise above” or do we succumb to our base reflex and stoop down to

this level? As professionals, we would all agree (as per my hypothetical survey in the first paragraph) that we would take the moral high ground.

I advocate a twofold approach to improving professionalism in our community: individual pursuit of excellence in professionalism coupled with raising the “floor” of what unprofessional conduct we are willing to tolerate. If the floor of the tolerated, minimally acceptable behavior is raised, the expectations and “culture” of professionalism in our legal community will undoubtedly progress and improve. Individual pursuit of excellence in professionalism coupled with reducing unprofessional behavior should improve the environment in which we practice. The logic is as inescapable as that Papa John’s slogan - “Better ingredients, Better pizza.” Is it possible that we can take steps to develop an environment for the practice of law that is more civil and less stressful, less aggravating, less upsetting? I remain optimistic. The question still, however, remains, “How can we implement such an improvement in professionalism in the practice of law in our community?” I look to you, distinguished members of the OCBA, for your input.

As the incoming chair of the Professionalism Committee, I hope to do what I can to help our members recognize the exemplary professionals amongst us and assist all members in striving for excellence in professionalism in the practice of law. If you are interested in serving on the OCBA Professionalism Committee, please contact me by telephone, 407-836-1684, or preferably by e-mail at ctgmhfl@ocnjcc.org. The July and August OCBA Professionalism Committee meetings will be held at the Orange County Bar Center at 8:00 a.m. on the third Tuesday of the month. Commencing Tuesday, September 19, 2006, the meetings will be held at noon on the third Tuesday of each month.

Have a safe, healthy and prosperous month.

The Honorable Howard D. Friedman, Magistrate for the Ninth Judicial Circuit, is Chair of the Professionalism Committee. He has been a member of the OCBA since 2005.



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Orange County Bar Association



Ninth Judicial Circuit Court News

A View From The Bench



— The Hon. Deb Sammons Blechman

Dear Bar Members:

I sent out the attached order recently. It was the third time in three months that I felt the need to write an order in regard to the need for lawyers to talk to each other to resolve scheduling disputes. It was the third time in five months that I've felt the need to talk to lawyers about calling each other "liars" or "disingenuous" in court. I know that the vast majority of OCBA members do not need the information contained in this order. But I hope that each of you will chip in to help promote these values. Please read the section that quotes Carl Zahner, Director of The Florida Bar Center For Professionalism, on the need for "lawyer to lawyer" leadership. Please commit yourself to helping us retain the professional peer pressure, which has always made Central Florida a rewarding place to practice law.

Sincerely,

Judge Deb Sammons Blechman

IN THE COUNTY COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

**COURT'S RESPONSE TO LETTERS FROM
COUNSEL REGARDING IN COURT
ACCUSATION THAT OPPOSING COUNSEL
WAS LYING TO THE COURT**

COUNSEL have written letters to the Judge, in regard to a complaint made too frequently by counsel in court these days. In this case, one lawyer accused opposing counsel of "lying" to the Court when he said that his office had attempted to coordinate the scheduling of the hearing. The undersigned Judge told counsel that he should not call into question the integrity of an opponent unless the justice of the cause "requires" it, in accord with the *Attorney's Oath of Admission*.

In this Judge's humble opinion, the questioning of an opponent's integrity is not "required" within the meaning of the Oath, unless the lack of integrity is solidly evident. Once such an accusation is made, that accusation becomes the center of attention rather than the original question at issue. It engages the defensive emotions and reactive arguments of the person accused. Therefore, since it is labor intensive to resolve, it should be used rarely and only where "required by the justice of the cause," see *Oath of Admission*; at West's Florida Rules of Court, (2006) p. 1651.

A second reason why attacks on the integrity of one's opponent should be used sparingly, is that with the seeming increase of public accusations in court, there is a danger of coarsening the proceedings and lessening the public's confidence in the justice system. We are Officers of the Court. We are each responsible for our own measure of dignity and integrity. As Justice Wells stated at a recent Orange County Bar Association meeting, we do not have standing armies to enforce our edicts. We have only the trust which our citizens place in us, and it is incumbent upon each of us to uphold that trust in every respect. Thus, we

must be ever disciplined in our practice of civility, dignity and decorum, in and outside, the courtroom.

This is not to say that the entire judicial system is going to fall down because one lawyer called another a liar in court. But it is the cumulative impact of such discourse which works to the detriment of lawyers, judges, and the public we serve. The case at bar illustrates two problems which are becoming far too common to be worthy of us who have inherited the proud legacy of our forbears;

Some Lawyers are failing to consult one another in regard to the setting of hearings and depositions, and

Some Lawyers are conducting their professional relationships from a position of low trust and collegiality even to the point where it is common for judges to hear them call each other liars or "disingenuous" in court.

In cases where the lawyers are tempted to accuse each other of un-professionalism in the setting of hearings, or lack of candor to the court, the Judge would advise as follows:

1. If your opponent has set a hearing unilaterally and has created a scheduling conflict for you, then first try to have your office staff resolve the conflict. Law office staff should be trained to know that flexible rescheduling is expected for a first scheduling conflict. Lawyers and office staff should know that the judiciary is not the first line of defense in resolving such matters, because judges have far more cases than lawyers and their time should be protected by officers of the court, unless said officers of the court have failed after using due diligence to solve a given problem. Better training of office staff to coordinate with opposing counsel's office staff would solve many of these scheduling problems.

2. If lawyers cannot resolve a scheduling problem by having their office staff manage it, then the lawyer should call the opposing counsel *with the expectation that such counsel will be cooperative and professional*. This is not

Continued on page 8

a naive assumption. It is an expectation which if practiced diligently by officers of court, will result in the re-inculcation of values which worked far better than the current failures of diplomacy are rendering. As Carl Zahner, Director of The Florida Bar Center For Professionalism recently wrote:

“...[P]erhaps the difficulties of unprofessional behavior in the legal profession start with a lack of leadership. Not The Florida Bar type of leadership...., but the “individual to individual,” “partner to associate,” “judge to judge,” “judge to litigant,” “lawyer to client” communication which collectively represents the expression of a duty that the leaders of the legal community have to instruct others about the profession and the way it is supposed to work...

....I mean the handing down of a tradition from an experienced to a less experienced person of ‘how it is done,’.... Such a duty to teach is very much like the duty the village elders of old felt to pass down rituals, manners and ways of behaving which have been found over long periods to work *in the long run*. In a sense it is for the practitioner, client and the community a process of teaching about the mythical *gentleman lawyer (or gentlewoman lawyer)* who is temperate but firm in protecting the legitimate rights of his/her client- yet loath to give insult or offense to the court or the opposing lawyer for fear of degrading the process by rancor, and thus, reduce respect for the legal system,....

Such a person lives out the ideals of professionalism but the duty of leadership demands more. Seasoned lawyers, senior partners, judges, law professors, government agency general counsels, corporate chief counsels, and state attorneys all have an obligation to tutor others in the proper way to behave and do what they can to enforce that professional standard of behavior..... But the general failure to lead in this area, has gotten us into a sad state of affairs,” see *Leadership- How it is Related to “Professionalism,”* by Carl Zahner, Vol. VII, No. 3, “The Professional,” a publication of The Florida Bar Center For Professionalism.

