

The Briefs

A Publication of the Orange County Bar Association



75
YEARS
OF EXCELLENCE

May 2008 Vol. 76 No. 5

C. Gene Shipley
OCBA President
2007-2008

Inside this issue:

***Recent Developments in
"Heart/Lung" Claims***
Todd J. Sanders

Tad A. Yates
OCBA President
2008-2009

What is Professionalism?
Elizabeth F. McCausland

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The Briefs

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Deadline for July Issue: 06/01/2008

The deadline for each edition is the first day of each month. If that day falls on a weekend or holiday, the deadline is the prior working day.

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The Rocks Behind the Milestones

C. Gene Shipley

As I recount all that has happened since last June when I began my term as President of the Orange County Bar Association, it's incredible to consider all the milestones we've reached over the last year. As the OCBA entered into its 75th Anniversary year, our membership increased to over 3,000 attorneys, judges and legal professionals, with an average of thirty-one new members joining each month. The OCBA now has twenty-six committees whose members authored nearly thirty substantive legal articles for *The Briefs* and conducted a dozen more CLE seminars, and that doesn't include the CLE credit offered at many monthly committee luncheons. For the first time, *The Briefs* is being circulated to non-members, regularly updating hundreds of local elected officials and business leaders on the many accomplishments and activities of the OCBA and its members. Also a first, our members are now regularly contributing articles regarding the judicial branch of government, the Bar and its members through new partnerships the OCBA has formed with the *Orlando Sentinel* and the *Orlando Business Journal*.

Over the last year, the OCBA's reputation as a national leader in providing *pro bono* and public service continued to increase. Our members contributed more than 17,000 hours in closed *pro bono* cases in 2007, increasing the total number of *pro bono* cases voluntarily completed by OCBA members since 1989 to over 58,500.¹ Oh yeah, we also donated more than \$500,000 to help the **Legal Aid Society** serve the homeless, indigent and children removed from their parents. The selfless leadership of the OCBA and its members was also recognized across the State. Our **Young Lawyers Section** received the award for being the Best Affiliate Bar Association in Florida. OCBA member **Heather Rodriguez** received the 2008 Florida Bar Young Lawyers Division *Pro Bono* Service Award, and **John Hamilton** received the 2008 the Florida Bar *Pro Bono* Service Award and the 2007 *Pro Bono* Award from the Appellate Section of the Florida Bar. The OCBA also hosted what Florida Bar President Frank Angones described as "the best Florida Bar Voluntary Bar Conference ever."

The OCBA kept its members busy as well. We hosted eleven lunches which were regularly attended by approximately 275 members and guests, and seven social events (not including YLS events) attended on average by 150 people. The OCBA also welcomed back thirty-three former presidents from across the state during its Past Presidents Dinner and rocked the new Federal Courthouse like never before during our annual Gala.

With so many milestones reached over the past year, it may be tempting to pat ourselves on the back and return to our legal practices without noticing an essential part of the

successes we all share year after year at the Orange County Bar Association: our **OCBA staff**. None of the milestones mentioned above could have been accomplished without the sound leadership of OCBA Executive Director, **Brant Bittner**, and the eight-member OCBA staff.

Now in his fifth year with the OCBA, Brant possesses the essential traits for serving as the Executive Director: outstanding organization, steadfast focus and a humble spirit. Organizing fifteen Executive Council members, each with PDA's in their hands, is akin to trying to herd a group of cats with catnip collars. Though the management styles and personalities of the officers and Executive Council members change each year, the "Type A" temperaments stay the same. Brant keeps all of our bar leaders running strong and straight, all the while managing eight employees and a multi-million dollar OCBA Center. Brant, you truly are the foundation that keeps the Orange County Bar Association steady, year after year.

Brant and the Bar are supported by our Membership Manager, **Susan Laviolette**. Susan is primarily responsible for speaking with prospective members and letting them know about the benefits of joining, processing new member applications and renewals, working on the Membership Directory and managing the Court Access Card program. Her bright personality is a real asset.

Managing one of the many benefits offered to OCBA members is our Legal Placement Services Manager, **Charlotte Mason**. Working closely with solo practitioners, managing partners and office managers, Charlotte brings experience and professionalism to her position. She has placed over 70 legal support staff members for OCBA attorneys this past year at a considerable savings for our members.

Norma Paradiso, Lawyer Referral Service Manager, manages the impossible every day. Screening over 55,000 calls in 2007 of varying legal requests (including calls from China, England, Germany, Australia and other foreign countries), Norma and her part-time assistant, **Gloria Warrick**, properly sort each call and rotate the referral of each case to one of the 280 attorneys serving on the LRS panel. Norma's and Gloria's efforts resulted in nearly \$2 million dollars in fees earned by our members in 2007, not including proceeds earned by member attorneys participating in the newly formed Modest Means Program.

Behind the scenes is our in-house Accounting Manager, **Mike Remensnyder**. Mike is responsible for managing the OCBA's \$1.25 million dollar plus budget, working closely

Continued on page 4

¹Of course, this does not include most of the 1,142 new cases and projects our members voluntarily took on in 2007 which have not closed.

with Brant and the Executive Council to ensure the smooth operation of the Bar. In addition, Mike maintains accounts for YLS and the OCBA Foundation. His understanding of budget analysis and reporting is invaluable.

Working diligently with OCBA members and the public is **Maria Sanchez**, our very competent Citizens Dispute Service / Family Law Mediation Manager. Managing multiple mediations at the OCBA Center two nights a week, and often during the day as well, Maria coordinated more than 650 mediations last year, a 25% increase in the number of mediations conducted in 2006.

An OCBA staff member who assumes more responsibilities than her job title describes is **Peggy Storch**, Communications Manager. Peg is responsible for publications, including our brochures, the Discovery e-mail blasts, the Membership Directory and *The Briefs*.² You would be searching a while to find someone so pleasant to work with.

Barbara Zablocki, our Communications Coordinator, is the staff person whose welcoming voice you are most likely to hear when you call in. Barbara, who (among many other responsibilities) handles walk-in clients seeking a lawyer referral, has a calm and reassuring manner that goes a long way to demystifying the legal process for people who are often agitated and in the midst of a crisis.

The two newest members of the OCBA staff are **Bill Black**, MIS Manager, and **Marie Bacazehuatl**, Events & Seminar Manager. Although Bill has already resolved many

computer problems we periodically encounter, the most significant fruit of Bill's labor will be revealed very soon when you will be introduced to the new OCBA website. "Marie B" will soon be a common name for those who attend luncheons and participate in OCBA committees, and we welcome her to the tireless ranks of the Orange County Bar staff.

President Ronald Reagan once said, "In America, every day is a new beginning, and every sunset is merely the latest milestone on a voyage that never ends." Considering the passion and leadership of your incoming OCBA President, **Tad Yates**, and the other newly elected officers, we are positioned to reach new heights on our journey as one of the nation's leading voluntary bar associations. Taking each step with Brant and the OCBA staff, the road to reaching new milestones of service and excellence is solid.

It has been my privilege and pleasure to serve you this past year as President of the Orange County Bar Association.

²I would encourage new members to find a copy of *The Briefs* published earlier than three years ago. The black and white magazine (with a touch of orange) typically ran general news items and a legal article or two. Now we have a four-color glossy publication - the brainchild of former OCBA President **Bill Sublette**. The efforts of the first Co-editors, **Tad Yates** and **Jessica Hew**; this year's Co-editors, **Kristyne Kennedy** and **Tom Zehnder**; our many contributors, staff and advertisers; and our long-time printer, **Jeff Browder**, have allowed the publication to grow to include at least three substantive articles per issue as well as the always-popular member news and photos.

C. Gene Shipley is of counsel with GrayRobinson, P.A. He has been a member of the OCBA since 1997.

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2008-2009 Inaugural Officer Installation and Awards Banquet

The Orange County Bar Association • The Legal Aid Society of the OCBA
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May 29, 2008 • The Ballroom at Church Street • 5:30 p.m.

The Honorable Emerson R. Thompson, Jr. will preside over the installation of officers at a banquet to be held on Thursday evening, May 29, 2008, at The Ballroom at Church Street. Cocktails (cash bar) will be served beginning at 5:30 p.m., and the dinner and program will begin at 6:30 p.m.

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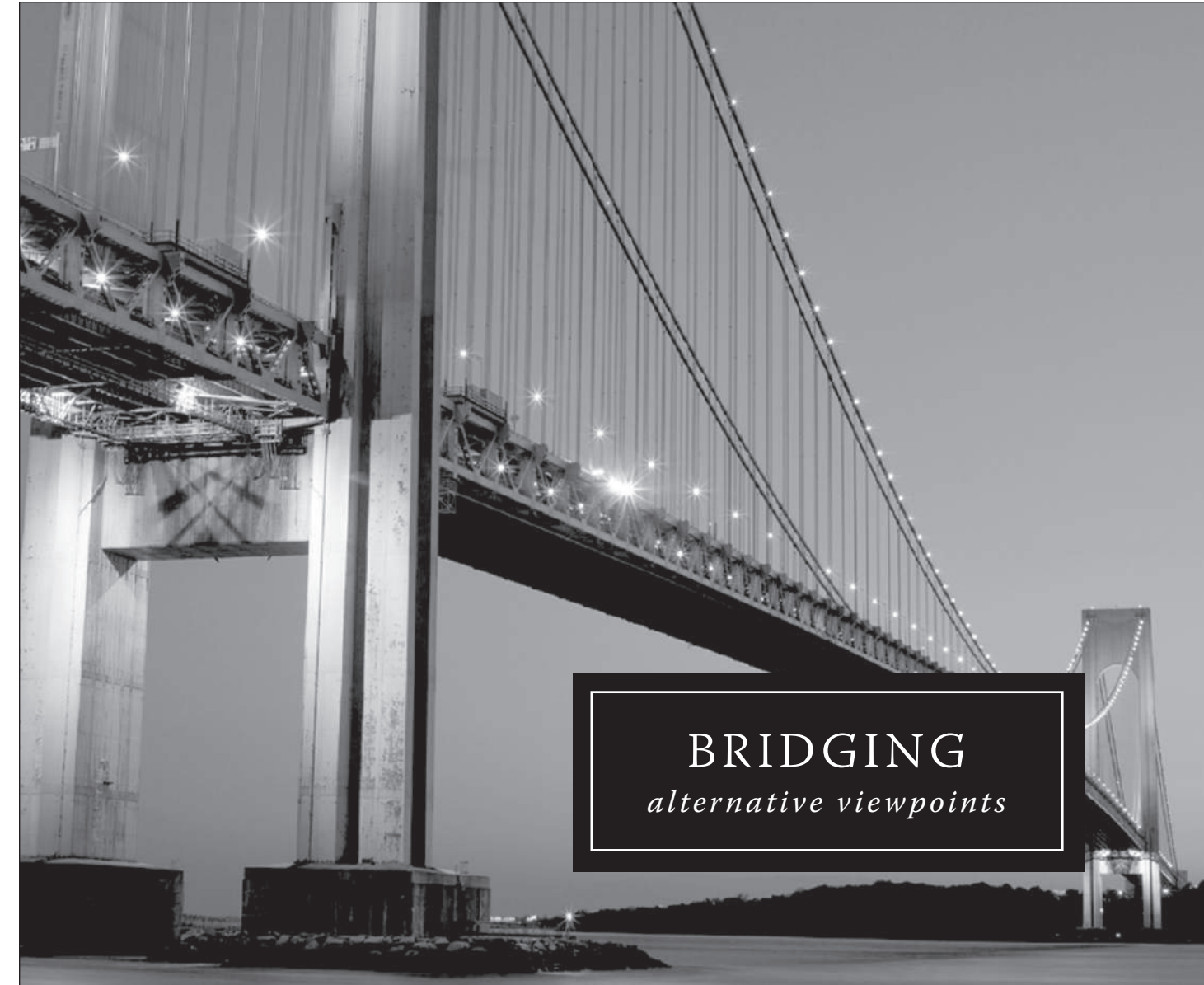
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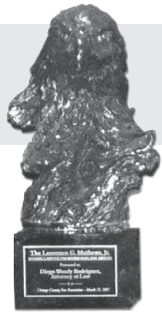
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2008 Lawrence G. Mathews, Jr. Young Lawyers Professionalism Award

What is Professionalism?

—Elizabeth F. McCausland



When I learned that I was to receive the Lawrence G. Mathews Jr. Young Lawyers Professionalism award I was very excited, but, if I am to be honest, I was a bit shocked and very humbled. I questioned why, among all the young lawyers that I know, I was given such a great honor. After all, I serve on a board that has many professional and bright lawyers who serve this community daily. So I asked the famous question, “Why me?” I’ve asked this question before, but this time it was for something positive!

Upon learning of my award I also learned that I would be giving an acceptance speech wherein I would offer advice to other young lawyers about professionalism. I thought, “How do I put professionalism into words?” I knew I better figure out what to say or others might be asking “why her?” as well!

I started my journey of putting professionalism into words by going to the Henry Latimer Center for Professionalism website and reading the definition of professionalism. For those of you who have not visited this website, I urge you to do so. On the website you can find much more than just a definition. You can find the Creed of Professionalism, and the Ideas and Goals of Professionalism. In reading this material, I suddenly realized what I would say.

With great power comes great responsibility

I know – I stole that line from the movie *Spiderman* - but at least I am professional enough to admit it! We are all incredibly privileged to be lawyers in our society. I have never understood this more than when my Mom was falsely imprisoned in Vietnam. We, as lawyers, are charged with protecting the freedoms that we hold so dear as Americans. We are the final defense when these freedoms are attacked. As lawyers, we hold a special position of trust, power and influence. We are privileged to hold this place in our society and we, in turn, have the responsibility to make our community at large, and more specifically our profession, better and worthy of the privilege we hold.

To me, this is professionalism. It is the commitment to serve others. It is an internal compass of what is right and wrong. As stated in the Creed of Professionalism, it is a fundamental sense of honor, integrity and fair play.

But the real question is how do you know whether your internal compass is correct? You will never fail if you do one thing . . . and that is to treat others as you wish to be treated. Individuals who practice with professionalism do this even in the face of others who fail to practice in the same manner. These individuals lead by example and are not afraid to steer others to a more professional path. Their word is their bond.

Mentoring

I started my legal career with Cooney, Mattson and I’m fortunate enough to still work there today. But, quite frankly, when I started, they were not ready to bring a new lawyer on board. I had no office, no computer, no secretary and no Westlaw or Lexis. If I needed to research, I sat in the library and looked up cases using the books.

One day, I was asked to cover a hearing at the Orange County courthouse. At that time, the courthouse was located less than a block from my office. It was one of my first hearings. I diligently prepared for the hearing and had my arguments ready. Unfortunately though, before the hearing, I became engrossed in some research in my firm’s library and I lost track of time. By the time I realized what time it was, I missed the hearing.

I raced over to the courthouse to find the hearing room empty. I immediately called the opposing counsel to see what happened at the hearing. I learned that he went ahead with the hearing without me, and the judge entered an order against my client. I was devastated. I feared reporting this to my partner, Dennis O’Connor, and more importantly, I feared telling my client.

I remember to this day going into my partner’s office and telling him what happened. Fortunately, he took it quite well. First, he gave me some advice on how to rectify the matter - starting with placing a clock in the firm’s library! However, what he did next has always stuck with me. He picked up the phone and called the opposing counsel and asked him why he did not call me before proceeding with the hearing.