3. In regard to the failure of an opponent to abide by the duty of candor to the court, the undersigned judge recommends that counsel embody the leadership values and responsibilities discussed by the Zahner article above. Additionally, the case of *Boca Burger v. Forum*, 912 So.2d 561 (Fla. 2006) may be appropriate material to share with a colleague. In that case, Justice Cantero cites the *Oath of Admission*, (I will employ for the purposes of maintaining the causes confided in me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law), and Rule 4-3.3(a)(3), *Rules Regulating the Florida*

Bar, for the holding that a lawyer can be held personally liable for opposing counsel’s fees occasioned by the failure to disclose adverse legal authority that the lawyer knew or should have known about. As Justice Cantero states; “*The heart of all legal ethics is the lawyer’s duty of candor to a tribunal. It is an exacting duty with an imposing burden.*”

4. If all else fails, then counsel should call the matter of unprofessional conduct to the attention of the judge, or the Florida Bar, or seek the advice of fellow bar members. Even then, it is practical to avoid engaging the ego of one’s opponent by use of value laden terminology. Stick to the facts. Stay “temperate but firm.”

5. Above all, stay true to your intent to be part of the solution, not part of the problem. In recent months, as in this particular case, it has become evident that lawyers lose their objectivity when they lose the traditional collegiality of professional relationship with their opponent. We need every lawyer’s better leadership in this area, and we need it right now. In this particular case, the Judge expects both counsel to be impeccable in their professionalism in every respect. It is *not* a naive assumption, as is often suggested. Nothing less is worthy of either of you. Nothing less will be forthcoming from either of you. Period.

THIS RESPONSE ENTERED this ____ day of _____, 2006 in Chambers at Orlando, Orange County, Florida.

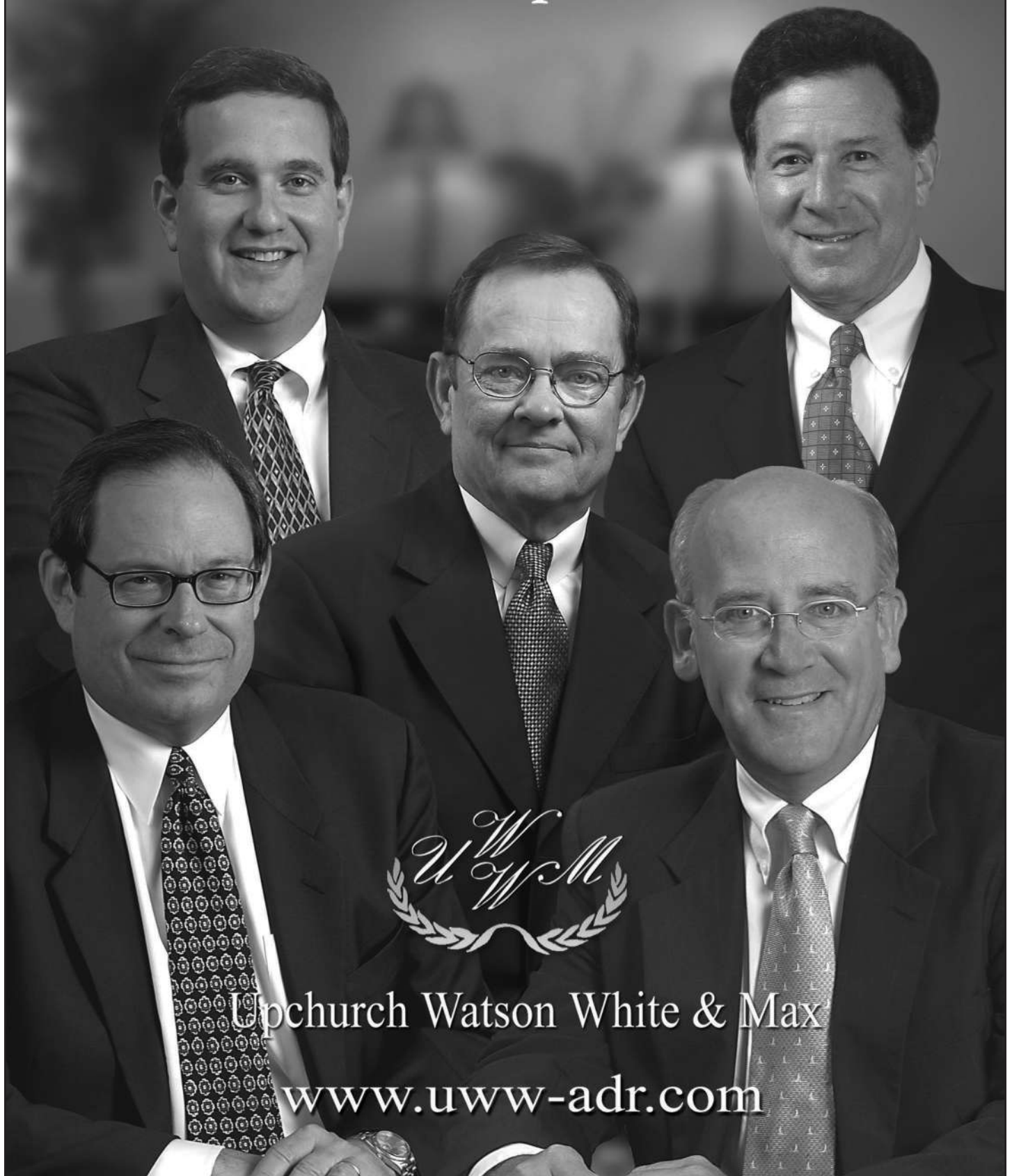
DEB SAMMONS BLECHMAN
Orange County Judge

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. Mail Delivery this ____ day of May, 2006 to:

Judy Ball, Judicial Assistant

Editor’s Note: Those practicing before the Ninth Judicial Circuit Civil Division are reminded to consult the Uniform Administrative Policies and Procedures of the Civil Division of the Circuit Court, Orange County, Florida, Revised August 2005 (“Local Rules”). Section 23 of the Local Rules sets forth the Division’s Professionalism requirements, which incorporate the “Orange County Bar Association’s Standards of Professional Courtesy” dated November 13, 1990 and the Guidelines for Professional Conduct prepared by the Trial Lawyers Section of the Florida Bar. Copies of the Local Rules can be obtained by a search of the official Ninth Judicial Circuit website at www.ninja9.org. The Local Rules also are published by Thompson West in *Florida Rules of Court, Local*, 2006 Edition.

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2005 - 2006 President's Awards and Recognitions

Each year the Orange County Bar Association recognizes the contributions of its members whose work on behalf of the Bar exceeds expectations and adds to the overall excellence of the Association, its programs and its services.

Outgoing President Bill Sublette recognized the following members for their contributions.

President's Award for Outstanding Services to the OCBA 2005-2006

**Jessica K. Hew
Tad A. Yates**

Outstanding Service as OCBA Executive Council Members 2003-2006

**Glenn A. Adams
Kristen M. Jackson**

Outstanding Service as President of the Young Lawyers Section 2005-2006

Thomas A. Zehnder

Outstanding Executive Council Member 2005-2006

Thomas P. Wert

Outstanding Service as a Committee Chair

Kristyne E. Kennedy

Law Week Awards

**Lori M. Spangler
Lissa C. Bealke**

Gala Awards

**Nicholas A. Shannin
Heather Pinder Rodriguez
Esther M. Whitehead**

Committee Chairs

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Christopher T. Hill

Construction Law

John R. Samaan

Criminal Law

Roger B. Handberg

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Elder Law

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2005-2006 - Officers and Executive Council

(Back) William C. Vose, Thomas A. Zehnder, Tad A. Yates, Thomas P. Wert, William E. Sublette, Wayne L. Helsby, C. Gene Shipley, Glenn A. Adams. (Front) Paul J. Scheck, Esther M. Whitehead, Jessica K. Hew, Jamie Billotte Moses, Kristin M. Jackson, Rebecca L. Palmer, Frank M. Bedell.



The President's Award for Outstanding OCBA Service was given to Jessica K. Hew. Not pictured: Tad Yates.



Lori Spangler and Lissa Bealke receive the 2005-2006 OCBA Law Week Award for their award-winning program.



Many of the OCBA's 23 Committee Chairs attended May's Luncheon and were recognized for their dedicated work throughout the year.

Entertainment Law

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Labor & Employment Law

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Law-Related Education

Jeffrey Ashton

Law Week

**Lori M. Spangler
Lissa C. Bealke**

Medical-Legal

Lawrence H. Kolin

Professionalism

**Patrick M. Magill
Hon. John M. Kest**

Real Property Law

Sancha Brennan Whynot

Social Committee

Kristyne E. Kennedy

Social Security

James W. Keeter

Solo & Small Firm

Norman L. Hull

Technology

Matthew H. Roby

Thank You OCBA Members for a Great 2005 - 2006 Year!

Welcome New 2006 - 2007 Leaders!



YLS 2006-2007: Wiley Boston, President; Eric Reed, Board Member; Chelsie Roberts, Treasurer; Sarah Reiner, Secretary; Lauren Heatwole, Board Member; and Kristen Cox, Board Member.



Legal Aid Society 2006-2007: Nicholas A. Shannin, Board of Trustees, Elected; Esther M. Whitehead, President; Meenakshi A. Hirani, President-Elect; and William D. Umansky, Board of Trustees, Appointee.



Nick Shannin, Heather Rodriguez and Esther Whitehead receive the 2006 Gala Award.



Bill Sublette receives a token of appreciation from incoming OCBA President Tom Wert.



OCBA 2006-2007 Officers and New Executive Council Members: Tom Wert, President; Gene Shipley, President-Elect; Jamie Billotte Moses, Treasurer; Woody Rodriguez, Secretary; Kristyne Kennedy and Esther Whitehead, Executive Council. Not pictured: Tom Zehnder, Executive Council.



Congratulations again to Professionalism Award Winners: William B. Wilson - 2006 William Trickel, Jr. Professionalism Award and Thomas A. Zehnder - 2006 Lawrence G. Mathews, Jr. Young Lawyers Professionalism Award.

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Presentation Skills for Lawyers

Be the Guide They Can Trust

— Elliott Wilcox



My first thought was, “*My, what big teeth you have!*”

I’d never seen teeth that big before. Never. They were **huge**.

If you’ve never seen a hippopotamus up close before, you’re missing a memorable experience. In cartoons, they’re portrayed as peaceful, docile creatures that wouldn’t harm a fly. In the Hungry Hungry Hippos game, they’re colorful, cute, and cuddly. But that’s not quite true. They’re huge, temperamental creatures, capable of biting a man in two. And here I was, less than ten feet away from not one, not two, but **three** of them!

But I wasn’t scared.

Why? Because I had a guide that I trusted. My guide’s name was Tim. Tim looked the part of an adventurer. He was clad in khaki clothing, with a pith helmet on his head and a pistol by his side. He didn’t just **dress** the part - he carried himself with the confidence of someone who had been down this river hundreds of times before. When he spoke, it was obvious that he was well trained and knew these waters like the back of his hand.

I wasn’t scared.

With Tim as our guide, I, and everyone else on the boat, felt safe.

Just as he’d done before when we’d encountered elephants, giant snakes, and other dangers, Tim guided us safely past the hippos, safely returning us to our initial port of call. We thanked him with a round of applause and stepped ashore, relieved that we had chosen the right guide.

Your role in trial is similar to Tim’s role on that jungle river cruise.

You must be the guide the jurors can trust. Trials are foreign territory for most jurors. They want a guide to lead them past pitfalls, show them the landmarks, and get them safely to their destination. In trial, that destination is a just verdict. From the moment they walk into the courtroom, they’re looking for that guide. Here are three steps you can take to become the guide they trust.

1. Be sincere. There’s no magic formula or 12 Step Program you can follow here. You either are, or you aren’t. If you can’t do this, none of my other advice can help you. When you’re sincere, you’re telling the jurors a story that you believe. When you don’t believe the story you’re telling, the jurors sense that, and you can’t be effective. Re-examine your evidence and the law until you find a different story . . . one that fits the facts and the law, one that you do believe.

2. Don’t ask them to believe the impossible. Each

lawyer starts the trial with a credibility account. You make small deposits over time, building up your credibility with the jurors. When you ask jurors to believe the impossible or to doubt their common sense, you make a **huge** withdrawal from your account. You’re asking them to believe **you**, rather than a lifetime of experience. Who do you think they’ll believe?

Lawyers thrive on examining the nuances and the minutiae. Admit it - you’ve read the **back** of a ticket to a sporting event or a parking garage, right? Most people won’t delve into a matter that deeply. That’s why you need to ask someone who’s **not** a lawyer to evaluate your arguments. If they feel you’re asking them to ignore their common sense, you need to re-work your argument. The closer you align your arguments with common sense, fairness, and general expectations, the better your chances of becoming the guide they can trust.

3. Admit weaknesses. Admit your weaknesses before your opponent trumpets them, and you’ll take the wind out of his sails. The jury thinks, “Yeah, we already knew that. The other attorney already told us the strengths and the weaknesses of his case. He’s the guide we can trust to lead us through the evidence.”

When you expose your weaknesses, you show them why you win, **despite** the weaknesses in your case. If you **don’t** mention the weaknesses in your case, your opponent gets to say, “And [BAD FACT] is so damaging to Mr. Wilcox’s case, he didn’t even mention it to you. Why? Because there’s **nothing** he can say to make it go away!”

A good guide is essential to a safe journey. Just like Tim guided our boat to safety, you’ll guide the jurors to a safe destination. When you become the guide the jurors can trust, they will look to you to guide them through the evidence. When the evidence leads to a fork in the road, they will trust **you** to guide them to safety. They will trust **you** to guide them to a just verdict. Follow these simple guidelines and you’ll become the guide your jurors can trust. You’ll lead them through the evidence, and lead them to safety.