My partner explained that we had clients to answer to just as he did and although I was wrong for not appearing, so was he for not paying me the courtesy of a telephone call. I can tell you now that I have never gone through with a hearing without first calling the opposing counsel and giving them the opportunity to appear by phone or arrive late. I treat them with courtesy and respect, which is the way I wish to be treated. This is the example that my partner and mentor set for me that day.

Harold G. Clark, the Chief Justice of the Supreme Court of Georgia, said that “professionalism differs from ethics in the sense that ethics is a minimum standard . . . while professionalism is a higher standard expected of all lawyers.” Today, as more and more young lawyers are hanging their shingles and going out on their own straight out of law school, I worry that they will not have mentors such as mine. I worry that they will follow the example of attorneys who only practice with the minimum standard of

Continued on page 8

ethics as opposed to the higher standard of professionalism. This is not to say that young lawyers do not have a moral compass. They most certainly do. But if the examples they have to follow point them in a direction that merely satisfies the minimum standard of ethics, they will not know any other way of practicing law, and they will never come to know the higher standard of professionalism.

This is why it is incredibly important for all lawyers, both seasoned and young, to stress the importance of professionalism. We need to let all lawyers who come into contact with us know that we practice law the way it should be practiced and we expect them to as well. We have a responsibility to the public at large to be the teachers of our profession and hold all lawyers to the standards of professionalism.

Community service

We also have a responsibility to the public at large to help those less fortunate by providing *pro bono* legal services. Anyone can provide his or her time, manual labor and financial resources to those in need. But we, as lawyers, are uniquely qualified to educate others about the law and advocate on their behalf. I encourage all of you to help our community by providing *pro bono* services.

Those we help are not the only ones who benefit from our service. It is proven that lawyers who provide *pro bono* legal services have more job satisfaction and are more satisfied with their lives in general. Thus, *pro bono* legal work serves the public, ourselves and our profession.

Be an ambassador of our profession

We are the ambassadors of our profession not only to our clients, but also to our family and friends. Many of your family and friends only personally know one lawyer

and that is you. The only other impression they have of lawyers is derived from the fictional characters they see at the movies and on television – the ones about whom many lawyer jokes are written. Thus, their vision of how lawyers behave is skewed.

Over the years this has led to poor public perception of lawyers. We must change this perception and we can do so by acting in our personal lives as we are expected to act in our professional lives. When faced with doing right or being right, we must do right and be right. In other words, we must take the high road. If you always take the high road you will never look back with regret, and you will always garner respect for yourself and our profession.

In closing, I know and practice with and against many lawyers who deserve this award, including many reading this article. I want to thank them for their example in showing me the correct way to practice law and holding me to the highest standards of professionalism. They make me proud to call myself a member of the Orange County Bar.

I also want to thank my parents for instilling in me the internal compass which guides me through my practice and always helps me know right from wrong. They also stressed the importance of community service and encouraged me at all times to give back. We are blessed to be able to call ourselves attorneys, and it is our privilege to be able to give back to our community.

And finally, thank you to the members of the OCBA Professionalism Committee for giving me this honor and letting others in our profession know that there are rewards for practicing with professionalism.

Elizabeth F. McCausland is a partner with Cooney, Mattson, Lance, Blackburn, Richards & O'Connor, P.A. She has been a member of the OCBA since 1998.

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The 1960s - Changes in the Wind ***A Celebration of Firsts for the Country, Orlando*** ***and the Orange County Bar Association***

Joyce C. Fuller



*"Come mothers and fathers,
Throughout the land
And don't criticize
What you can't understand
Your sons and your daughters
Are beyond your command
There's a battle
Outside and its ragin'
It'll soon shake your windows
And rattle your walls
For the times they are a-changin'."*
-Bob Dylan, 1963

It was 1960 and John F. Kennedy and his running mate, Lyndon B. Johnson, won the closest presidential election since 1888. United States forces in South Vietnam numbered 2,000. Four black college freshmen sat down and asked for coffee at the Woolworth lunch counter in Greensboro, North Carolina, and birthed the "sit-in" movement, introducing civil disobedience and the youth rebellion into the decade.

The Orlando population numbered 4,951,560, and the median home value was \$58,100.00. Orlando was predominantly made up of farmland for harvesting oranges, and Walt Disney purchased large plots of farmland to create what would become the world's largest theme park. Court was held in the old courthouse, which is now a museum. The *criminal court of record* tried all criminal cases except capital offenses carrying the death penalty, which were tried in the circuit court. A county solicitor prosecuted cases in the criminal court of record and a state attorney prosecuted capital offenses in circuit court. There were no public defenders and no court reporters in the criminal court, basically eliminating the appellate remedy. While the rules permitted an appeal where the lawyers on both sides stipulated to a record, such stipulations were rarely, if ever, achieved.

"I had my first trial at that courthouse when a gentleman named Glen Osborne, Assistant County Solicitor, asked me to come into the criminal court of record court room and meet Judge Murphy, the criminal court judge," recalls Russell Troutman, Orange County Bar Association President (1968-1969). "I went into the courtroom and Mr. Osborne announced to Judge Murphy that he had found

counsel for the defendant. I told Judge Murphy that not only had I not ever tried a case, but I had never even seen a trial. Judge Murphy nodded his head and said, 'You will do fine'." Troutman had only been admitted to the Bar three weeks when he was asked to represent a defendant accused of failing to support his wife.

"Needless to say, I lost the case, and during the sentencing I asked the Judge to give the defendant credit for four months which he already served and allow him to go free (the maximum sentence for the crime was six months in jail); however, the Judge sentenced the defendant to an additional two months so he could serve time for the maximum six month sentence." Because there was no court reporter and the lawyers did not stipulate to a record, there was no appellate remedy for Mr. Troutman's client.

DEFENDANT'S RIGHTS: The Birth of the Public Defense System

On March 18, 1963, the U.S. Supreme Court established the public defense system in the case of *Gideon vs. Wainwright*. In that case, the Court held that the Sixth Amendment to the Constitution (providing that in all criminal prosecutions the accused is entitled to the assistance of counsel for his/her defense), is made obligatory on the states by the Fourteenth Amendment. The Court further held that an indigent defendant in a criminal prosecution in a state court has the right to have counsel appointed for him.

On May 11, 1965, the Executive Council of the OCBA approved a plan of the Criminal Law Procedure Committee, Leo W. Haley, Chairman, to cooperate with the Court of Criminal Record by having

court-appointed members of the Bar who had practiced law for at least one year and not more than fifteen years to represent indigent defendants charged with misdemeanors.

As a result of his experience with Criminal Court of Record Judge Murphy, Russell Troutman decided to volunteer to serve Criminal Court of Record Judge Richard Cooper as Defense counsel for the indigent on short notice. At times, Mr. Troutman would receive a telephone call from the court at 9:00 a.m. to go immediately to the courthouse and represent a defendant. Most of Mr. Troutman's clients



1964 sit-in at the Woolworth lunch counter in Tallahassee, FL

(Photo courtesy of the State Archives of Florida)

Continued on page 11

Thomas v. Fusilier,
966 So. 2d 1001 (Fla. 5th DCA 2007)
Reversed forfeiture of \$250,000
payment required by marital
settlement agreement.

**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.

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

**Mitchell v. Metropolitan at
Lake Eola LLC,**
947 So. 2d 1263 (Fla. 5th DCA 2007)
Reduced lis pendens bond from
\$600,000 to \$20,000.

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.

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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were African American. Mr. Troutman recalls one of his cases that appeared in a publication with the headline: "Defense Wins Case for Negro."

On another occasion Mr. Troutman had his client on the witness stand to testify in his own defense. Mr. Troutman referred to his client by his proper name: Mr. Brown. Mr. Troutman recalls the judge calling him to the bench and suggesting that he refer to his client as "Willie" instead of "Mr. Brown." The judge explained that southerners on the jury would resent the defendant being called "Mr. Brown" and that calling the defendant by his proper name may result in his losing the case. Because Mr. Troutman's highest priority over and above respecting the dignity of the defendant was to win his client's case, Mr. Troutman addressed his client as Willie. "It paid off," explained Mr. Troutman. "My client was able to walk free from the courthouse and return to his family."

On June 13, 1966, the U.S. Supreme Court in *Miranda v. Arizona* 384 U.S. 436, 86 S.Ct. 1602 guaranteed a defendant upon arrest the right to be advised of the nature of the charges against him, and the right to remain silent.

POVERTY: The Birth of the OCBA Legal Aid Society

Lawyers Reaching Out to the Poor

In 1962, Michael Harrington published his powerful expose entitled *The Other America*, describing a culture of poverty hidden from view and passed from one generation to the next. According to Harrington, 40 to 50 million people lived in this culture, which, he asserted, was more than a mere deprivation of goods: it was an isolated culture devoid of all hope and the opportunity to become upwardly mobile. President Kennedy read *The Other America* before his death in 1963 and directed his advisors to investigate the problem and suggest possible solutions.

In 1964, after taking office upon President Kennedy's assassination, President Johnson announced his antipoverty package, otherwise known as his War on Poverty or "Great Society" to address the poverty issue. Johnson's War on Poverty included curative measures such as tax cuts of more than \$10 billion, Job Corps, Head Start, work-study jobs for college students, grants to farmers, the Community Action Program and the Office of Economic Opportunity (OEO).

When Congress created the OEO it named Sergeant Shriver as Director from 1965 - 1968. Thereafter, the American Bar Association held meetings nationwide encouraging local and state bar associations to cooperate with the OEO and establish OEO legal service programs in local communities.

In 1965, the OCBA was confronted with the decision of whether to cooperate with the OEO, form a new corporation to receive funding (\$50,000.00) from the Federal Government and begin a legal service program under the governmental guidelines. The OEO guidelines included establishing a fifteen-member Board of Directors, eight of whom would be lawyers and seven of whom would be representatives of

Continued on page 12

FUN FACTS

Summary of Legal Aid Office Activities - June 1965:

Total number of interviews	190
Cases referred to governmental agencies or otherwise disposed of without attorney action	137
Cases referred to Lawyers Referral Panel	43
Cases referred to Legal Aid Attorneys (civil)	1
Cases referred to Legal Aid Attorneys (criminal)	3
Cases referred to Legal Aid Attorneys (Federal criminal)	6

Court Statistics for March 1966:

Law Actions

a. negligence - auto	39
b. negligence other	8
c. others	112

Chancery actions

a. divorce	67
b. uniform support	45
c. foreclosure	110
d. quiet title	16
e. accounting	2
f. adoption	24
g. declaratory orders	1
h. certiorari action	1
i. others	24

Criminal Actions Capital	3
--------------------------------	---

Appellate actions

a. civil	0
b. criminal	4

OCBA Presidents:

David H. Hendrick	1959 - 1960
Fletcher G. Rush	1960 - 1961
Charles McCarty	1961 - 1962
Benjamin F. Smathers	1962 - 1963
Leon Handley	1963 - 1964
Maxwell Wells, Jr.	1964 - 1965
Lee Jay Colling	1965 - 1966
James Urban	1966 - 1967
William Mitchell	1967 - 1968
Russell Troutman	1968 - 1969
John Lowndes	1969 - 1970



Orange County Courthouse Annex (c. 1959)

Photo courtesy of the Orange County Regional History Center.

the poor. The program also required the employment of neighborhood aides who would travel door to door in the impoverished neighborhoods with a checklist of possible needs that would require the assistance of an attorney. Examples of items on the checklist included: whether tenants were experiencing problems with landlords; whether a resident was the victim of usury; whether a single parent was experiencing difficulty obtaining child support; and whether a creditor was harassing a debtor at work or at home.

While the ABA was pressing local and state bars to participate in the governmental program, some of the members of the Orange County legal community, led by Russell Troutman, proposed an alternate solution: a legal aid program affiliated with and funded by the members of the OCBA. Mr. Troutman reasoned that since the OCBA was comprised of 500 members, contributions of \$100.00 per member would allow for a budget equal to the budget offered by the government. In other words, Troutman and his supporters advocated an organization of lawyers donating time to the poor as opposed to a governmental agency regulating such public service.

At the early stages, Mr. Troutman and his supporters faced considerable opposition within the Orange County Bar. In October, 1965, a Special Meeting of the OCBA Executive Council was held where, after much argument, the Council voted on the matter and the result was a tie. James A. Urban, OCBA President at the time, broke the tie with his vote in favor of the OEO. So, Mr. Troutman moved forward with his stand against the OEO, filing a Complaint in Federal Court seeking an injunction against the OEO, Sergeant Shriver and the Federal Government to stop the OEO legal services program from being imposed upon lawyers in Orange County, Florida. He filed his case in the U.S. District Court of the Middle District of Florida in 1967. *Troutman v. Shriver*, D.C., 273 F.Supp. 415 (D.C. Fla. 1967).

After Mr. Troutman filed his lawsuit, much publicity ensued. Editorials were written throughout the country, including in the *Orlando Sentinel*. The editorials largely favored Mr. Troutman's position. As the matter received media coverage, the OCBA membership responded in mass.

"A meeting was called of the OCBA membership in the First Federal Savings and Loan Building in downtown Orlando for a debate and consideration of whether to overrule the decision of the Executive Council and join with me in the lawsuit against the Federal Government," recalled Mr. Troutman. The crowd was emotional with zealous support of the movement to overrule the Executive Council.

"I spoke in favor of overruling the Executive Council along with other members of the OCBA. Those who spoke in favor of continuing the OEO program were Jim Robinson, a near and dear friend of mine, Billy Mitchell, the Vice President, and Paul Perkins after whom the Paul C. Perkins Bar Association is named," continued Troutman. "The most fervent supporters of the OEO program were Edgerton Van

den Berg and James Russ. Both Edgerton and Russ went on to become prominent lawyers in Orange County, with Jim Russ excelling in criminal defense work and Edgerton Van den Berg excelling in virtually everything else."

Ultimately the membership of the OCBA voted to overrule the Executive Council and join the lawsuit against the federal government. The OCBA appointed four lawyers to represent it in the case: Tom Gurney, Sr., Wilson Sanders, Steve Dean and Heskin Whitaker. The case moved its way up to the U.S. Supreme Court where it was dismissed for lack of standing. *Troutman v. Rumsfeld*, 397 U.S. 923 (U.S. 1970)

By the time the case arrived at the U.S. Supreme Court, other local bar associations had joined in the case against the federal government at the urging of Mr. Troutman.

During the year that the *Troutman* case wove its way through the judicial system, the OCBA formed the Legal Aid Society of the Orange County Bar Association, Inc. Edgerton Van den Berg was instrumental in establishing the framework of what is now our current Legal Aid Society. Van den Berg was responsible for forming the non-profit corporation and developing its charter, obtaining the federal tax exempt status and in appearing before the city and county commissions to solicit funds.

Mr. Troutman's main contributions to the Legal Aid Society were the requirement that members of the OCBA be members of the OCBA Legal Aid Society, that officers of the OCBA also be officers of the Legal Aid Society, and that there be no provision in the Legal Aid Society's charter requiring members to solicit business in neighborhoods and communities.

In reminiscing about this significant period of OCBA history, Mr. Troutman explained: "During the 1960s, we did have a legal aid program financed by filing fees with the Clerk of Court. However, the program consisted of one secretary who answered the telephone and searched the OCBA membership for a volunteer to handle a case." Mr. Troutman further explained that although some good was accomplished under that system it was woefully inadequate, and cases that required judicial intervention usually did not reach suit because the volunteer attorney was reticent of using his own money to cover the costs.