Oh, and if you ever find yourself at Disney World, waiting in line to ride the Jungle Cruise, please do me a favor, and say “Hi!” to Tim!

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

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Rainmaking

Rainmaking 101 – Lesson 1

Mark Powers

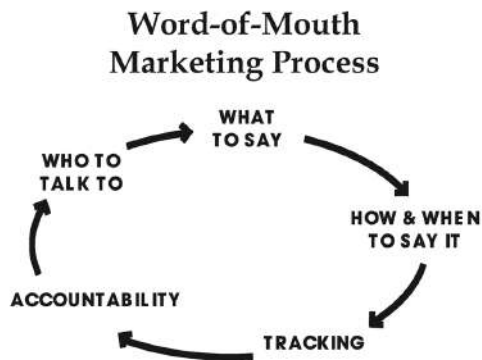


With the exception of legal skills and managing your time well, the most important skill in assuring your success is the ability to attract good paying clients. Without good (*translate: profitable*) clients coming through the door on a regular basis, your law practice cannot survive.

Over the next few months, I will introduce you to a step by-step process for increasing your client base. The techniques discussed are practical and have been time tested in the real world. When you see a tip that you like – try it on! I also recommend the suggested exercises at the end of each lesson and, if you work them throughout the series, you will see the real benefits. Most of the suggested exercises are brief. In order to complete them, block out time on your calendar – then honor that appointment with yourself.

Rainmaking Lesson One

If you review the key elements involved in word-of-mouth marketing, it will come as no surprise that most of the elements involve communication and building relationships. And quite honestly, these are areas where most attorneys excel. “Word-of-mouth marketing” means just that – get the word out about you and your practice to others. Successful marketing often comes down to knowing *Who To Talk To*, *What To Say*, and *How and When To Say It*. Many attorneys fail to market themselves because they miss one of these steps.



To start, focus first on *Who To Talk To*. Think about your practice for a minute – who do you need to talk to in order to generate more business? Your clients? Your friends? Your business associates? Not knowing the answer to this question has stopped many good attorneys from making their first marketing effort, yet it is not a difficult question to answer.

It all begins with a profile of your clients. Until you truly know the clientele you serve, you won't know who influences them to do business with you. If, for example, you are an estate-planning attorney, you may prefer to work with high

net worth individuals who own their own businesses. These individuals typically have a strong relationship with their CPA, their financial advisor and their investment broker. If you happen to have a good relationship with one of these professionals, they would be in a position to recommend your services. They would be a referral source, or an influencer, because of their ability to influence clients to use your services.

Who Is Your Ideal Client?

If you understand the profile, otherwise known as the demographics, of your ideal clients, you can work backward, as just demonstrated, to determine who influences them.

It is important to note that you will have a different primary client or “target market” for each of your practice areas. In addition, some attorneys, real estate attorneys for example, may have institutional clients that send them work – such as banks. If this is the case, consider the characteristics of the target institutions, as well as the characteristics of the decision-maker inside the institution.

But let's take this one step further. When you start examining the characteristics of your clientele, you will begin to notice that not all clients are equally desirable. Some pay their bills promptly while some don't pay at all. Some clients respect your advice and even recommend you to others, while others are uncooperative and require an extraordinary level of maintenance.

Think about it. Don't you have both good clients and “problem clients”? This occurs in all practice areas and the inability to distinguish between the two carries with it a high, hidden cost, but more about that later. As an important part of your personal marketing program, you must sharpen your ability to identify the “good” clients. To help you do that, complete the actions outlined in “The First Step” below.

Don't be deceived by how simple this exercise looks – the profiles of the individuals and institutions that you serve are the foundation of your word of-mouth campaign.

**“Word-of-mouth marketing
will produce the highest
quality client.”**

The First Step

1. Make a list of all your current clients. Rank them with an “A,” “B,” “C” or “D” rating.
2. Use the list of attributes provided to help you identify the

Continued on page 25



The Hon. Patricia C. Fawsett, Chief U.S. District Judge for the Middle District of Florida, presided over the Orange County Bar Association's Installation of Officers at May's Luncheon: Thomas P. Wert, President; C. Gene Shibly, President-Elect; Jamie Billotte Moses, Treasurer; Diego "Woody" Rodriguez, Secretary.

The Hon. Anne C. Conway, U.S. District Judge for the Middle District of Florida, presented "What Juries Want to Know: Court Do's and Don'ts" at the OCBA Labor and Employment Law Committee's spring seminar on June 14, 2006. Other presenters included N. James E. Turner, N. James Turner, P.A.; Mary Ruth Houston, Shutts & Bowen, LLP; and Pat Muldowney, Baker & Hostetler, LLP.



The Paul C. Perkins Bar had its swearing-in ceremony at the Bar Center on June 15, 2006. Pictured are 2006-2007 Officers Candy L. Messersmith, Parliamentarian; Lyneda L. Shorter, Secretary; Andrea White, Treasurer; Aramis Donnell, President-Elect; and LaShawnda K. Jackson, President. The Hon. Faye L. Allen presided.



The Hon. Nancy Alley administered the oath of office on Friday June 2, 2006, at the swearing in of CFAWL's 2006-2007 officers. Pictured are Kimberly D. Webb, Sarah P. Reiner, Whitney Evers, Leslie Sainz, Denise Chancey, Mary Ann Etzler, Corina Castillo-Johnson, Suzanne Meehle and Mary Musette Stewart.

HEARSAY

Ah . . . summertime in Central Florida . . . a time for resting, relaxing and taking it easy, right? Not quite! Vacations, retreats, reunions and road trips are filling up calendars, leaving little room for much else. Of course, I just know you can all find a few minutes away from your adventures to take a peek at some of the news I have to report. Whether you are reading this as you lounge on the beach or just sitting at your desk, now is the time to take a moment to sit back, relax and read all about what I've heard is going on in the OCBA! So, here's what's new and exciting...

Bruce B. Blackwell, with King, Blackwell, Downs and Zehnder, P.A., was named President-Elect of the Florida Bar Foundation. He was previously the Foundation's Secretary. **Stephen D. Dunegan**, a shareholder with Dean Mead, was recently elected President of the Planned Giving Council of Central Florida. The Council's mission is to provide training and education and to facilitate the professionalism and success of those involved in the charitable planned giving community in Central Florida.

The 2006-07 officers of the Central Florida Association for Women Lawyers (CFAWL) were sworn in by Eighteenth Circuit Court Judge, the **Hon. Nancy Alley**, at the CFAWL luncheon on June 2, 2006. CFAWL's new President is **Kimberly Webb** of Rumberger Kirk & Caldwell, P.A. The Florida Association for Women Lawyers announced that CFAWL led the state for the 2005-06 year for the greatest percentage increase in membership among the FAWL chapters. In other FAWL news, **Mary Musette Stewart**, immediate past President of CFAWL, was recently sworn in as the Membership Director of FAWL.

Congratulations to Ninth Judicial Circuit Court Judge, the **Hon. Bob Wattles**, who was presented with the Central Florida Association of Criminal Defense Lawyers 2006 Gary L. Formet, Sr., Award of Judicial Excellence. The award is given annually to a judge who exemplifies fairness, compassion, and integrity and respect in the courtroom. **Jeffrey S. Badgley**, a partner with Alvarez, Sambol, Winthrop & Madson, P.A., was recently awarded an AV Peer Review Rating by the *Martindale-Hubbell Directory of Lawyers*.

A number of OCBA members have been selected to be included in the 2006 *Chambers USA Guide* as top attorneys in their areas of practice, including **J. Thomas Cardwell**, **Jules S. Cohen**, **Kimberly A. Ashby**, **David V. Kornreich**, **Jeffrey E. Mandel**, **Joseph E. Foster**, **Cecelia Bonifay** and **Dwight D. Saathoff**, all with Akerman Senterfitt; **Denis L. Durkin**, **Kevin W. Shaughnessy** and **Joyce Ackerbaum Cox** all with Baker Hostetler; **Susan McKenna** with Jackson Lewis LLP; and **Michael J. Canan**, **Jeffrey D. Keiner** and **Frederick W. Leonhardt**, all shareholders with GrayRobinson, P.A.

The OCBA May luncheon turned out to be full of surprises and special guests, as outgoing OCBA President, **Bill Sublette**, of Sublette, Sanders & Sanders, passed the gavel to 2006-07 OCBA President, **Tom Wert**, a partner with Roetzel & Andress. Attendees at the installation luncheon were surprised (and maybe a few of them were fooled for a moment . . .) when George W. Bush impersonator John Morgan (not the attorney, but brother of OCBA member **Mary Ann Morgan**) made his entrance with his secret service agents and shared some of his random thoughts

Kristyne Kennedy



about Sublette. New officers were sworn in at the luncheon by Chief United States Middle District Judge, the **Hon. Patricia C. Fawsett**, and Sublette also took the opportunity to show his appreciation to OCBA officers and committee chairs.

Members who were recognized for their service included **Lori Spangler** and **Lissa Bealke** (Law Week); **Nick Shannin**, **Heather Rodriguez** and **Esther Whitehead** (2006 Gala/Silent Auction); **Glenn Adams** and **Kristen Jackson** (Outstanding Service as OCBA Executive Council 2003-06); **Tom Zehnder** (Outstanding Service As President OCBA Young Lawyers Section 2005-06); **Tom Wert** (Outstanding Executive Council Member 2005-2006); and **Jessica Hew** and **Tad Yates** (President's Award for Outstanding Service to the OCBA 2005-06). Thanks again to Bill Sublette for all of his hard work and dedication, and congratulations to our new OCBA President, Tom Wert, who is already hard at work planning to bring us another great year! Bill and Tom, you both rock!

So now it's time to get out those calendars and make sure you have all of the upcoming OCBA events marked down! The OCBA Social Committee is planning our next event, the **Summer Happy Hour and Trivia Contest** on Wednesday, July 19, 2006, at Slingapour's on Wall Street Plaza. The event will start at 6:00 p.m. (registration beginning at 5:30 p.m.) and is open to anyone. Sign up as a team or just plan to attend for appetizers, drinks and good company. Teams can consist of any number of players and 1st, 2nd and 3rd place winning teams will be recognized. To RSVP, contact **Vivian Cocotas** at vpc@stumplaw.com or (407) 425-2571. Also plan to attend other future OCBA social events on the calendar, including the Fall Happy Hour (**September 14, 2006**), Texas Hold 'Em Poker Tournament (**November 16, 2006**), and the Winter Wine & Cheese Fest (**January 25, 2007**). If you would like more information about these events, sponsorship opportunities or participating on the Social Committee, contact me at kennedyk@jacksonlewis.com.

The Young Lawyers Section is also working to bring you plenty of activities and events this summer. Don't miss the 2006 **YLS Summer Clerk Reception on Thursday, July 13, 2006**, at the Orlando Museum of Art from 5:00 p.m. to 7:00 p.m. Those attending always have a great time! For sponsorship information or to RSVP, please contact **Lauren Heatwole** at lauren.heatwole@lowndes-law.com. Or if you're looking for a little more adventure, check out the **Summer Pub Crawl Part Deux: Electric Boogaloo** at Church Street on Friday, **August 11, 2006**. For more information about the pub crawl, contact **Jason Hill** at jwh@litchris.com, **Judi Garabo** at GaraboJ@gtlaw.com, or **Kristen K. Cox** at kcox@shutts-law.com.

So, there you have it! Until next time, just keep on enjoying the summer, be safe (but not *too* safe), have fun, feel good (if you don't, there's a way you could!) and take time to treat yourself like number one. And, of course, don't forget to keep sending your news, updates, gossip and other information to me at kennedyk@jacksonlewis.com or fax (407) 246-8441.

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

A Very Presidential May Luncheon



Guests at the OCBA's Installation Luncheon received a presidential surprise as "President Bush" and his Secret Service entourage joined them for the ceremony.



Three presidents vie for a the podium . . . and guess who won? OCBA members and guests were entertained by "President Bush" (aka John Morgan, brother of member Mary Ann Morgan) as he took center stage to offer some pithy comments on Bill Sublette's presidency.



Imagine the surprise when Bill and Suzie Sublette's grandchildren open the family photo album and see their grandparents with the estimable Commander-in-Chief!



Tom Wert, his children Krista, Erika, Patrick and Jake, and other members of his family share a "Photo-Op" with "President George Bush" at OCBA's May Luncheon.



Judicial News

The Central Florida Association of Criminal Defense Lawyers Honors Circuit Court Judge Bob Wattles

— Rob Bains

Ninth Judicial Circuit Judge Bob Wattles received the 2006 Gary L. Formet, Sr. Award of Judicial Excellence from the Central Florida Association of Criminal Defense Lawyers (CFACDL) on May 24, 2006 at the Sorosis Women's Club in Orlando.

The award, named after one of the circuit's most respected judges who died of cancer in December 1996, is given annually to a judge who exemplifies fairness, compassion, integrity and respect in the courtroom. CFACDL members vote on the recipient. Past winners include Circuit Judge Stan Strickland and Senior Judge Janis Halker Simpson. "Obviously, it's a great honor," Judge Wattles said. "I think it shows mutual respect."

Judge Wattles, who was born in Portsmouth, Va., received his undergraduate degree in journalism and his law degree from the University of Florida. He has served as a lobbyist in Tallahassee, worked in private practice and was a cabinet aide to Doyle Conner, then-Commissioner of Agriculture and Consumer Services. Judge Wattles was elected in the fall of 1994 and took the circuit bench in January 1995. He has worked in the criminal, domestic and juvenile divisions. He was named Hispanic Bar Association Judge of the Year twice and

has served on various boards, including Goodwill Industries, Inc. He began the African American, Hispanic and Senior Town Hall programs, which give judges the opportunity to go into the community for roundtable discussions about the court system.

"He loves criminal law and that's one of the reasons the criminal bar wants to recognize him," said Judge Strickland, the 2005 award recipient. "He feels like that's the place he can help the most people. The law matters to him and results matter to him."