In thinking about the lawsuit that resulted in the establishment of the OCBA Legal Aid Society, Mr. Troutman mused: "I felt strongly in my Complaint that it was a duty of lawyers to provide legal services to the poor and not [the duty] of a governmental entity. During my year as President of the OCBA Legal Aid Society, we employed our first executive director, and that person was Charles Prather."

When asked about which philanthropic endeavor provided him most enjoyment during his tenure as an officer of the OCBA Legal Aid Society, a member of the OCBA Executive Council and OCBA President from 1968 to 1969, Mr. Troutman says: "Sponsoring the summer intern program on an annual basis [funding a law student or recent

Continued on page 13

law school graduate internship program] has provided me with more enjoyment than virtually any other philanthropic endeavor I have been a part of.”

Russell Troutman was awarded the Orlando Jaycees Good Government Award for having been the “driving force” in the formation of the OCBA’s Legal Aid Society. Within the past few years, the OCBA has recognized Mr. Troutman with a Resolution recognizing him as the “driving force” in forming the current legal aid program.

EQUALITY: The Birth of Civil Rights within the Bar

From Winning Cases in the Court Room and Eating in the Basement; to Achieving Professional Equality within the Bar - Paul C. Perkins, Esq.

I will never forget my own personal experiences with integration as a young girl in the first grade. I watched in horror while the turmoil unfolded before me, and I recall my inability to conceive that people were disliked or held to be inferior to others on the basis of skin color. Those early experiences established the paths I took in life, which culminated in my attending law school and practicing law. And so, it was my distinct honor to be able to visit with Melva (“Jackie”) Perkins, wife of the late and highly distinguished Paul C. Perkins, Esquire. Mrs. Perkins freely discussed her first-hand view of the cultural state of Orlando during the 1960s, the integrity and quality of the legal practice in Orlando and, most especially, her late husband’s contribution to the advancement of civil rights.

Daniel Webster Perkins was the first black lawyer in Florida. His nephew, Paul Perkins, attended and graduated from Howard University School of Law. After graduating from law school, Paul joined his seasoned uncle’s law practice. It did not take long for Paul to zealously encourage his uncle to “modernize” his law office and upgrade his law practice. Finally, Daniel Perkins gave Paul \$500.00 and a car and recommended that Paul implement his novel ideas by establishing his own practice. Paul Perkins came to Orlando. James Collier was the first black lawyer in Orlando until he was joined by his Howard University Law School classmate Paul Perkins in 1950.

Paul was not one to shy away from difficult or controversial cases, oftentimes representing criminal defendants whose cases appeared lost from the start. Perkins represented black defendants accused of murdering and raping white victims, and even took on the City of Orlando in 1950 to hasten the construction of Jones High School. Jones High School was to be located in a “black neighborhood” and was slated to be constructed only after the building of “white neighborhood” schools – Edgewater and Boone High Schools. His suit against the City earned Perkins considerable respect among his white peers. Perkins won that fight, and Jones was the first high school to be constructed; it eventually became Callahan Elementary School.

Of all of the cases that he took, perhaps Perkins’ most famous case was defending the Groveland Four. Perkins worked with Thurgood Marshall and Walter White in defending the four African American defendants accused of raping a white woman. “If Paul were here today,” mused Mrs. Perkins, “he would want the world to know that he slept in the same bed as the late Justice Thurgood Marshall!”

So, like politics, perhaps law makes for strange bedfellows.

At the time that the Groveland Four case was at trial, African Americans were not permitted to stay in downtown hotels. Paul Perkins happened to know a Mrs. Hopkins who owned a house close to downtown. So, when Mr. Marshall and Mr. White came to town to join Mr. Perkins at trial, Mrs. Hopkins graciously gave up her own bed so that the three lawyers could lodge close to the courthouse. And the three lawyers shared the same bed!

In April of 1963, Dr. Martin Luther King launched a series of nonviolent

Continued on page 15



Paul C. Perkins, Esquire

(Photo courtesy of the Paul C. Perkins Bar Association)



St. Augustine White Only Beach protest, 1964

(Photo courtesy of the State Archives of Florida)



Bronson County Elementary School Integrated Classroom (c. 1960s)

(Photo courtesy of State Archives of Florida)



Segregated Railroad Car

(Photo courtesy of the State Archives of Florida)

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demonstrations in Birmingham, Alabama, where protesters were brutalized and Dr. King was arrested. While he was incarcerated, Dr. King penned his famous "Letter from a Birmingham Jail." On August 28, 1963, more than 200,000 people of all ethnic backgrounds marched down the Mall in Washington D.C. toward the Lincoln Memorial, singing: "We Shall Overcome." This was the largest civil rights demonstration of its time. This was a dangerous time for African Americans, most especially in the South where resistance to equality was deeply embedded in the culture. African Americans were often tortured with fire hoses, billy clubs and police dogs. They were also often falsely accused of committing crimes against white people for which they were lynched, hung, tied to rail road tracks, murdered by other brutal methods or unjustly convicted.

Orlando did not go unscathed.

"I remember those days," said Mrs. Perkins. "We did not allow our children to go outside for fear that they would be falsely accused of committing a crime." Mrs. Perkins was, as were most African American women of that era, a teacher. She taught for 29 years at Callahan Elementary School, located on the corner of Washington Street and Parramore Avenue.

"Paul was not permitted to use the courthouse restroom facilities as were the other white lawyers. He would win a case and be relegated to the basement to use the restroom or eat. Blacks were not served at lunch counters, and the courthouse was no different. So if Paul wanted to eat in a restaurant, he would have to walk to Church Street and be served at a black-owned restaurant." Mrs. Perkins explained how her late husband would ponder the fact that although he was a Captain in the Army, having served in World War II in India, and although he was a distinguished attorney, having proved himself time and time again in the court room, he was refused the basic dignities of being able to dine at the courthouse lunch counter with his white colleagues and use the courthouse restroom.

This inequitable tradition passed with time.

On July 2, 1964, President Johnson signed into law the Civil Rights Act of 1964, the most far reaching civil rights measure ever enacted by Congress. The act outlawed discrimination in all public places, including restaurants and hotels, established the Equal Employment Opportunity Commission, and permitted the U.S. Attorney General to bring lawsuits for school desegregation. The Voting Rights Act of 1965 followed.

In 1965, Paul Perkins' reputation for competence, tenacity, ethics and courage in the legal practice earned him the appointment as Florida's first African American City Prosecutor. "When he was appointed City Prosecutor, Paul could use the courthouse restrooms; however, I am not sure whether the three other black lawyers (James Collier, Donald James and Norris Woolfork) and the black public at large could use them," Mrs. Perkins stated.

Perkins held the position as City Prosecutor for three years until he eventually decided that he wanted to return to private practice where he could generate a higher income

to benefit his family. "He made that decision to return to private practice in order to gain some financial security, and then oftentimes he accepted payment for his legal services in the form of oranges and cured hams," laughed Mrs. Perkins. "But that was a different time."

While Paul Perkins was working to establish equality and equity within the legal system, his wife worked to bring a sense of identity, pride and education to Orlando's at-risk children. In the 1960s, public schools were segregated, as were all public institutions. "I remember when Orlando finally began to discuss desegregation in the school system," Mrs. Perkins explained. "Now this was 1970; however, I think it is important to the period that we are discussing. The school system decided that teachers would be integrated before the students. So we used the 'pickle jar' process to determine which teachers would leave their respective schools. Ever heard of the 'pickle jar' process?"

I had to admit that I never heard of such a method.

Mrs. Perkins explained that the desegregation of teachers was accomplished according to the student ethnic ratio within each grade within each school. Thus, if the student ethnic ratio within a grade of a school was 18% black and 82% white, the school would achieve a corresponding teacher ratio for that grade.

"Black teachers' names were encapsulated in a sealed container and placed in pickle jars according to grade levels. White teachers' names were likewise encapsulated and placed in pickle jars according to grade levels. One set of jars contained the names of black teachers; the other set of jars contained names of white teachers. Names were selected at random from black jars and deposited into the white jars according to grade levels and ethnic ratio. White names were likewise distributed."

Eventually, explained Mrs. Perkins, entire "black" schools were closed and the children were distributed to the "white" schools. "The closing of schools in black neighborhoods resulted in the breakdown of the communities. Families wanted to live close to the schools that the children would attend, thus leaving neighborhoods where schools had once existed devoid of families."

In her continued effort to educate Orange County's at-risk youth, Mrs. Perkins opened the first bookstore in 1990 featuring African American authors. The store was called Montsho Bookstore, which closed in 2005. Mrs. Perkins established the Montsho Foundation, which now provides books and workshops for six child care centers for disadvantaged youth in low-performing schools. To contribute to this non-profit organization, contact: Montsho Foundation, Inc., P.O. Box 555726, Orlando, FL 32855.

In remembering her late husband, Mrs. Perkins said that of all of the honors he achieved in his lifetime, including posthumously receiving the "Liberty Bell Award" from the Orange County Bar Association in 2004, and having the Paul C. Perkins Bar Association established in his honor, he should be best remembered for being a good husband and father.

Continued on page 16

The Birth of *The Briefs* - from newsletter to Bulletin

"The firm of Anderson, Rush, Dean & Lowndes announces that Frederick W. Peirsol has become a member of the firm and that the partners will continue to practice under the name of Anderson, Rush, Dean & Lowndes at 322 East Central Boulevard, Orlando.

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Giles, Hendrick & Robinson announce that John L. Thomas II, and Philip A. Tharp, have become associated with the firm.

Judge Barker reports that a 112 So.2d Reporter volume is missing from his office library. Please check your library."

- *The Briefs* July 1965.

"It was quite an accomplishment," mused past OCBA President Lee Colling, "converting from the mimeographed newsletter to a monthly Bulletin that we called *The Briefs*. Now it was nothing compared to the current publication; however, for us back then it was truly quite an accomplishment." The first issue of *The Briefs* was published in June 1965.

Norman F. Burke was the first editor of *The Briefs*. The goal of the new publication was to keep members of the OCBA informed about OCBA activities and of general items of interest. The members were encouraged to submit timely materials to the editor for publication. The increased costs of publication were defrayed by advertising: four advertisements were sufficient to meet the expenses.

The President's Message from the First Issue of The Briefs:

Along with the tremendous growth of our local Bar Association, we have encountered greater difficulty in maintaining the close relationships between attorneys that have been characteristic in the past. We are hopeful that this new and improved Bar Newsletter will be another step in our continuing program to improve communications between our attorneys.

The problem of communications between attorneys is only one of the many problems facing our profession. It appears from recent surveys and polls that attorneys are failing in improving their relationships with the public. The findings of the recent Missouri Bar Opinion Survey point up the need for affirmative and conscious effort by Bar Associations and individual attorneys in the field

of public relations. The Missouri Survey, while indicating some encouraging findings, *i.e.* 93% of all users of legal services were well satisfied with those services, nevertheless show many short comings in our relations with each other and the public.

The Missouri Survey highlights four areas of major concern which are applicable to our local situation:

1. The poor general reputation or our profession:

Although the Survey showed that in "professional competency" attorneys ranked as high or higher than other professionals, attorneys ranked below clergymen, bankers, doctors and teachers in "general reputation." It is disturbing that 27% of the Missouri lawyers believe that their brother lawyers do not live up to the Canons of Ethics.

Findings also showed that criticism of lawyers by lawyers was a major factor in molding public opinion.

2. Attitudes of laymen and lawyers about lawyers' ethics and discipline:

The Survey showed 34% of those using lawyers thought that half of the lawyers were not entirely ethical; among non-users of legal services the figure was 29%. It is evident that both laymen and lawyers think that the Canons are being widely violated.

3. Failure of the public to utilize legal services:

In Missouri, 36% of the population had never used a lawyer and 80% of those people never recognized a need for legal services.

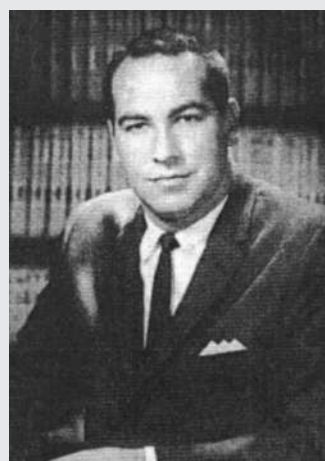
4. Public attitude towards the Courts:

The survey also showed more than 30% of the laymen questioned, expressed doubt that they would have better than a 50/50 chance of obtaining a fair verdict if accused of a crime. 74% of the lawyers questioned believed that wealth, social position and the race of clients affect the standards of justice available.

It is certain that the problems enumerated above do exist in our County although their magnitude may be arguable. There can be no question, however, that there is a duty on the part of our Bar Association and each individual attorney to take action during the coming year in the field of public relations. Both types of effort will be necessary to correct the misconceptions that exist and to improve channels of communication between lawyers and clients and between the Bar and the public.

-Lee Jay Colling, June 1965

Joyce C. Fuller, Esquire, is the sole shareholder in J. C. Fuller, P.A. in Winter Park. She has been a member of the OCBA since 1999.



Lee Jay Colling
OCBA President 1965-1966



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Berges v Infinity, 896 So. 2d 665, 677 (Fla. 2004)

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The OCBA Foundation, and
The Young Lawyers Section of the OCBA



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Appellate and Workers' Compensation Committees

Recent Developments in "Heart/Lung" Claims – Part 1

— Todd J. Sanders

Workers' compensation practitioners (and appellate lawyers who handle workers' compensation appeals) are familiar with Florida Statute §440.151 which addresses "occupational diseases," and includes a number of hurdles for claimants to overcome when seeking compensability of their condition. There is, however, a subspecies of occupational disease cases in which these obstacles are largely non-existent. These claims fall under what is commonly referred to as the "Heart/Lung Bill," codified at §112.18, Florida Statutes.¹ This article concerns subsection (1) of the statute, which provides, in relevant part:

Any condition or impairment of health of any Florida state, municipal, county, port authority, special tax district, or fire control district firefighter or any law enforcement officer or correctional officer as defined in §943.10(1), (2), or (3) caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death shall be presumed to have been accidental and to have been suffered in the line of duty unless the contrary be shown by competent evidence. However, any such firefighter or law enforcement officer shall have successfully passed a physical examination upon entering into any such service as a firefighter or law enforcement officer, which examination failed to reveal any evidence of any such condition.

§112.18(1), Fla. Stat. (2007).

So long as a member of one of the statute's protected classes satisfies its four prerequisites,² the law presumes the employee's hypertension, heart disease, or tuberculosis was caused by his/her job, effectively relieving the employee from having to satisfy the requirements of §440.151, but subject to rebuttal by "competent evidence" presented by an employer.³ For local governments and governmental agencies employing firefighters, law enforcement officers, and corrections officers, this law is essentially an unfunded mandate from the Florida State Legislature with the potential of causing a significant financial burden.

Because of these high stakes, since §112.18's passage

in 1965 (at which time the statute only covered firefighters), the meaning of just about every word or phrase in subsection (1) of the statute has been disputed, litigated, and subjected to appellate review. The past few years have seen some very significant appellate decisions dealing with this statute, many of which apply to conventional occupational disease cases as well. During that period there have also been some significant compensation orders in Heart/Lung cases issued by Judges of Compensation Claims that are winding their way through the appellate process. These developments, as well as recent legislative activity affecting the law, will be discussed in this two-part article presented on behalf of the Appellate and Workers' Compensation Committees of the OCBA. This article is not meant to be an exhaustive survey of these developments, but should serve as a guide to what is going on in this increasingly litigious field of workers' compensation law.