Judge Wattles said it was a pleasant surprise to be chosen for the award and "especially meaningful" to him. "To me, it's recognition that we have a level playing field in the courtroom," he said. "We deal with human beings and lives, and it's about being independent and fair."

Judge Wattles is the third recipient of the CFACDL Judicial Excellence Award, which was created by the Central Florida Association of Criminal Defense Lawyers in cooperation with the Formet family.

The Honorable Bob Wattles has been a member of the OCBA since 1978. Submitted by Rob Bains, Assistant Director of Communications and Public Affairs for the Ninth Judicial Circuit Court of Florida.

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YLS on the Move!

The Dog Days of Summer . . .

Judith A. Garabo

By now we're on our way into the thick of hurricane season and the Young Lawyers are in full swing as well. June found us celebrating the beginning of summer at our **Third Annual Pub**

Crawl on June 9, where we happily shuffled from Wall Street Cantina to Loaded Hog and One-Eyed Jack's, across to Slingapour's and the Globe, ending our evening at Waitiki. One-hundred and fifty people showed up to get their cards punched at all six bars and everyone made it out OK. All of the Florida law schools were well represented, summer associate-wise, and many firms made admirable showings of five, ten and even twelve lawyers. Many thanks to the folks at Wall Street, especially Kelly Ekas, for making sure everyone had a good time and no one had to wait too long for a drink. Mark your calendar now for our **End-of-Summer Pub Crawl Part Deux: Electric Boogaloo** on August 11, 2006. This time the Young Lawyers take Church Street by storm. RSVP in advance and show up on time so you don't miss out! More details to come, but you can always contact me with any questions or if you want to reserve tickets.

In June, the new YLS Board and Committee Chairs hit the beach (Cocoa Beach, that is) for our annual retreat/planning/teambuilding session. We had lots of fun and interesting ideas. Our President, Wiley Boston, has great things in store for you this year, so watch this space!

Also in June, the Young Lawyers went to the dogs on June 24, taking over Fleet Peeples Park for our **Second Annual Dog Day Afternoon**, thanks to the hard work of Michael Caborn and Suzanne Paulus. I can't speak for everyone's canine companions, but my Yorkshire "Terror," Beckham, had a great time playing with his friends and, after a much-needed bath in the kitchen sink, slept like a puppy that night.

June wasn't all fun and games. On June 23, the **YLS Morning at the Federal Courthouse** found us lining up to get a glimpse of the inner workings of the Orlando Division of the United States District Court in the Middle District of Florida. After breakfast and speeches, we took a tour of the old courthouse and learned a little about the new facility opening in the spring.

July brings the annual **Law Clerk Reception** on **Thursday, July 13 from 5:00 p.m. to 7:00 p.m.** at the Orlando Museum of Art. Due to generous sponsorships from many local law firms, this event is free, and features appetizers, drinks and a sneak peek at the current museum collection. It's always a spectacular event. Please join us! For sponsorship information or to RSVP, please contact Lauren Heatwole at lauren.heatwole@lowndes-law.com.

Join us in July for our monthly **Luncheon** at the Citrus Club on **Thursday, July 20 from 11:45 a.m. to 1:00 pm.** RSVP in advance to OCBAYLS@gmail.com. Cost is \$18 in advance and \$20 at the door.

Also in July, the YLS brings you another monthly gathering (also known as Happy Hour) on **Friday, July 28** – location to be determined, so watch your email blasts for more details.

A final note: If you're anything like me, you won't be happy until they devise a way to surgically implant the Blackberry into your brain. I will admit to being a little compulsive about checking mine. (People who know me well would probably laugh at that and call it the understatement of the year. They're right. I'm VERY compulsive about it.) However, in this day and age, email is the best, fastest and cheapest way to disseminate information to young lawyers. We're really trying to keep up with rapidly-evolving technology, and as a solution, we've set up a Google Mail account at OCBAYLS@gmail.com. Your periodic blasts will be coming from this address and RSVPs will be collected there as well. If you're not getting the blasts, please send a message to this address and we'll be happy to add you. If you are getting our messages and want to be removed from the list, let us know that as well. If you are getting the messages, but know you shouldn't be because you've aged out of the Young Lawyers Section, it'll be our little secret. You know who you are!

Judith A. Garabo is an associate with the firm Greenberg Traurig, P.A. She has been a member of the OCBA since 1999.



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— *Laurence J. Pino, Esq.*
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OCBA Legal Aid News

How Fundraising Events Help Legal Aid Help People

— Catherine A. Tucker



The Legal Aid Society's annual fundraising event provides an opportunity for guests to contribute the Legal Aid Society (LAS) through the traditional silent auction, a raffle and a live auction. This year we raised more than \$29,000 and in excess of \$10,000 in monetary sponsorships and donations.

Begun ten years ago, the silent auction traditionally was held during the annual *Pro Bono* Awards ceremony at one of the Bar's monthly luncheons. In subsequent years, though, a live auction was added to increase our financial success, as well as to add an extra dash of excitement. In 2003 the auction was held with the OCBA Gala. When the LAS hired a consultant in 2004 to help with the event, we raised more than \$30,000, and this year we approached the \$40,000 mark.

Esther Whitehead, Board of Trustees President-Elect, spearheaded this year's committee and was ably assisted by Board members Meena Hirani, Nick Shannin, Heather Pinder Rodriguez and Yvette Rodriguez Brown, and by staff members Mary Anne De Petrillo, Hillary Lyals, Mandy Silvestris, JoAnne Tucker Hall, Susan Khoury, Catherine Tucker, Milly Gonzalez, Sandi Sumner, Jennifer Wimberly, Luis Maldonado, Judy Johnson and Kathleen Loftus. Partners in Time, an organization of Macy's Fashion Square employees, helped to staff the auction. The Macy's volunteers included Jeanne Cottom, Safeera Ysuf, Michelle Debono, Carl Kynoch, Jaimie Akhusu, Cheryl Wrotney and Irma Rosado.

We were pleased to have more than 20 event sponsors and more than 160 auction item donors. Live auction winners were: Wine Lover's Collection to David and Kathy Lesiuk; Coveted Isleworth Foursome to Kay Aaronson; One Day Deep Sea Fishing Trip for Four to Warren Lindsey; St. Thomas Tropical Getaway and Roundtrip Air Fare to Lori Milvain; Wine Tasting in Home to Nick Shannin and Woody Rodriguez; Wine Tasting in Home to Joel Sharp, Jr.; Ritz Carlton Orlando Weekend with Mercedes to Paul SanGiovanni; One Week Stay Anywhere in World to N. Diane Holmes; Disney Stay and Play for Four to David Yergey, Jr.; Amazing Portofino Bay and Universal Orlando Package to William Umansky; Winter Park Boat Tour and Progressive Dinner to Mark Blake; and Exclusive Lake Nona Foursome to Aaron Zmarzinski.

It may not be well known, but monetary contributions and auction proceeds are some of the LAS's most valuable resources. In addition to representing local attorneys' commitment to

Legal Aid and its work, monetary contributions can be directed by the Board of Trustees at its discretion rather than under rules imposed by outside funding sources. What's more, these funds have a multiplier effect - other funding sources are more inclined to support an organization that has a significant, local support base than one that does not. With more than \$400,000 in attorney contributions and auction proceeds, we are able to provide intake and outreach services at the LAS main office and five neighborhood sites in Orange County each week, as well as intake twice a month at 14 food and shelter sites for the homeless. Donations support programs such as the Guardian

ad Litem Program, Homeless Advocacy Project, Earned Income Tax Clinic, Telephone Screening, Community Education Project, AIDS Special Will Project, Teen Parent Education Program and Attorneys Fighting For Seriously Ill Children Project. The funds also support our staff and staff attorneys, who assist those with family law, domestic violence, immigration, housing, and public benefits issues, and support the *pro bono* programs and referrals in family, juvenile, housing, consumer and other areas.

As our community grows and our services expand to meet increased needs, the LAS must continue to explore other ways to generate funds. A potential area that you might consider discussing with your clients, as appropriate,

is planned giving. Although ethics rules restrict an attorney from instructing clients about selecting a particular charity over another as a beneficiary in his or her estate planning instrument, it is perfectly ethical for you to have a list of charities available for clients' ready reference. Do you have on hand a list of charities or the names of 501(c)(3) organizations that could be named as beneficiaries by your clients in their remainder trusts or under outright bequests in a will, trust or other estate planning instrument? If not, and if you decide to make this information available to your clients, we hope you will list the Legal Aid Society of the OCBA among the many worthwhile groups for your clients' consideration. The LAS has been a nonprofit corporation and 501(c)(3) organization for more than forty years. For more information, please contact Cathy Tucker at ctucker@legalaidocba.org.

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.



The Legal Aid Society's Annual Silent and Live Auctions raise funds to support nearly every facet of the Society's work. Staff, family and friends turned out to help with the event and to have a great time! Pictured are Mandy Silvestris, Joe Silvestris, JoAnn Hall, Dave Hall, Milly Gonzalez, Doris Mackey and Javelle Mack. Proceeds from the auctions topped \$40,000 this year.

MANY THANKS TO OUR ANNUAL AUCTION DONORS

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Yvette Rodriguez Brown, Outgoing LAS President, Thanks the 2005-2006 Board of Trustees



Outgoing President Yvette Rodriguez Brown (right) congratulates Esther M. Whitehead as she becomes President of the 2006-2007 Legal Aid Society Board of Trustees. The OCBA thanks Yvette and the LAS for their contributions to the community.



(Front) John "Jack" S. Lord, Jr.; Sally D.M. Kest; Esther M. Whitehead, President-Elect; Meenakshi A. Hirani, Secretary; Yvette Rodriguez Brown, President; Nicholas A. Shannin. (Back) Thomas A. Zehnder; Hon. Robert M. Evans; David E. Cannella; Charles A. Stepter, Jr., Treasurer; Joseph L. Amos, Jr.; Patrick M. Magill; Tad A. Yates. Not shown: Betty Jackson and Heather Pinder Rodriguez.

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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!

Announcements

New Associate

Nishad A. Khan - *Moran & Shams, P.A.*

New Shareholder

C. Gene Shipley - *Nardella Chong, P.A.*

Speaking Engagement

Matt Firestone, a partner with *Pohl & Short, P.A.*, recently made a presentation to the Orange County Homeowner's Association Alliance (OCCHA) on the topic: "Understanding HOA Bylaws and Covenants."

News to Note

Luncheon Announcements - Announcements at OCBA luncheons are at the discretion of the President and have previously been made from the podium during the luncheon program. In an attempt to make your luncheon time more efficient, announcements will be made immediately prior to the lunch program on the audio-visual screens beginning at 11:50 a.m. If you wish to have an OCBA-related announcement recorded, you must contact Brant Bittner at brantb@ocbanet.org no later than five business days prior to the luncheon date for consideration. Thank you.

Workers' Compensation Committee - The Honorable Thomas W. Sculco, State of Florida, Division of Administrative Hearings, Office of the Judges of Compensation Claims, will be chairing the Workers' Compensation Committee. The committee will meet at Noon on the second Friday of the month at the OCBA Center, 880 N. Orange Ave., Orlando. The first meeting is scheduled for Friday, August 11th. If you are interested in joining the committee, or would like additional information, please contact Judge Sculco at Thomas_Sculco@doah.state.fl.us.

NOTICE - Submitted by Maryanne Morse, Clerk of the Circuit Court, Seminole County; Re: Foreclosure Actions

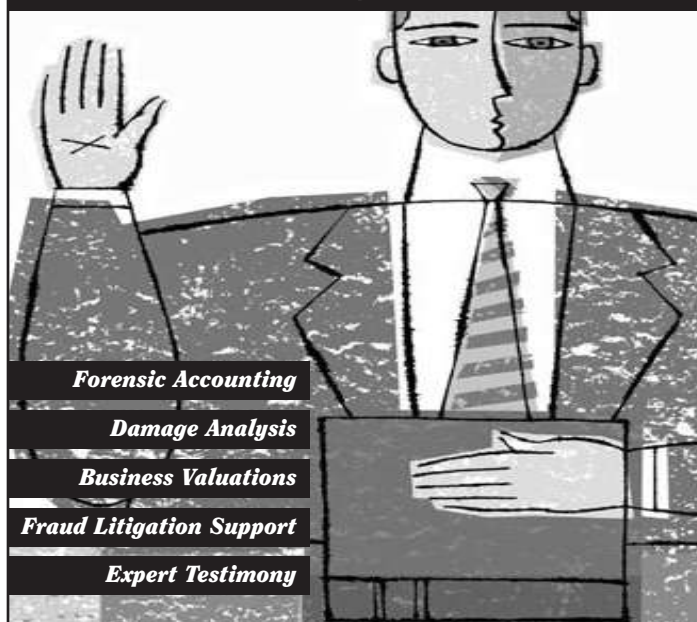
- As you probably already know, the 2006 Legislature enacted a series of changes related to the judicial foreclosure sales procedure. The changes take effect July 1, 2006 and will affect paperwork you will be filing in foreclosure proceedings. House Bill 65 attempts to address problems and abuses in the handling of surpluses from foreclosures. Among other provisions of the bill it:

- Creates a legal presumption that the former owner of the property is entitled to the surplus after payment of subordinate lienholders who timely filed their claim;
- Requires the final judgment include notice of a potential surplus; a statement indicating that a subordinate lienholder must file a claim for surplus funds no later than 60 days after the sale; a statement indicating that the property owner does not need to assign his or her rights in the property to claim surplus funds; and a statement indicating that the owner does not need any type of representation to claim such funds;

- Requires that the publication of sale now include language stating that any person claiming an interest in the surplus funds must file a claim within 60 days after the sale;
- Requires the dollar amount of the sale be included in the Certificate of Sale;
- Requires the Certificate of Disbursement include amount of total disbursements, the amount of surplus retained by the Clerk, if any, and a statement that any person – other than the rightful owner – must file a claim to surplus funds within 60 days after the sale for the claim to be valid;
- Requires the Clerk to hold the surplus funds 60 days after issuance of the Certificate of Disbursement pending a court order and in the event no one files a claim within 60 days, the clerk must appoint a "surplus trustee";
- Allows the surplus trustee one year from the date of appointment to locate the property owner and if, after that time, the trustee fails to locate the property owner, the Clerk must terminate the appointment and the remaining surplus funds are treated as unclaimed property.