Protected Classes of Employees

It is reasonable to expect that one of the simplest aspects of a §112.18 claim is determining whether a claimant is a member of one of the statute's protected classes of workers – and generally speaking it is.⁴ However, occasionally an employer contests this issue.⁵ The City of DeLand disputed⁶ whether the claimant was a "firefighter" asserting that: (1) he was hired as a "fire marshal" whose "primary duty" was not actively fighting fires; (2) he was not a nonuser of tobacco or tobacco products for a period of one year immediately preceding his application for employment with the City; and (3) he did not execute, and could not have executed, a sworn affidavit (pursuant to §633.34(6), Fla. Stat.) that he had been such a nonuser. The JCC disagreed, and found that the claimant was a firefighter for the statute's purposes because: (1) one of his job duties was the fighting of fires, he was on-call to fight fires, and he had actually done so; (2) he was certified as a firefighter by the State of Florida, which certification is a job requirement; (3) he was exposed to the very same risks, etc. as described in *Caldwell v. Division of Retirement*;⁷ (4) he was a member of a duly-constituted fire department; and (5) "if the legislature had intended to exclude fire marshals from the definition of firefighter in §112.81, they would have done so in the same way they did

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¹ The 1st DCA acknowledged that this is an occupational disease statute in, *inter alia*, *Sledge v. City of Fort Lauderdale*, 487 So. 2d 1231 (Fla. 1st DCA 1986).

² 1. He/she is a firefighter, law enforcement officer, or correctional officer; 2. develops heart disease, hypertension or tuberculosis (or any combination of these); 3. is "disabled" as a result, either partially or totally, temporarily or permanently; and 4. underwent a pre-employment physical that was negative for the claimed condition. Correctional officers were exempt from this latter requirement and will be discussed in the next part of this article.

³ This element of the statute is discussed in the second part of this article.

⁴ In *State Dept. of Corrections v. Clark*, 593 So. 2d 585 (Fla. 1st DCA 1992), the 1st DCA held the claimant was not a covered firefighter because he was not

a firefighter in a fire control district, and in *Smith v. City of Miami*, 552 So. 2d 245 (Fla. 1st DCA 1989), the court found the claimant was not covered by the act because he was retired for fifteen months before becoming disabled due to heart disease.

⁵ In one case that is still pending, the State of Florida is denying that the claimant is a "corrections officer" as defined by §943.10(1), (2), or (3), because, *inter alia*, although she is certified by the State as a corrections officer, she works for the Department of Children and Families in a facility that, it contends, does not fall within the parameters of this section.

⁶ *William Wilkins v. City of DeLand*, OJCC #05-004866TGP.

⁷ 372 So. 2d 438 (Fla. 1979).

in §112.531.⁸ Thus, it can be inferred that fire marshals were meant to be included.” This case is on appeal.⁹

Covered Conditions

In *James Binkley v. Seminole County*¹⁰ the employer successfully challenged whether the claimant had “heart disease.” Mr. Binkley suffered from a condition called neurocardiogenic syncope. The JCC accepted as most convincing the medical testimony that this condition is not “heart disease” because it is a “multi-system” disease, and the claimant’s heart was normal according to various objective medical tests. Even more recently,¹¹ an employer persuaded a JCC that “essential hypertension” is not the type of hypertension contemplated by §112.18, basing his decision on the case of *City of Miami v. Thomas*,¹² in which the court held that not all types of hypertension are covered by the statute. The *Thomas* court said that §112.18 applies only to “arterial” or “cardiovascular” hypertension.¹³ The JCC in *Bivens* ruled as he did even after specifically finding that the E/SA’s IME cardiologist defined “essential hypertension” as “systemic arterial hypertension,” and that the EMA testified that “essential hypertension” is *cardiac*-related.¹⁴ This case, of course, is currently on appeal.¹⁵

Disability

As with conventional occupational disease cases, a claimant seeking compensability of a claim under §112.18 must establish “disability” as a result of the claimed condition. That this disability need not be permanent was established in *City of Miami v. Thomas*.¹⁶ The statute also specifically states that the disability can be either total or partial. Because §112.18 claims are occupational disease cases, at least certain aspects of the latter apply to the former, including the definition of “disability.” In *Sledge v. City of Fort Lauderdale*,¹⁷ the court defined “disablement” alternatively as “a stoppage or loss of earnings” and “the event upon which the employee becomes *actually incapacitated*, partially or totally, from performing his employment.”¹⁸ (emphasis added).

In *City of Mary Esther v. McArtor*,¹⁹ the employer argued the claimant failed to satisfy the “disablement” requirement because he had not lost any wages as a result of his condition due to the employer’s decision to pay him his full salary while he was in the hospital as a result of his condition. The court explained that this was irrelevant because “[d]etermining whether a person is disabled for purposes of

workers’ compensation turns upon the person’s capacity to earn income, not upon the employer’s decision to pay the injured person’s salary while he or she is incapacitated.”²⁰ This makes sense, because otherwise an employer could avoid liability under either §112.18 or §440.151 simply by paying an injured employee his/her regular full wages even though the employee did not actually perform any work (and could not have done so), thereby undermining the entire purpose of these statutes. The *McArtor* court also reiterated the definition in *Sledge*, stating that “disablement” is defined as “the event upon which the employee becomes *actually incapacitated*, partially or totally, from performing his employment.”²¹

This definition of disability was reaffirmed in *City of Port Orange v. Sedacca*,²² in an *en banc* decision that many in the defense bar, at least at first, hailed as a decision requiring actual lost wages to satisfy the disability requirement under either §112.18 or §440.151. However, the issue in *Sedacca* was simply whether the assignment of an impairment rating, *by itself*, creates a presumption of disability, even if the claimant misses no work, loses no wages, and is not rendered physically unable to perform his job for any period of time. The majority of the court said “no.”²³ Perhaps what excited the defense bar so much was the court’s statement that: “The key phrase of the statutory definition: actually incapacitated . . . from performing his or her work, can logically *only support a wage-loss requirement for disability*.”²⁴ However, the court in *Sedacca* then went on to state that: “Until ‘actually incapacitated,’ at least partially, no coverage for a disease or medical condition is available under the Act, because a claimant’s disease or medical condition has not resulted in disablement as the statute defines that term.” The court then cited *McArtor* and its relevant language.²⁵ Thus, it is clear from *McArtor* and *Sedacca* that it is not the loss of wages itself that constitutes “disability” rather it is an inability to actually fully perform a job or *earn* wages by doing so.

While *McArtor* and *Sedacca* cleared up (or should have) much of the confusion about what “disablement” means, it did not end challenges to Heart/Lung and other occupational disease claims on the ground that the claimant failed to meet the disability requirement. In *McArtor* the claimant was hospitalized for a period of time as a result of his heart condition, and thus it was obvious that the claimant was

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⁸ Which is a “sister statute” to §112.81 (defining “firefighter”) concerning the definition of, *inter alia*, “police officers” and specifically excluding certain types of employees from the definition.

⁹ *City of Deland v. William Wilkins*, 1D07-3220.

¹⁰ OJCC# 04-011269TGP, upheld via a *per curiam affirmed* opinion at 951 So.2d 833 (Fla. 1DCA 2007).

¹¹ *David Bivens v. City of Lakeland*, OJCC# 05-019248MHH.

¹² 657 So. 2d 927 (Fla. 1st DCA 1995).

¹³ The claimant in *Thomas* had two different types of hypertension: idiopathic intracranial hypertension and hypertension that was described, alternatively, as “arterial hypertension,” “hypertensive cardiovascular disease,” and “cardiovascular hypertension.”

¹⁴ Paradoxically, the same JCC had specifically rejected this very same argument in two other cases involving the same employer, the same defense counsel, and the same claimant’s firm. See, *James Hills v. City of Lakeland*, OJCC# 05-016356MHH, and *Jeff Clayton v. City of Lakeland*, OJCC# 06-027156MHH.

¹⁵ *Bivens v. City of Lakeland*, 1D07-5688. In the interest of full disclosure, the author tried the *Bivens* case and is attorney of record for the appeal.

¹⁶ 657 So. 2d 927 (Fla. 1st DCA 1995).

¹⁷ 487 So. 2d 1231 (Fla. 1st DCA 1986).

¹⁸ *Id.* at 1233.

¹⁹ 902 So. 2d 942 (Fla. 1st DCA 2005).

²⁰ *Id.* at 944. (emphasis added).

²¹ *Id.* (emphasis added).

²² 953 So. 2d 727 (Fla. 1st DCA 2007).

²³ The court’s discussion of the claimant’s theory behind this position, and the dissent’s support of it, is quite interesting, but space considerations do not allow for a full discussion of *Sedacca*.

²⁴ *Id.* at 730-31. (emphasis added).

²⁵ *Id.* at 731.

incapacitated from performing his duties during that time.

In *Danny Shafer v. City of Kissimmee*,²⁶ however, the claimant, a firefighter, was told his blood pressure was elevated while undergoing treatment at an urgent care center subsequent to a knee injury. However, there was no notation in the clinic's records indicating what the claimant's blood pressure was on that date (the claimant testified it was 160/100). Following the advice he received at the clinic,²⁷ the claimant followed up with his personal physician, and the doctor prescribed medication. The claimant reported he felt symptoms of headaches and dizziness, which improved somewhat with a change in medication, although there were occasions on which, due to these symptoms, the claimant felt unable to perform his duties and called in sick. He was eventually referred to a cardiologist who, like his personal physician, neither instructed the claimant to miss any work nor placed any restrictions on him. While the claimant did miss time from work due to his knee injury, the JCC found that there was no medical evidence that the claimant was ever incapacitated from performing any of his firefighter duties as a result of his hypertension, and that the claimant's "subjective belief that he could not work" because of his blood pressure was not legally sufficient to establish disability pursuant to §440.09(1), Fla. Stat. (which requires that disability be established "to a reasonable degree of medical certainty, based on objective medical findings"). The 1st DCA upheld the JCC in a PCA opinion without citation or comment.²⁸

*Gary Simpson v. City of Kissimmee*²⁹ also involved a firefighter seeking compensability of a hypertension claim, and the employer asserted that the claimant failed to satisfy the disablement requirement in part because he "only missed work a couple of days." Like the claimant in *Shafer*, Mr. Simpson experienced symptoms he related to an elevation in blood pressure. He had a paramedic take his blood pressure, which proved to be "extremely elevated." He left work early and went to a clinic, at which time his blood pressure was still elevated, and he was placed on medication. Several months later he again experienced headaches, dizziness, and light-headedness, had his blood pressure checked, and was again told it was elevated even with medication. The claimant called his cardiologist's office and spoke to the nurse. After the nurse consulted with the doctor, she told the claimant his medication was being changed and instructed him not to return to work until he saw the doctor the next day for an examination. After that examination the claimant's blood pressure was within normal limits and claimant was released to return to work. In addition, the JCC found that both of the cardiologists who testified in the case opined that it was necessary for the claimant to miss work on the two occasions he left his job to seek medical care for his elevated blood pressure.

Citing *McArtor*, the JCC found that the testimony of

the claimant's supervisors and attending paramedics with respect to his elevated blood pressure readings and reported *concurrent* symptoms of headaches and dizziness, the claimant's being advised to leave work to seek medical care, along with medical testimony that it was necessary for the claimant to miss work and seek medical care for his elevated blood pressure on the occasions he did so, was sufficient to establish disability.³⁰ The JCC said that *McArtor* only requires incapacity to perform a claimant's work on either a temporary or permanent basis. Importantly, the JCC also specifically rejected the employer's contention that a claimant must miss at least seven consecutive days of work pursuant to §440.12(1), Fla. Stat. before he can establish disability. The JCC found that this statute is only meant to address when a claimant is entitled to indemnity due to an illness or injury, and is not a standard of disability. On appeal the 1st DCA affirmed,³¹ also quoting *McArtor*. This suggests that it may be sufficient for a claimant to be assigned a duty status other than his regular full-duty status to establish disability.³²

Providing additional guidance on this issue is *Charles Norris v. City of Kissimmee*³³ - another hypertension claim. The JCC found no disability because there was no evidence that the claimant's symptoms of headaches and chest tightness ever *coincided* with elevated blood pressure, there was no evidence that the claimant was taken out of work or assigned any work restrictions due to elevated blood pressure, and the claimant himself admitted that "he did not miss one day of work as a result of the symptoms." This case, too, was appealed, and the 1st DCA affirmed,³⁴ citing *Sedacca*.

Based on the foregoing, it appears that to establish disability in a hypertension claim, a claimant must establish some objective evidence of a high blood pressure reading and either present evidence that someone (a doctor, nurse, or supervisor) instructed the claimant to miss work or placed restrictions on the claimant's job duties as a result of elevated blood pressure, or present medical testimony that the claimant was in fact incapacitated as a result of the condition (again based on objective evidence). If a claimant misses work due to symptoms he/she relates to elevated blood pressure, it appears that there must be some evidence showing that the symptoms coincided with elevated blood pressure, assuming the symptoms are those that are associated with the condition.

Conclusion

The next part of this two-part article will address recent cases and legislative action regarding the pre-employment physical requirement, as well as what is necessary to rebut the presumption, including the appropriate burden of proof.

Todd J. Sanders has been a member of the OCBA since 2007.

²⁶ OJCC# 05-015055WJC.

²⁷ And from his employer.

²⁸ *Shafer v. City of Kissimmee*, 942 So.2d 887 (Fla. 1st DCA 2006).

²⁹ OJCC# 05-027319WJC (note that this case involved the same JCC, the same employer, and the same trial attorneys as in *Shafer*).

³⁰ The JCC also pointed to testimony from the claimant's chief that the claimant had missed work "3 to 6" times due to the aforementioned symptoms and/or

elevated blood pressure, and approved sick time due on these instances without requiring a doctor's note, as well as payroll records documenting sick time taken.

³¹ *City of Kissimmee v. Simpson*, 964 So. 2d 765 (Fla. 1st DCA 2007).

³² Such as, for example, a law enforcement officer being relieved of his regular patrol duties and placed in a "desk job" for a period of time.

³³ OJCC## 05-017757TWS; 06-016179TWS.

³⁴ 955 So. 2d 1255 (Fla. 1st DCA 2007).

Attorney Profile

Harold A. Ward, III - OCBA Member & Counsel for the Petitioner in *Carnley v. Cochran*, 369 U.S. 506 (1962)



— Frank M. Bedell

At age 16 and with a full academic scholarship to the University of Chicago, Harold Ward left his family's home in Winter Park in September 1950 and boarded a Greyhound bus. That bus ride to Chicago would begin a journey which would include academic success in undergraduate and law schools; a Supreme Court clerkship under the legendary Mr. Justice Hugo Black; service in the Air Force; private practice in Washington, DC; private practice in Winter Park since 1959; and unbounded service to the legal profession through the OCBA and to our community as a Trustee for Rollins College, through the Charles Hosmer Foundation and Elizabeth Morse Genius Foundation, and through his church and other organizations.

While many OCBA members might know of Harold Ward as one of the "Deans" of estates and trust practitioners in this area or as a recipient of the Winter Park Chamber of Commerce's "Outstanding Citizen of the Year" award, few may know that Ward has also been a successful Supreme Court advocate, on behalf of the petitioner in *Carnley v. Cochran*, 369 U.S. 506 (1962), which is an important opinion in the right-to-counsel body of law and immediately preceded *Gideon v. Wainwright*, 372 U.S. 335 (1963). Ward's victory was an important step in the Supreme Court's ultimate decision in *Gideon* to overturn *Betts v. Brady*, 316 U.S. 455 (1942), and rule unanimously that state courts are required by the Constitution to provide lawyers in criminal cases for persons who are unable to afford their own counsel.

Harold Ward's representation of Willard Carnley began when he was in his office on Park Avenue and the phone rang. On the other end was a representative from the Office of the Clerk of Court for the Supreme Court, who asked Ward whether he would be interested in providing representation for Carnley, who had been convicted of a felony by a state court in Escambia County after a trial in which Carnley was unrepresented. Carnley's *pro se* petition for a writ of certiorari had been granted by the Supreme Court, and his case was before the Supreme Court. A brief on the merits was due, and Ward accepted representation *pro bono*.

Harold Ward was already familiar with the inner workings of the Court as a result of the rich experience that he enjoyed as a law clerk for Justice Hugo Black. Ward's clerkship with Justice Black began after Black's wife had died. During court recesses, Justice Black and Harold Ward would drive together from Washington, DC to Winter Park,

where Ward would stop to visit his family, while Black continued on to Miami, where he would vacation and play tennis. Justice Black would then pick up Ward on their way back to the Court. Through this extensive exposure to Ward, Justice Black became aware of Ward's obvious intellectual capabilities and abundant legal skills.

After agreeing to become counsel for the petitioner, Harold Ward began working on the case and filed briefs on behalf of the petitioner. Oral argument took place on February 20 and 21, 1962. Ward was 29 years old and, of course, remembers the argument well, particularly the questions about whether *Betts v. Brady* should be overturned.

The Supreme Court issued the *Carnley* opinion on April 30, 1962. Ward discovered that he won through a phone call from the Clerk's office, and he then read the opinion when it arrived by mail. Harold Ward laughs when he says that he wishes his client had provided him with better facts (but isn't that a wish that all lawyers have?). Even though the Court did not overturn *Betts v. Brady*, the *Carnley v. Cochran* decision was immediately recognized for its importance in right-to-counsel law, and it set the stage for *Gideon v. Wainwright*, which of course dramatically changed criminal law and led to the establishment of the public defender system in the United States.

Although there would be no more Supreme Court cases for Harold Ward, he would eventually concentrate his practice on estates and trusts work, where Ward is Board-certified and is widely known and respected as one of the most skilled and professional lawyers in Central Florida. Ward is a member of the American College of Trusts and Estates Counsel and has been with Winderweede, Haines, Ward & Woodman since moving back to Winter Park in 1959. The law firm recently celebrated its 75th anniversary.

In addition to extensive community service through the Winter Park Chamber of Commerce as a two-term President and service through his church, Harold Ward has been a continuous member of the OCBA since 1960 and served on the Executive Council from 1967-1973. Ward also served as a Winter Park Municipal Judge from 1969-1973. He and his longtime wife, Libby, have three children and many grandchildren.

Frank M. Bedell is a shareholder with Winderweede, Haines, Ward & Woodman, P.A. He has been a member of the OCBA since 1991.



Harold A. Ward, III and Justice Hugo Black (c. 1956)



Judicial Profile

Judge George Kendall Sharp



—Richard Lee Barrett

The following interview was conducted on September 13, 2007.

Barrett: One of the first things we want to do, Judge, is to talk with you a little bit about your educational background, if you can tell me a little bit about that?

Sharp: [I] ... went to Andover Phillips Academy in Andover, Massachusetts and graduated in 1953 from Andover. I went to Yale and graduated with a B.A. in '57 and then I went directly to OCS in the Navy, ... was commissioned and spent four years on active duty. ...[T]hen, after I got off active duty, I went to the University of Virginia Law School and graduated ... in '63. I stayed ... in the Navy during that time in the reserves for the next twenty-seven years, and I went directly to a firm called Mitchell, Smith & Mitchell in Vero Beach and practiced with them for fifteen years. Mostly we did estate planning and administrative work ... I was the attorney for the School Board, the Hospital Board, the Mosquito Control District, the Drainage District.

Barrett: How did you end up in Vero Beach from Virginia?

Sharp: Well, my parents retired down there when I was still in prep school, so actually that was my residence. ... [A]fter fifteen years, I went on the State Bench. I was a Circuit Judge for the Nineteenth Judicial Circuit - which actually was the last circuit in the State ... we were actually "circuit riders." In other words, I covered Indian River County, St. Lucie County, Martin County, and Okeechobee County.

Barrett: When you first came on the bench, did you run for election or were you appointed by the Governor?

Sharp: I ran for election.

Barrett: ... [H]ow long were you on the Circuit Court bench?

Sharp: Six years. Then I was appointed by President Ronald Reagan to the Middle District in 1983.

Barrett: ... [L]et's start with your practice down in Vero Beach. Can you tell me what kinds of cases were routinely being handled by you down there then?

Sharp: ... [I]n 1966, they just started the Public Defender's system and Claude Kirk was the Governor ... [B]ack in those days, there were no Republicans. I was a token

Republican so he appointed me as the Public Defender for the Nineteenth Circuit. And that was a part-time job. [I] covered all four counties and had two assistants and one investigator, and that covered all the four counties. Then after that, you had to run for re-election and I didn't want to bother with that. [It] was an interesting job and I learned a lot about being in the courtroom. But one of things that made me quit was we were so small that one time I was representing a guy for aggravated battery ... and he was convicted; ... we needed to do our own appeals and I had to write my own appeal for ineffective assistance of counsel. So, I figured it was about time to move on.

Barrett: [laughter] Did you win that appeal?

Sharp: [laughter] I don't remember.

Barrett: What kind of industry was going on down in Vero Beach then?

Sharp: [I] represented a lot of the grove owners and I represented the Driftwood and the Ocean Grill, ... but mostly ... private people and took care of their estates and tax work. [I] represented John's Island for a while. In fact, I was their first Municipal Judge in Indian River Shores.

Barrett: When you became a Judge, what types of cases did you have?

Sharp: Everything, both civil and criminal. So when I came on the Federal Bench, there really wasn't much difference from the State Bench - except [on the State Bench] I had about 2,200 cases, and when I got on the Federal Bench I had about 200.

Barrett: When you first came here, do you remember the first case you ever tried here as a Judge?

Sharp: I sure do. When I first came here, there was only Judge Reed ... and four months later he resigned, so I was here alone as the only Judge for about two years.

Barrett: Had Judge Young retired by then?

Sharp: Well, he took senior status, but he didn't take any cases ... the big difference was [in] the first four months, I never tried a case in English.

Barrett: What language did you try them in?

Sharp: I had one in Farsi. I had one in Japanese and three in Spanish.

Barrett: So, the entire trials were conducted with

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*The Hon. George Kendall Sharp
Senior District Judge
Middle District of Florida*

HEARSAY

"It's not a party until something gets broken."

– Billy Hicks*



Magistrate Howard D. Friedman, OCBA Professionalism Committee chair, introduced the 2008 professionalism awards recipients at Professionalism Awards luncheon in March.



Representative Geraldine F. Thompson attended the luncheon with her husband, Judge Emerson R. Thompson, Jr. Judge Thompson was the first recipient of the James G. Glazebrook Memorial Bar Service Award.



2008 William Trickel, Jr. Professionalism Award recipient Council Wooten, Jr. and his wife, Patty, share a few minutes with Florida Supreme Court Justice Harry Lee Anstead at the luncheon.



Elizabeth F. McCausland, the 2008 Lawrence G. Mathews, Jr. Young Lawyers Professionalism Award recipient and her parents, Cuc and Ed Foshee, enjoyed a congratulatory moment at the awards luncheon.

Crash went down the bottle of beer onto the third floor of the George C. Young United States Courthouse & Federal Building Annex. Normally, the act of disturbing the sanctuary of justice that is the new Federal Courthouse would merit at least an escort out of the building, but not on April 12, 2008. It was on that evening that **Chief Judge Patricia Fawcett** opened the courthouse doors to a few hundred of her closest friends for the OCBA's 11th Annual Gala hosted in a most unlikely site – the still sparkling Federal Courthouse. Produced by **Tom** "Who said past prezes don't do anything" **Wert** and K-Square (*The Briefs* Editor **Kristyne Kennedy**), the Gala was a Barrister's Ball that did not disappoint!

The A-list was there, be they bar dignitaries like **Bruce** "Almighty" **Blackwell**, ex-presidents like **Paul** "I have four kids and still have all my hair" **SanGiovanni**, and even the current president – of the United States! Think what you will of the single-consonant monikered one, but when George "I look a lot like **Mary Ann Morgan**'s brother, don't I?" W. walks into a room, people take notice! Also present were judges galore, including the newly ascended 5th DCA **Judge Jay Cohen**, Circuit Court **Judge** (and past-Hearsay-trivia winner) **Cynthia MacKinnon**, and of course, **The Judges Kest**. (If you get them both, you know your party is a success!)

In honor of galas past, guests were treated to a running pictorial on one of the oversized Federal Courthouse walls of pictures of the previous ten galas. Candid camera lives! And it's not an OCBA gala without its ever-famous martini-bar - this one met the challenge splendidly. Not only were there the usual multicolored concoctions prepared, some with Jolly Ranchers where Bond would have insisted only a shaken olive would go, but the rather portable "Salad Martini" proved an unusual and rather tasty way to fill out that whole food-pyramid thing!

A surreal ending, you ask for? How's a guitar-laden band, led by crooner Steve "yes, Lawyer Steve" Sawicki, serenading the children-of-the-Eighties-heavy dance floor with a nostalgic rendition of the Violent Femmes? Having turned it up to 11, it was a perfect way to close out the evening. Kudos to Tom, K², the Gala Committee and the whole OCBA staff for a gala well done!

What – you want more? Well, if you insist on yet another social event, but won't have your tux back from the cleaners yet, our Social Committee's finale for the '07-'08 season occurs on **May 15th**, as the OCBA Entertainment Law Committee teams up with the Social Committee to host "Lawyers Rock," a live-entertainment-social-gathering-celebrity-memorabilia-auction-sort-of-event! Clearly, tux not required, but bring your checkbook, since donated items from the likes of superbowl-playing Tom Petty, Gator legend Danny Wuerffel, country legend Wynonna and more will all be available at a fun-filled auction. Proceeds to Legal Aid and the GRAMMY foundation. For more

Nicholas A. Shannin

information, contact Event Chair **Nick Nanton** at ndnanton@dicksnanton.com or Social Committee Chair **Kim Webb** at kdwebb@littler.com.

Forget rock stars, though. We've got some legal stars. OCBA's own since 1995, **Leticia Diaz** was proclaimed the "Outstanding 2008 Hispanic Female in the Legal Field" winner. Barry Law School's Dean, Diaz was honored at a lunch which included proclamations from City **Mayor Dyer** and County **Mayor Crotty**. Congratulations to Leticia Diaz on receiving this honor. Also in the spotlight: our very own **Kirk Kirkconnell** with Kirkconnell, Lindsey, Snure & Yates, who was appointed by Governor Charlie Crist to serve a four year-term on the Judicial Nominating Committee (JNC) for the 5th District Court of Appeals.

A monthly honor to be given out – "Hearsay"'s trivia winner. The March issue had a true stumper, a classic "trick trick question." The only 16th seed to knock off a 1 seed in the NCAA tournament? Harvard, replied **Robert** "Trebek's got nothing on me" **Dietz**, correctly. Robert is a partner at Zimmerman, Kiser & Sutcliffe, P.A. and one of the only workers' compensation gurus to be named a "Fellow" at The College of Workers' Compensation Lawyers. Many thought it to be a trick question, because they knew that no 16th had ever won its opening game in the NCAA's, and more than a few "nobody" answers were received. The trick part was, however, the lack of *gender* mentioned, making it not really a trick question at all. No men's tourney 16th has won, true, but the women of Hah-vahd pahked their cah right on the basketball court at Stanford and felled the 1 seed back in 1998. Congratulations Robert! This month's trivia question – name the actor who uttered the '80s vintage line asterisked in the opening and the movie in which he said it.

Last item – it's picture time! From May 13 to June 6, it's great opportunity to go down to the OCBA office and update that mugshot of yours. Yeah, that same info probably appears elsewhere in *The Briefs*, but that staid announcement won't have the same impact ... as one with a "Fountain of Youth Old Picture Award" contest in it! Yes, pull out your brand-new glossy covered 75th Anniversary Directories and vote now for your favorite picture from yesteryear. My three favorites, in reverse order: 3.) **Chris** "Eddie Vedder wore flannel when this was taken" **Hill** (p. 69); 2.) **Brian** "Hook 'em" **Gilcrist** (p. 62); and 1.) **Dennis** "The Cardinal" **O'Connor** (p. 97). Operators are standing by!

Ok, that's a wrap for May – and for my first year of "Hearsay" authorship! The glutton for punishment that I am, I've re-upped for '08-'09, so please, keep sending your news, gossip or otherwise, to me at nshannin@floridalawonline.com so I can get your colleagues in print. Thanks for a fun year, and see you all back here next time!

Nicholas A. Shannin is a Board Certified Appellate Attorney and a partner with Page, Eichenblatt, Bernbaum & Bennett. He has been a member of the OCBA since 1995.



Gene Shipley, OCBA President, spoke to Orange County Public School teachers and administrators at the annual Law Day Symposium in April. The event is sponsored in part by the OCBA Foundation.



Jane Dwyer, Judge Faye Allen, Gene Shipley and Law Week Committee co-chair Lori Spangler were instrumental in presenting DUI Mock Trials held at City Hall in mid-April. Ms. Dwyer spoke of the losses she suffered after her DUI conviction.



Judge Faye Allen discussed the potential legal consequences for those caught DUI with nearly 100 students from Boone High School and Bridge to Independence Charter School at the DUI Mock Trials.



Students from St. James and St. John Vianney eagerly participated in the Law Week activity. City Commissioners Samuel Ings, Robert Stuart, Phil Diamond and OCBA attorneys played various roles in the trials.

interpreters?

Sharp: Yeah, interpreters.

Barrett: That's amazing. What kind of cases were they?

Sharp: Drug cases mostly . . . the Farsi and Spanish were drug cases, and I had one counterfeit case in Chinese. We got a lot of admiralty cases for seizure of boats for nonpayment of storage and things like that, but they were administrative. I had one interesting case that was admiralty and it was actually, I found out, . . . the first "death at the high seas" case.

Barrett: What happened?

Sharp: It was a shrimp boat . . . they hired on a mate and he got disenchanted with the captain and the first mate, and killed the captain. Threw the mate overboard and he was wounded and in the water for eight hours with the sharks and finally was picked up by a sailboat. Actually, it ended up as a big article in True Detective.

Barrett: What year did you finally retire here?

Sharp: I took senior status on January 1 of 2000.

Barrett: When you first came on, you had roughly 200 cases. How many cases were [you] handling at the time you retired?

Sharp: Probably 300. What I do is, I'm still on the wheel and take as many cases as the other judges - but, of course, there are four active and I just reassign the ones I don't like. I think right now I have 190 cases. I can't choose the ones I want, but I can get rid of the ones I don't want.