In view of the foregoing, I strongly encourage you to carefully review the complete version of the law before preparing and filing any paperwork on or after July 1, 2006 with respect to foreclosure actions.

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client characteristics for each of your practice areas.

In doing this exercise, many of Atticus' clients are surprised to discover that most of the information about their client demographics is easily retrieved from their memory. But, if you want more precision, go through your files to look at the information you have collected on your clients through the last 90 days.

Practice Area:
Client Attributes
Age or Range:
Income:
Occupation:
Value of Home:
Asset Value:
Family Size:
Size of Business:
Where They Live:
Where They Work:
Title:
Gender:
Education Level:

It is a good idea to cut out this article and this exercise and begin a rainmaking workbook for yourself. In the next issue we'll discuss how to profit by focusing on your "A" and "B" clients. Most attorneys find this an eye-opening experience – we think you will, too!

Mark Powers is the President of Atticus, Inc. and a regular contributor to The Briefs. Mark co-authored "The Making of a Rainmaker: An Ethical Approach to Marketing for Solo and Small Firm Practitioners" and founded RainmakersTM, a simple process for attorneys at all levels to stay focused on marketing, creating fresh ideas, and on-going accountability to marketing. To learn more about Atticus or RainmakersTM, please visit the Atticus website at www.atticusonline.com or contact the Atticus office at 352-383-0490.



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The OCBA is accepting photos for possible use as cover art for *The Briefs* magazine.



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Central Florida Paralegal Association, Inc.'s 2006 Sizzling Summer Membership Drive

Date: August 3, 2006
Time: 6:00 p.m. to 7:30 p.m.
Location: Sam Snead's - Downtown
301 E. Pine Street, Orlando, Florida 32801
(Validated Parking at the Pine Street Parking Garage)

Come out and join us at our membership drive to learn more about CFPA and the various membership opportunities (Active/Paralegal, Student and Patron), network with current members, officers and directors, enjoy FREE hors d'oeuvres. Please **RSVP** to Dawn Gross, Membership Chair at Dawn.Gross@cendant-trg.com or call 407-370-6283.

If you join CFPA as a new member during this event, your membership will be good through September 30, 2007. In addition, if you join CFPA during this event your name will be entered for the door prize drawing. Please visit our website for further details at www.cfpainc.com.

CFPA is also seeking nominations for "Paralegal of the Year". If you have a paralegal in your firm that you believe is deserving of this honor, please submit a letter of recommendation to Cassie Snyder, CP at snydercd@earthlink.net. Please be sure to include your contact information, the paralegal's full name, how long he/she has worked at your firm, as well as a detailed explanation of the talents or qualities exhibited that make this paralegal so deserving. Membership in CFPA is not a prerequisite. The winner of Paralegal of the Year will be honored at CFPA's Annual Meeting on September 22, 2006.



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CABANISS SMITH TOOLE & WIGGINS, PL a law firm with national civil litigation defense practice seeks associate 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 4924, Orlando, FL 32802-4924 or by electronic mail to sjohnson@cabaniss.net.

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2006

July - August Calendar

OCBA Luncheon • July 27, 2006

Florida Attorney General Candidate Forum

RSVP by July 25th to reservations@ocbanet.org

July

- 6 Elder Law Committee**
12:00 p.m. • Bar Center
- OCBA Paralegal Committee**
5:30 p.m. • Bar Center
- 7 CFAWL Bar Luncheon**
11:30 a.m. • Citrus Club
- Criminal Law Committee**
12:00 p.m. • Bar Center
- 11 OCALSS**
5:30 p.m. • Bar Center
- 12 Estate Guardianship & Trust**
12:00 p.m. • Bar Center
- Family Law Executive Board Committee**
12:00 p.m. • Bar Center
- Judicial Relations Committee**
12:15 p.m. • Orange County Courthouse, 21st Floor Conference Room
- 13 Legal Aid Society Executive**
8:00 a.m. • 100 East Robinson
- YLS Summer Law Clerk Reception**
5:00 p.m. • Orlando Museum of Art
- 14 Diversity Committee**
12:00 p.m. • 255 S. Orange Ave., Ste. 1401
- 18 Professionalism Committee**
8:00 a.m. • Bar Center
- Executive Council**
11:30 a.m. • Bar Center
- Legal Aid Society Board Meeting**
11:45 a.m. • 100 E. Robinson St.

International Law Committee
12:00 p.m. • 201 E. Pine St.
Rissman, Weisberg, et al.

- 19 Solo & Small Firm Committee**
12:00 p.m. • Bar Center
- OCBA Summer Happy Hour & Trivia Contest**
5:30 p.m. • Slingapour's at Wall St.
- 20 Young Lawyers Luncheon**
11:45 a.m. • Citrus Club
- Paul C. Perkins Bar General Meeting**
6:00 p.m. • FAMU College of Law

21 Family Law Committee
8:00 a.m. • 425 N. Orange Ave., Room 2310

25 Technology Law Committee
12:00 p.m. • GrayRobinson

26 CFACDL
11:45 a.m. • Sorosis Club

Business Law Committee
12:00 p.m. • 255 S. Orange Ave., Ste. 1401

Noche de Salsa/Hispanic Bar Assoc.
5:30 p.m. • Bar Center
RSVP: hbacf_cr@hotmail.com

Young Lawyers Board Meeting
5:30 p.m. • TBA

27 OCBA Luncheon
Florida Attorney General Candidate Forum
11:30 a.m. • Downtown Marriott

28 Labor & Employment Committee
12:00 p.m. • Bar Center

Bankruptcy Law Committee
12:00 p.m. • Bar Center

YLS Afternoon at the State Courthouse
1:00 p.m. • State Courthouse

31 CFAWL Board Meeting
12:00 p.m. • Bar Center

August

- 1 OCALSS Meeting**
5:30 p.m. • Bar Center
- 3 Elder Law Committee**
12:00 p.m. • Bar Center
- OCBA Paralegal Committee**
5:30 p.m. • Bar Center
- 4 CFAWL Luncheon**
11:30 a.m. • Citrus Club
- Criminal Law Committee**
12:00 p.m. • Bar Center
- 8 Executive Council Meeting**
11:30 a.m. • Bar Center
- 9 Estate Guardianship & Trust Committee**
12:00 p.m. • Bar Center
- 10 Legal Aid Society Executive**
8:00 a.m. • 100 East Robinson
- Young Lawyers Board Meeting**
5:30 p.m. • Bar Center
- 11 Workers' Compensation Committee**
11:45 a.m. • Bar Center
- Diversity Committee**
12:00 p.m. • 255 S. Orange Ave., Ste. 1401
- 15 Professionalism Committee**
8:00 a.m. • Bar Center
- Legal Aid Society Board**
11:45 a.m. • 100 E. Robinson St.

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