Barrett: Who was the next Judge who came on after you?

Sharp: Judge Fawsett. I think she came on in 1987.

Barrett: Was she the first female Federal Judge we had here in the Middle District?

Sharp: No. Judge Black was - Susan Black. She's on the Eleventh Circuit now. She was the first out of Jacksonville and she was a State Circuit Judge before.

Barrett: Are there any particular cases that you had here in Federal Court that are really memorable that you would like to share with us?

Sharp: Well, yours - the *Florida Center Bank* case, which was a bank fraud case in which the CEO is still in prison.

Barrett: I want to say this case was 1986 or 1987 and I was working with Bernie Dempsey, and Bernie and I tried that case along with about six or seven other co-defendants; and our client was a guy named Hugh Wiley, who was the one who was acquitted. He was a famous equestrian horse jumper.

Sharp: Mohammad Ali was a character witness, and some astronauts.

Barrett: Yeah. I remember Mohammad Ali sitting out in the hallway doing magic tricks. Any other cases that you remember?

Sharp: Of course, for almost three weeks here I had Ted Bundy sitting in the courtroom.

Barrett: Tell me about that. I thought he was tried in State Court.

Sharp: Well, he was tried in State Court but all the appeals, of course, come to Federal Court. . . . I had the last appeal before he was executed and he was here for about two and a half weeks going through the appellate process. It was a media circus.

Barrett: Who are some of the best lawyers who practice in front of you?

Sharp: I've been very impressed, especially coming over from the Ninth Circuit. I have been very impressed with the Orange County Bar. Of course, they had a reputation for years about being the best Bar in the State and getting all the honors and accolades, and almost all of the attorneys who have appeared before me have been well prepared . . . I guess a lot of the attorneys who appear in Federal Court are a cut above the run of the mill because it is harder.

Barrett: Have you had any of the more flamboyant lawyers who practice in front of you? Any of the F. Lee Bailey's? Of course, Al Creiger was in that *Florida Center Bank* case.

Sharp: Oh yeah. He was a wonderful, wonderful lawyer from Miami. The only time F. Lee Bailey appeared in front of me was when the Omni - the hotel across from the Arena - went into receivership. He just came representing one of the owners and, you know, it wasn't a very interesting case. He just was there and had a very engaging voice.

Barrett: Yeah. He does. In fact, I came over one time. He was representing a defendant in front of Judge Conway here and [Bailey] was cross-examining Claude Kirk.

Sharp: I remember that . . . Claude got irritated at one of the questions and said "Oh come on 'flea' (F. Lee Bailey), you know that both you and I are has-beens."

Barrett: Actually what happened is Kirk had apparently turned some folks into the IRS, and the IRS wouldn't listen to him. He was trying to get a reward and Bailey was questioning him, "Mr. Kirk, they ignored you because you're a liar. Isn't that true?" and he said, "No, because I'm a has-been just like you Mr. Bailey." [laughter] Two old war horses going at it.

Who were some of the more . . . notable defendants that you can recall?

Sharp: Well, I had Harlan Blackburn here. I had a couple of interesting tow missile cases, and one of the main defendants . . . claimed that he was a CIA operative - but that was a no-win situation because even if he was, they wouldn't acknowledge it. He went off to prison.

Barrett: You just moved into the new courthouse. What do you think of the new courthouse here?

Continued on page 27

Sharp: Well, I liked my old office because I made it look like an old English hunting lodge and had the old Tudor walls that this doesn't, and I had softer lighting. My office is so big now that I get lost in it. I got a big conference room and a kitchen. It's very nice.

Barrett: I notice in your office here - you got a lot of sculptures. Are these Remingtons?

Sharp: Yeah.

Barrett: Are you a collector, I take it?

Sharp: Yes. [I] just love the sculptures.

Barrett: What type of hobbies do you engage in?

Sharp: Oh, I play tennis and my favorite hobby is spear fishing. I've been doing that for years.

Barrett: Who were some of the power brokers back in town here?

Sharp: Well, coming here from out of town I really didn't get into that. As far as the lawyers are concerned, I'd known Bob Lilly for years from tennis and Joel Sharp who was the President of the Bar back a long time ago ... and Leon Handley and I had been associated on a case together one time, and I represented Treasure Salvors for years.

Barrett: That's Mel Fisher's group?

Sharp: Yeah.

Barrett: Tell me a little bit about Mel Fisher and your relationship with him.

Sharp: Well, he walked into the office one day and asked me if I'd incorporate and I said "yeah I do that," and I incorporated Treasure Salvagers here in Florida.

Barrett: What year was that?

Sharp: Oh it must have been 1964.

Barrett: Was he looking for the Atocha or just treasure in general?

Sharp: Oh, he was looking for treasure between Sebastian and Fort Pierce. Atocha was much later down in the Keys and he was in between Sebastian and Fort Pierce for about seven years or so. They found six or seven of the galleons of the 1714 plate fleet.

As a matter of fact, I went up to Washington, D.C. to try to get the IRS to change some regulations. Under the regs at the time, they had treasure trove being immediately taxable at the time that they brought it up. Of course, the State at the time had a lien on 25% of it, so until they made the distribution Treasure Salvagers couldn't use it as collateral. You know, every day they had to buy gas and pay the bills. So I went up to Washington and instead of going through the chain of command - Morton Caplin was Commissioner of Internal Revenue at that time and he was my tax instructor at the University of Virginia - so I just went to the top, ... went to his office and told him the plight, and I was able to

get two things done: I got the regs changed so that treasure trove became taxable at the time it became undisputed possession, which could be years after that. Also, I got them to value it at bullion value rather than numismatic value, so at that time gold was \$36 an ounce. Of course, bullion value now is \$600 - \$700 an ounce. . . .

... [B]eing a diver, I got to dive with him on the weekends. Like one day, I was out diving with him off of Fort Pierce and I personally found 800 coins. There would be four or five divers around the circle as the blower came up, [and] you would pick up the coins.

Barrett: He let you keep any of them?

Sharp: No. [laughter] We even had a State employee on board.

Barrett: That's really interesting. You got one here?

Sharp: No, but I found this one time - a ship's nail and canon ball. That's what it looks like when it's all encrusted.

Well just to tell you how dumb I was. Back when I was eighteen - back in the 50s - the bartender from the Ocean Grill and I used to go to diving on the weekends and stuff. And right where he found one of the treasures of course, Don Chisholm and I found seven canons - and all we did was hire a commercial fishing boat, and hauled up one of the canons and sold it to a hotel there for \$300.00. I didn't think about there being a bunch of treasure.

The Honorable G. Kendall Sharp, Senior District Judge, Middle District of Florida, is a long-time member of the OCBA. Richard Lee Barrett, Barrett, Chapman & Ruta, P.A., has been a member of the OCBA since 1984. Transcription by Amy M. Guy, paralegal to Philip K. Calandrino of Hendry, Stoner, Calandrino & Brown, P.A. Ms. Guy has been a member of the OCBA since 2007.

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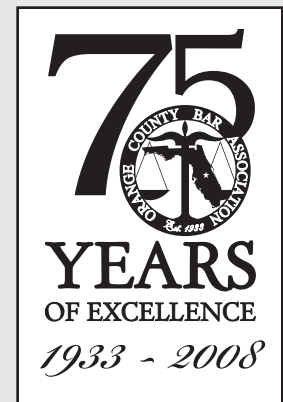
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Taylor C. Kessel

The summer is only days away, and the smell of suntan lotion and the feeling of sand between the toes may be a midsummer night's dream for some. Many of us, though, will be making weekend jaunts to the beach or lake and enjoying the great weather for which the Sunshine State is known. To compliment the summertime attitude, YLS has already scheduled a number of great social events and service projects to keep us busy. Read on to find out what's in store for the next few months! But first, we are pleased to extend a very special congratulations to our President, **Liz McCausland**, for receiving the 2007 Lawrence G. Mathews, Jr. Young Lawyers Professionalism Award. The YLS would like to thank Liz for all her dedication and hard work serving this past year as YLS President. As usual, Liz rose to the challenge of the office and did so with wise, enthusiastic and conscientious leadership.

The YLS/CFA Joint Happy Hour was held on Friday, March 28, 2008, at the Cheyenne Saloon. YLS teamed up with the Orlando CFA Society, a non-profit association of investment professionals, providing a great chance to meet other young professionals in the area and to build network relationships. Thank you to **Kristen Cox** for organizing another great YLS social event and a special thank you to our event sponsor, Commonwealth Financial Group, LLC, a business valuation company.

Come out and celebrate with us at the **May YLS Luncheon on Thursday, May 15**. At this end-of-the-year appreciation luncheon, we plan to recognize and thank all of the YLS members who have chaired events during the past year, our past presidents and the OCBA staff. If you are interested in attending, please RSVP to ocbayls@gmail.com by Tuesday, May 13. The cost is \$18 if you RSVP on or before May 13; \$20 at the door; or \$10 for sole practitioners, law students and government attorneys and judges.

This year the YLS will be adding a new twist to its annual **Great Oaks Village Fun Day**. In addition to spending the afternoon playing games, making arts and crafts and interacting with the foster children who live at the Great Oaks Village foster group home, we will have a session where lawyers and judges discuss law-related employment opportunities with the children to educate them about the law and foster positive images of lawyers. The program will conclude with a presentation of computers and computer-related equipment to the Great Oaks Village. The YLS received a grant from the Florida Bar to help purchase the computer equipment. The event will take place on **May 10** from 10:00 a.m. to 2:00 p.m. at the Great Oaks Village, 1718 E. Michigan Street, Orlando, FL 32806. Volunteers are still needed. For additional information please contact

LaShawnda K. Jackson at ljackson@rumberger.com.

Mark your calendars for the **YLS Summer Pub Crawl** on **Saturday, June 7**. Details are still being finalized, so be on the lookout for an exact schedule of venues and times. In the meantime, if you have questions, contact event chairs **Kristen Cox** at kcox@shutts.com or **Allison Twombly** at Atwombly@hrmcw.com.

On **June 20, 2008**, YLS will host its annual **Afternoon at the State Courthouse** at the Orange County Courthouse. This annual program is the brainchild of **The Honorable C. Jeffrey Arnold** and has proven to be a valuable experience for new and upcoming legal professionals. Afternoon at the State Courthouse provides insight into judicial policies and procedures, along with universal courtroom decorum guidelines for those practicing in the Central Florida area. The cost is \$10; CLE is pending. For more information and a registration form, visit the OCBA website at www.orangecountybar.org. Registration is requested by June 13 and payment can be made to Mike Remensnyder in the OCBA office at miker@ocbanet.org.

The busy YLS summertime schedule is about to kick off, so here's a recap of some of our upcoming events:

- May 15 - YLS Luncheon
- May 29 - Installation of Officers Banquet (OCBA, LAS, YLS, OCBA Foundation) & LAS Award presentations
- June 7 - YLS Pub Crawl
- June 19 - YLS Lunch
- June 20 - Afternoon at the State Courthouse
- July 17 - YLS Lunch and Law Clerk Reception
- August 8 - YLS Happy Hour

If you are not receiving the YLS e-mail blasts, please e-mail ocbayls@gmail.com and sign up. Also, if you have an exciting story to share about a YLS member, or know of an award or accolade presented to one of our members, please e-mail me and I will be sure to include it in the next month's "YLS on the Move." Until next time, if you have any questions or want to find out more about our section, please contact me, Taylor Kessel, at 407-540-7595 or e-mail me at taylor.kessel@cnl.com.

Taylor C. Kessel is an attorney in the acquisitions department at CNL Income Company, LLC. He has been a member of the OCBA since 2005.



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Ninth Judicial Circuit Court News

Letter from the Honorable Belvin Perry, Jr. Chief Judge, Ninth Judicial Circuit Court



— Honorable Belvin Perry, Jr.

April 8, 2008

Fellow Members of the Community:

I am writing to ask for your support for an adequately funded courts system and judicial branch for our state. I am sure you are well aware of the current budget crisis facing the Florida courts. I do not think it an overstatement to describe the situation as dire. Our court system, a constitutionally mandated third and coequal branch of government, is on the precipice of very deep budget cuts which could potentially cripple the foundation of our system which we all hold so dear.

The present Senate proposal premised on increased court-user fees would result in the loss of over 300 judicial branch positions; the House proposes court system staff cuts of some 500 positions. Neither chamber's proposal currently is adequate for the effective functioning of a co-equal, coordinate branch of our state government.

Florida's court system comprises only seven-tenths of one percent of our entire state budget. Our state judiciary is distinguished by its lack of programs, with 87 percent of its budget composed of salaries. If the cuts included in the initial proposals were added to those already imposed this year, our courts could lose 30 percent of their work force and essentially 30 years of progress.

Attached [On the OCBA website] you will find a detailed description of the budget cuts impacting the court system and how these cuts will affect us locally. The impacts of these proposed budget cuts would cause disruption in all

types of court proceedings. Civil traffic hearing officers are already being eliminated, slowing disposition of those cases. Court mediation programs, which have dramatically reduced the number of trials, will end – with resulting delays and higher costs for citizens. Particularly affected will be high priority criminal and family proceedings that have statutory time limits and must be prioritized over other social and commercial matters. Cases involving children in foster care, landlords looking to evict tenants, and foreclosure actions would all be slowed. It's even possible that some individuals charged with crimes might go free because our courts can't meet speedy trial deadlines. Rigid across-the-board budget cuts within the judicial branch simply will not work.

Now is the time for action. I implore you to do all you can to support an adequately funded state court system in its mission to carry out its obligations under the Constitution and laws that govern our State by contacting your legislator and making your voice heard. I thank you for your help in this vital matter facing all Florida citizens.

Sincerely,

Belvin Perry, Jr.
Chief Judge
Ninth Judicial Circuit

To read a sample letter from Judge Perry to local legislators and a description of 2008-2009 budget cuts, please see the OCBA website at www.orangecountybar.org.



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Legal Aid Society News

Employment Law Regional Grant – Helping people where the cycle of poverty begins

— Sally McArthur

Poverty often deprives a man of all spirit and virtue; it is hard for an empty bag to stand upright.

— Benjamin Franklin

People often ask me about my work. Many attorneys were attracted to the legal field because of the special opportunity that we have to help others and make a difference in their lives. The quote above describes my clientele, if you replace “a man” with “men, women and children.” They are empty bags, used and tossed aside by society.

However, through an array of programs, the Legal Aid Society of the OCBA is working hard to ensure that the neediest Central Floridians aren’t denied their rights. We help them to stand upright and give them the legal assistance that insures they are on equal footing with those who would take advantage of their vulnerability.

In 2006, for example, the Florida Bar Foundation recognized that the working poor, in particular, were increasingly being victimized by unscrupulous – or just plain ignorant – employers in matters involving wage claims and other workplace issues.

So, it funded the Region III Labor and Employment Task Force, through which the local Legal Aid Society, along with four other regional legal services organizations, began to assist our clients with employment complaints in the areas of unpaid wages and unemployment compensation denials.

In many cases, the dollar amounts involved are small, at least by most measures. Sometimes, the workers involved are undocumented. Whatever the case, the goal is to ensure that the working poor have access to legal services and are educated about their rights so they can protect themselves from abuse and exploitation.

Sadly, we’ve been quite busy dealing with these types of issues. The interest is certainly due in part to an extensive, multimedia educational effort we’ve undertaken in Brevard and Osceola counties, currently moving into Seminole County. Using television spots and videotapes as well as printed materials and in-person presentations, we’ve been spreading the word about workplace rights.

Thankfully, our *pro bono* attorneys have really stepped up to the plate and have been extremely helpful in handling the workload. Among them is Rick Smith of Fisher, Rushmer, Werrenrath, Dickson, Talley & Dunlap, P.A., who has taken on two groups of workers with unpaid wages who were threatened with retaliation if they protested. Recently, in conjunction with Florida Legal Services, we’ve expanded our outreach in the employment arena by representing employees with H2B Guestworker Visas who were brought to the United States by their employers and whose rights are being violated in numerous ways.

Why do these cases matter? Aside from basic issues of right and wrong, quite often losing a job, not being paid for work done or being denied unemployment benefits begins a downward spiral for those who live paycheck to paycheck.

Before we received this project grant, we were seeing these people later – when eviction or foreclosure proceedings had been brought against them, when they had run their credit cards up to the limit to fund their regular monthly bills, when their cars had been repossessed or when their families had fallen apart under the financial stress.

As the attorney whose position is funded by the regional employment grant, I can tell you that our efforts are having an impact. For example, it gives me a great deal of personal satisfaction to secure wrongly withheld compensation for a single mother whose employer assumed that she had no recourse and was powerless to fight back.

I have also retrieved unpaid wages for clients who were living in homeless shelters and hospitals and others who needed the money just to keep the lights on.

However, we have only limited resources, so have had to restrict our practice to unpaid wages and unemployment compensation. The unfortunate fact is that our resources are stretched with the countless low-wage workers in the Central Florida area who qualify for our help on these issues. Perhaps, like Rick Smith and our other *pro bono* attorneys, you’d like to get involved in this effort. If so, please contact our office. Our clients need your help to stand upright.

As for me, being able to assist the people who walk through our door is a daily reminder of why I became a lawyer.

Sally McArthur is an attorney with the Legal Aid Society. She has been a member of the OCBA since 2007.

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Legal Aid Society – What We Do . . .

A Fond Farewell



— *Robert B. Storrs, Jr.*

On April 1, 2008, attorney Robert Threadgill was given a small retirement party. He didn't get a gold watch or a Caribbean cruise. He got donuts and coffee, and a tearful farewell. And he carried with him, when he left, the heartfelt thanks and esteem of colleagues with whom he had served faithfully for more than 20 years . . . as a volunteer.

That's right – a volunteer. You see, back when Bob was fully occupied with his practice and with his family, he knew *pro bono* work was an obligation. However, as a specialist in real estate law, he never felt he could afford to take the time to do it. "Someday," he promised himself, "I'll be able to give back." In the fall of 1987, when he retired at age 66 from active practice with Attorney's Title Fund, Bob Threadgill decided it was time to keep that promise to himself.

He presented himself at the Legal Aid Society of the OCBA and offered his services two days a week. Initially he had thought he might do legal research, but he quickly discovered that a greater opportunity existed. Our intake department needed someone who could sit with applicants, listen to their stories with both compassion and objectivity, separate personal issues from legal issues and exercise good judgment to decide the best course of action. Bob proved to be a perfect fit for the job. Early on, he learned that most people who come to Legal Aid are worthy folks who are doing their best to live quietly, but who are in legal difficulty through no fault of their own. His non-judgmental, open-minded attitude proved particularly helpful to clients. He

shared with us that "[i]t always distressed me to have to say 'no' to an applicant. So many of them need the help desperately, but don't quite fit our guidelines. I always wished we could do more."

Bob is a graduate of the University of Florida. He served in World War II as an infantry officer, arriving just in time for Patton's march on Berlin. When he returned to the U.S. after the war, he attended law school at Georgetown University but did not immediately begin to practice. Instead, he took what he describes as a "fling" at producing motion pictures and formed a production company that produced two feature films before going out of business. He then joined the legal staff of the Florida Real Estate Commission and finally moved to Attorney's Title Fund, where, over the course of 25 years, he became well known as an expert in title insurance law.



Robert Threadgill

Finally, after an illustrious career, Bob Threadgill joined the volunteer staff at Legal Aid and served with distinction for another 20 years. When we asked him what advice he might give to others who

are considering volunteering at Legal Aid, he replied: "Do it! This is a great way to use a lifelong knowledge of law for the good of others. And, if you're retired, it helps keep your mind sharp and alert."

Thank you, Bob. We'll miss you!

Robert B. Storrs is the Director of Development for the Legal Aid Society of the OCBA. He has been a member of the OCBA since 2007.

GET INVOLVED



As the new OCBA fiscal year approaches a number of committee appointments, substantive or otherwise, are being filled. If you want to meet other lawyers and help the OCBA with its goals please consider participating. In addition to our 20 plus substantive committees, the OCBA has a number of organizational and administrative committees, including Membership Benefits, Community Service, Website, Law Week, Publicity, Diversity, Gala, Social, Lawyer Referral/Modest Means and Bylaws Committees. If you are interested in joining or co-chairing any of these committees, please contact incoming President-Elect Diego "Woody" Rodriguez at dwrodriguez@aol.com or at (407) 658-8566.

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Elliott Wilcox



When most people think of horses, they typically think of Kentucky and the Kentucky Derby. But did you know that the official “Horse Capital of the World” isn’t located in Kentucky? Surprisingly, it’s located just an hour or so north of us, in Marion County. Marion County is filled with tall oaks, rolling hills, and *lots* of horses. In fact, according to census figures, there are more horses in this county than any other county in America.

Earlier this year I was teaching a trial advocacy program in the middle of horse country, and that’s where I got the chance to meet Buddy. Buddy is a horse. More specifically, he’s a Clydesdale, and he lives on a large paddock behind the Ocala Hilton hotel where I was staying. I went outside to pet him and was amazed at how big he was. I’ve been around horses before (ask me about the Montana cattle drive that my brother and I did a few years ago), but Clydesdale horses have always amazed me. They’re magnificent animals, and they’re absolutely **HUGE**. Even standing on my toes, I could barely see over Buddy’s back, and I thought to myself, “This is probably the biggest horse I’ve ever seen in my life!”

Still, I was curious to learn how tall he actually was, so I started searching around for someone who could help me. Eventually, I wandered into the hotel lobby and asked the woman behind the desk if she knew how big he was. She smiled and proudly told me, “Isn’t he beautiful? He’s big alright – he’s more than 16 hands tall!”

As you’d probably expect, people who work with horses have their own vocabulary. In horsing communities, the “hand” is the common unit of measurement for determining the size of a horse. The story behind it is that a king wanted to measure his favorite horse, but since he didn’t have a measuring device, he used the only thing he knew would be consistent: the palm of his hand. Since then, the “hand” has become the accepted unit of measurement for equines. To determine the horse’s height, you measure from the ground to the top of the withers (the last hair of the mane on most equines), with “HH” after the numbers standing for the number of “Hands High.”

There was only one slight problem. When she told me that Buddy was over “16 hands” tall, I had absolutely *no idea* what she meant. “16 hands tall,” I thought to myself. “What kind of a measurement is that? Why don’t you measure him in a unit I can understand, like feet or inches? sixteen hands tall? What the heck does that mean?!”

Initially, I wanted her to explain what it meant, but because she’d used the phrase so conversationally (after all, we were in the “Horse Capital of the World”), I could tell she assumed everyone knew what “16 hands” meant. I was faced with two choices: If I asked “What does ‘16 hands’ mean?” I knew I would run the risk of looking stupid (“You don’t know what that means? Everybody knows what that

means!”), but at least I’d understand what she’d meant. On the other hand, if I pretended that I knew what she was talking about, I’d walk away completely ignorant, but at least I wouldn’t risk looking stupid.

My choice was obvious. Guided by the same reasoning that has prevented generations of men from stopping the car and asking for directions, I smiled and said, “Thank you,” then turned and left the building.

Fortunately for you, there’s an important lesson you can learn from my stubbornness and stupidity. Regardless of whether you practice in a broad subject area (“real estate”) or a narrowly defined niche (“pharmaceutical patent infringement litigation stemming from the submission of Abbreviated New Drug Applications and other applications for generic drugs”), you have mastered a new vocabulary that allows you to effectively communicate with other members of that community. At first, you didn’t understand all of the new terms, but now that they’re a regular part of your vocabulary, you probably don’t even notice when you use them in your speech. That can be problematic, because just like the horse expert who assumed I understood what “hand” meant, you may be subconsciously assuming that everyone in your audience understands your specialized vocabulary, too.

If you’re speaking to an audience or to a jury, they won’t possess the same specialized vocabulary that you have. If you don’t define your “foreign” words for the audience, they won’t understand what you’re saying. And like me, they’re afraid of looking stupid, so they won’t speak up to say, “Excuse me, I have no idea what you’re talking about.” Instead, they’ll sit quietly in the audience, pretending to understand, and completely missing the most important points in your presentation.

To avoid letting these foreign terms creep into your presentation, make an effort to examine your outline or your script and look for all of your industry-specific terms and phrases. Do you see any words that you need to define for someone outside your industry? Or phrases you need to explain if you were presenting your speech to an 8th grade class? Put yourself in the position of an industry outsider, and listen to your presentation with a layperson’s ear. With a little practice, those “foreign” terms in your presentation will leap out at you. Make the effort to translate these terms, and you’ll never again have to worry that your audience will miss an important piece of your presentation because you’re not speaking the same language.

By the way... A “hand” is four inches high, so Buddy the Clydesdale was about 64 inches/162.5 cm tall at the shoulders. To put it in layperson’s terms: That’s **BIG!**

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Elliott Wilcox is the editor of Trial Tips Newsletter. To get a free copy of his special report, “The Top Ten Mistakes Trial Lawyers Make (and How to Avoid Them),” visit www.TrialTheater.com.



Financial Planning

To Borrow or not to Borrow (from your 401(k)) ... that is the Question

Andrew C. Orr, CFP®, CLU, ChFC, AIF®



If you have a 401(k) plan at work and need some cash, you might be tempted to borrow or withdraw money from it. But keep in mind that the purpose of a 401(k) is to save for retirement. Take money out of it now and you'll risk running out of money during retirement. You may also face stiff tax consequences and penalties for withdrawing money before age 59½. Still, if you're facing a financial emergency – for instance, your child's college tuition is almost due and your 401(k) is your only source of available funds – borrowing or withdrawing money from your 401(k) may be your only option.

Plan loans

To find out if you're allowed to borrow from your 401(k) plan and under what circumstances, check with your plan's administrator or read your summary plan description. Many employers allow 401(k) loans only in cases of financial hardship, but you may be able to borrow money to buy a car, to improve your home, or to use for other purposes.

Generally, obtaining a 401(k) loan is easy – there's little paperwork and there's no credit check. The fees are limited too – you may be charged a small processing fee, but that's generally it.

How much can you borrow?

No matter how much you have in your 401(k) plan, you probably won't be able to borrow the entire sum. Generally, you can't borrow more than \$50,000 or one-half of your vested plan benefits, whichever is less. (An exception applies if your account value is less than \$20,000; in this case, you may be able to borrow up to \$10,000, even if this is your entire balance.)

What are the requirements for repaying the loan?

Typically, you have to repay money you've borrowed from your 401(k) within five years by making regular payments of principal and interest at least quarterly, often through payroll deduction. However, if you use the funds to purchase a primary residence, you may have a much longer period of time to repay the loan.

Make sure you follow to the letter the repayment requirements for your loan. If you don't repay the loan as required, the money you borrowed will be considered a taxable distribution. If you're under age 59½, you'll owe a 10 percent federal penalty tax, as well as regular income tax on the outstanding loan balance (other than the portion that represents any after-tax or Roth contributions you've made to the plan).

What are the advantages of borrowing money from your 401(k)?

- You won't pay taxes and penalties on the amount you

borrow, as long as the loan is repaid on time.

- Interest rates on 401(k) plan loans must be consistent with the rates charged by banks and other commercial institutions for similar loans.
- The interest you pay on borrowed funds is generally credited to your own plan account; you pay interest to yourself, not to a bank or other lender.

What are the disadvantages of borrowing money from your 401(k)?

- If you don't repay your plan loan when required, it will generally be treated as a taxable distribution.
- If you leave your employer's service (whether voluntarily or not) and still have an outstanding balance on a plan loan, you'll usually be required to repay the loan in full within 60 days. Otherwise, the outstanding balance will be treated as a taxable distribution, and you'll owe a 10 percent penalty tax in addition to regular income taxes if you're under age 59½.
- Loan interest is generally not tax deductible (unless the loan is secured by your principal residence).
- You'll lose out on any tax-deferred interest and capital appreciation that may have accrued on the borrowed funds had they remained in your 401(k) and been fully invested.
- Loan payments are made with after-tax dollars.

Hardship withdrawals

Your 401(k) plan may have a provision that allows you to withdraw money from the plan while you're still employed if you can demonstrate "heavy and immediate" financial need and you have no other resources you can use to meet that need (e.g., you can't borrow from a commercial lender or from a retirement account and you have no other available savings). It's up to your employer to determine which financial needs qualify. Many employers allow hardship withdrawals only for the following reasons:

- To pay your medical expenses or those of your spouse, your children, your other dependents, or your plan beneficiary
- To pay the burial or funeral expenses of your parent, your spouse, your children, your other dependents, or your plan beneficiary
- To pay a maximum of 12 months worth of tuition and related educational expenses for post-secondary education for yourself, your spouse, your children, your other dependents, or your plan beneficiary
- To pay costs related to the purchase of your principal residence
- To make payments to prevent eviction from or

Continued on page 38

foreclosure on your principal residence

- To pay expenses for the repair of damage to your principal residence after certain casualty losses

Note: You may also be allowed to withdraw funds to pay income tax and/or penalties on the hardship withdrawal itself, if these are due.

Your employer will generally require that you submit your request for a hardship withdrawal in writing.

How much can you withdraw?

Generally, you can't withdraw more than the total amount you've contributed to the plan, minus the amount of any previous hardship withdrawals you've made. In some cases, you may be able to withdraw the earnings on contributions you've made. Check with your plan administrator and the official plan document for more information on the rules that apply to withdrawals from your 401(k) plan.

What are the advantages of withdrawing money from your 401(k) in cases of hardship?

The option to take a hardship withdrawal can come in very handy if you really need money and you have no other assets to draw on, and your plan does not allow loans (or if you can't afford to make loan payments).

What are the disadvantages of withdrawing money from your 401(k) in cases of hardship?

- Taking a hardship withdrawal will reduce the size of your retirement nest egg and the funds you withdraw will no longer grow tax deferred.
- Hardship withdrawals are generally subject to federal (and possibly state, but not in Florida) income tax. A 10 percent federal penalty tax may also apply if you're under age 59½. (If you make a hardship withdrawal from your Roth 401(k) contributions, only the portion of the withdrawal representing earnings will be subject to tax and penalties.)
- You may not be able to contribute to your 401(k) plan for six months following a hardship distribution.

What else do I need to know?

- If your employer makes contributions to your 401(k) plan (for example, matching contributions) you may be able to withdraw those dollars once you become vested (that is, once you own your employer's contributions). Check with your plan administrator for your plan's withdrawal rules.
- If you were impacted by Hurricanes Katrina, Rita, or Wilma, or if you are a reservist called to active duty

after September 11, 2001 and before December 31, 2007, special rules may apply to you.

In conclusion, while borrowing money is generally a ticket to the "debt dungeon" (whether in debt to others or, in the case of a 401(k), in debt to yourself), a 401(k) loan might still come in handy depending on the circumstance. I personally know of an attorney who borrowed from his 401(k) to stave off a financial crisis created by a partner who left the firm unexpectedly. It was a real life saver for him, and the loan was paid off within a short period of time. Disaster avoided and without taxes or penalties!

However, my experience tells me that this example is definitely in the minority and that most people who borrow from their 401(k) plans are doing so to fix a problem created by overspending. The problem with this is that the loan deals with the symptom and not the cause. Rather than raid the 401(k) account, it's best to get your cash management in order and to create a spending plan so that you are sure not to get in trouble again (*i.e.*, live within your means), and you are sure not to have to rely on the 401(k) to bail you out of trouble.

Andrew C. Orr, CFP®, CLU, ChFC, AIF®, is an independent, fee-only financial planner and accredited investment fiduciary located in Orlando. He is president of ORRGROUP, a registered investment adviser and financial planning firm providing comprehensive fee-only financial planning services to individuals and businesses. For more info, visit: www.orrgroup.com.

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Rainmaking

Four Steps to Branding Yourself as a Trusted Advisor – and Winning Lifelong Clients

— Mark Powers & Shawn McNalis



"I don't want clients to hire me to solve a one-time problem," says S.R., an estate planning and business lawyer practicing in Tampa. "I want them to work with me for life."

Unlike many practitioners who don't focus on creating life-long client relationships, S.R. seeks to provide his clients with service and support for the long haul. Everything his clients encounter – from the name of his firm to the way he packages his services – is designed to elevate his services above those of lawyer-for-hire to those of long-term trusted advisor. This is all part of how he builds his brand.

S.R.'s clients are enrolled in a program that makes them aware that "we are committed to more than just addressing the issue at hand."

He isn't concerned that surveys peg CPAs as the most trusted advisors in the United States – he believes the approach he takes and the level of service he provides is comprehensive and the trust his team engenders is well deserved. He's at the leading edge of a trend that has been growing among entrepreneurial attorneys who see the limitations, not to mention the time and expense, of constantly originating and working with new clients.

Instead, why not serve a broader spectrum of client needs in-house and do it so well that clients regard you as their most trusted advisor?

According to David Maister, Charles Green and Robert Galford, authors of *True Professionalism*, the evolution of the client-advisor relationship is a four-step process that starts the day attorneys first hang out their shingle. Careful not to overstep, they may perform with excellence but take great care to stay within the narrowly defined bounds of their practice area. In this first phase, the scope of what they offer is limited, and the attorney-client relationship is typically friendly but businesslike. Consequently, clients have respect for their knowledge but don't see these attorneys as trusted confidants. Many traditionally minded attorneys stay at this stage for their entire career.

Entrepreneurial attorneys like S.R., however, challenge themselves to broaden their scope of services. At this level, which authors Maister, Green and Galford identify as the second step in the process, entrepreneurial attorneys start to offer both advice in affiliated fields and increasing intimacy in their client relationships. When done well, their clients respond by confiding in them more and consulting with them during the early "defining stages" of their problems instead of waiting until their problems are fully formed. These are both clear signs of increasing trust.

When clients begin to consult their attorney *proactively* – well in advance of their actual needs – this signals that the attorney's advice is more highly regarded and that he or she is viewed as a valuable resource. In this third step, clients

depend on the attorney to put issues into context, offer new perspectives and interact with them on a strategic level. This step is additionally characterized by greater rapport in the attorney-client relationship and is only reached by a small percentage of attorneys.

Fewer still reach the fourth step. Here, the highest level of trust is present. In what Maister, Green and Galford have labeled the *pinnacle relationship*, the depth of the relationship is matched only by the breadth of the issues the client is willing to discuss. In the *pinnacle relationship*, the client views the attorney as a friend, a confidant and a highly trusted advisor.

If you believe that branding yourself as a trusted advisor is perhaps easier in practice areas such as estate planning and business law, you may well be right, but exciting variations are developing in unlikely practice areas as well.

Take, for example, the forward-thinking Florida criminal defense firm that has developed an expertise in addiction treatment centers. Well aware of the role drug and alcohol addiction plays in the life of their clients, the firm studies which treatment centers will best serve its clients' needs. Then, as an additional service, the firm makes recommendations to the clients and their families to help them sort through the alarming array of available options.

Unlike S.R.'s quest to serve clients throughout their lives, here the attorneys attempt to intervene in the revolving-door cycle of clients who return time after time. What drove this criminal defense firm to innovate this way? According to the owner and founder of the firm, three things were apparent: "The clear-cut connection between criminal activity and addiction to drugs or alcohol, the confusing number of treatment centers, all which offer various types of services and differing lengths of stay and, most importantly, the desire to do more than just handle the client's immediate legal issues." As a result, the firm's clients are beginning to perceive the firm as more than just attorneys, but as advisors who offer life-changing advice.

How do your clients view you? Where are you in the four-step process of branding yourself as a trusted advisor in your practice? To analyze how you and your firm are viewed, ask yourself the following questions:

What do you think your "brand" or image is now?

Do your clients see you as a professional with a narrowly defined expertise? Are you regarded as someone who offers a wide range of services? Are you considered a confidant, friend and/or long-term advisor?

Take action: If you don't have a handle on how you are perceived, mentally survey the client feedback

Continued on page 40

you've gotten over the years. Also, look at any thank you cards you might have received throughout your career. Personalized exit surveys can also be useful for learning what your clients think. In addition, ask your staff members to report comments they've heard about you and the level of service your firm provides. Be sure to capture both good and bad comments, as all remarks are instructive.

How is your firm perceived by the local community of professionals? In other words, what is your firm's reputation?

Does your firm offer a wide range of services? Are you considered a firm that cares about and works closely with its clients, serving them on many levels?

Take action: Bounce this question off of a few of your close colleagues or interview a few friendly referral sources to benefit from their outside perspective.

What image do you want people to think of when they hear your name?

Do clients view you as someone they confer with on a broad range of issues or as someone for hire on an as-needed basis? Are you regarded as the wise, senior partner who has long-standing relationships? As a younger attorney who presents cutting-edge solutions? Or something in-between?

Take action: Ask yourself how you'd change your image if there were no barriers to reinventing your professional brand.

How can you build on your present image to bring it closer to your ideal?

No doubt, there are some aspects of your personality and the way you present yourself that already fit the image you are trying to convey. What else could you add that will further round out your image?

Take action: Should you add to your knowledge base by attending workshops and seminars so you can expand what you offer clients? Should you devote a portion of your client meetings building rapport instead of only focusing on business? Should you dress differently or work out of a better office?

Who presently embodies the image you'd like to convey?

Think of one or two people who could serve as role models for you. The human brain is wired to learn by imitation. Just observing how colleagues or partners relate to their clients and gain their trust can be very instructive.

Take action: Interviewing those you admire is very effective for learning how they do what they do. If and when it is appropriate for you to do so, sit down and talk with one or two people you believe to be masterful at

building a brand.

What additional frustrations do your clients mention when you are dealing with their legal issues?

Client complaints, comments and off-hand remarks can hold great promise if viewed as clues to client frustrations and unserved needs.

Take action: Out of frustrations and needs may come expanded services, so ask yourself if there are ways you can help. Offering help with these unmet needs may not only exceed client expectations, it can create an additional stream of income.

How could you expand your present offering to provide ethical, ancillary services?

For some of you, offering more means you must acquire additional training or hire additional expertise to build a more well-rounded firm.

Take action: If you are presently in the habit of informally advising clients on issues ancillary to your typical services, could any of this advice be packaged as an additional fee-for-service offering? Analyze your present services and see how you can repackaging, bundle or "productize" them.

If, after answering these questions, you find yourself lacking in any area and your goal is to brand yourself differently, we have a few words of advice. The quickest change you can implement is that of deepening your client relationships. You can do this immediately with very little preparation. Make it a point, when meeting with clients, to devote a minimum of 10 minutes to learning about them – ask questions about their background, their goals and ambitions. Tailor your questions to the type of people you see, but get to know them better. This is one of the most important steps you can take toward your goal of being their most trusted advisor and it's up to you to initiate it. Given the delicate balance of power that exists in the attorney-client relationship, the responsibility is yours: you must invest time in them before they'll invest their trust you.

Mark Powers, President of Atticus, Inc. and Shawn McNalis, co-authored "The Making of a Rainmaker: An Ethical Approach to Marketing for Solo and Small Firm Practitioners," and are featured writers for Lawyers, USA and a number of other publications. To learn more about the work that Atticus does with attorneys or the Atticus Rainmakers™ program, please visit www.atticusonline.com or call 352-383-0490 or 888-644-0022.



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Position Summary:

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Responsibilities:

- Securities Offering and Corporate Document Review and Drafting
 - o Review public offering documents related to real estate investment trusts and mutual funds; assure compliance with all applicable regulations.
 - o Review and draft participating broker agreements, managing dealer agreements and other ancillary selling documents related to public offerings; assure compliance with all applicable regulations.
 - o Review private offering documents, including hedge fund materials, private placement memorandums, placement agent agreements, escrow agreements, participating broker agreements, subscription agreements, tax opinions, and other deal contracts; assure compliance with all applicable regulations.
 - o Conduct legal review and/or draft all vendor contracts, confidentiality agreements, indemnification agreements and other general corporate documents for a broker dealer.
- Legal Research
 - o Conduct comprehensive and sometimes complex legal research regarding the laws and regulations impacting broker dealers, real estate investment trusts, mutual funds, and private equity offerings.
 - o Conduct general ongoing legal research on federal and state securities regulations and general corporate issues.
 - o Monitor compliance issues in the securities and broker dealer industries.
 - o Actively propose amendments to our written supervisory procedures in order to assure compliance with any ongoing or new requirements on a timely basis.
 - o Coordinate issues with outside counsel as needed.
- Policy Implementation
 - o Manage and oversee maintenance of any required firm books and records.
 - o Review and implement AML, OFAC and other broker dealer related policies
- Attend regulatory conferences and be able to identify issues which affect our compliance system and recommend changes, if needed
- Coordinate responses to questions posed by registered representatives and due diligence officers for broker dealers as needed.
- Coordinate, manage and assist with other compliance items as needed.

Competencies:

- Strong attention to detail
- Working knowledge of mutual funds, real estate investment trusts, and private equity offerings
- Working knowledge of relevant FINRA rules and the 33 Act, 34 Act and 40 Act
- Strong organizational skills
- Strong verbal and written communications skills
- Professional demeanor
- Positive attitude
- Ability to learn quickly and to work well under pressure

Education/Experience:

- JD degree required
- 3+ years of prior experience in the securities and/or corporate practice group of a law firm required; additional securities, broker dealer or compliance experience strongly preferred.
- FINRA Series 7 and 24 certifications required (can be obtained promptly following hire)

Work Schedule:

- 40 hour work week, more as projects warrant

Travel:

- Minimal travel anticipated

How to apply:

- Visit www.cnl.com/careers.asp or apply directly at jobs-csc2@cnl.com

Side Bar

Jessica K. Hew



April showers will hopefully bring May flowers and, unfortunately, the beginning of the heat wave through October. Focusing on more important things, the local legal community has been busy!

Central Florida Paralegal Association, Inc. (CFPA) hosts monthly lunches at four locations: Winter Park/ Maitland (2nd Thursday of the month), Downtown Orlando (2nd Wednesday of the month), South Orlando (Quarterly) and Altamonte Springs (final Friday of the month). CFPA will present its Annual CLA/CP Review Course on May 7 through June 25, 2008. May's community service project benefits the Cystic Fibrosis Foundation - Great Strides Walk at Baldwin Park on May 10, 2008. CFPA's Membership Mixers/Happy Hours are held the 3rd Thursday of the month. For more information on all of these events, please visit CFPA's website at www.cfpainc.org.

The Paul C. Perkins Bar (PCPBar) annual Las Vegas Night will be held on May 17, 2008, from 8:00 p.m. to 11:00 p.m. at the Disney Beach Club Resort. As of May 1, 2008, tickets are \$75.00 and may be purchased at www.pcpbar.com. Heavy hors d'oeuvres are included with a cash bar, as well entertainment provided by The Jillian Rocafort & Johnny Mag Sax Duo. Semi-formal attire is requested. Proceeds from the event will benefit the PCPBar Scholarship Fund.

PCPBar will also be helping Professor Edward Parson with a summer enrichment program for students preparing to take the July Bar exam in an effort to increase the passage rate. The program pairs a practicing attorney with a student to review practice exams and offer constructive criticism for a ten-week period. PCPBar members were also on hand as volunteer judges for the 1L oral arguments at FAMU.

The **Central Florida Gay and Lesbian Law Association (CFGLLA)** participated in AIDS WALK Orlando 2008, benefiting the Hope and Help Center of Central Florida (hopeandhelp.org), on Saturday, April 19, 2007. Over the past three years, CFGLLA walkers have raised thousands of dollars to benefit Hope and Help.

The **Central Florida Association for Women Lawyers (CFAWL)** meets for monthly luncheons, usually on the first Friday of every month. The next CFAWL luncheon will be Friday, June 6, 2008. The cost is \$20 and you can RSVP to cfawl.reserve@gmail.com. For more information about CFAWL, contact incoming CFAWL President Keersten Martinez kmartinez@fisherlawfirm.com or CFAWL's OCBA Representative, Joyce Fuller at 407-641-5292 or jfuller@jfullerpa.com.

If you have any legal organizational news to share, please e-mail Jessica K. Hew at jhew@grahambuilder.com.

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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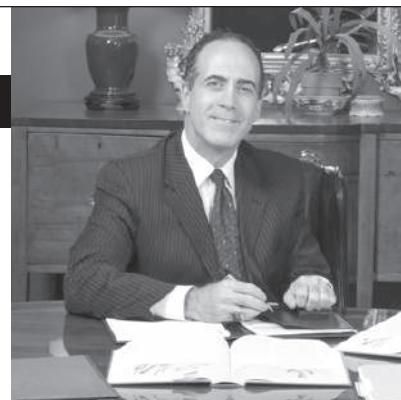


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Orange County Bar Association

Announcements

New Associates

C. Brent Wardrop - *de Beaubien, Knight, Simmons, Mantzaris & Neal, LLP*

New Partners

Brian D. Stokes - *Unger, Stokes, Acree, Gilbert, Tressler and Tackitt, P.A.*

In Memoriam

The Honorable Peter de Manio, Circuit Court Judge in the Ninth Judicial Circuit, passed away in March. The OCBA extends its deepest sympathy to the family and friends of Judge de Manio.

Speaking Engagements

Seymour Benson, a shareholder at Carlton Fields, presented a program to Barry University Dwayne O. Andreas School of Law students on Prenuptial Agreements. The presentation took place on March 27, 2008, at Barry University in Orlando.

Robert L. Dietz, a shareholder at Zimmerman, Kiser & Sutcliffe, spoke at the Association of Attorney-Mediator (AAM) Advanced Attorney-Mediator Training and Annual Meeting April 4 in San Diego. Dietz is currently serving on AAM's Board of Directors. He is Board Certified in Workers' Compensation Law and specializes in workers' compensation and labor related mediations.

Barbara A. Eagan of Broussard, Cullen, *et al.*, recently participated as a panelist for the Florida Bar Appellate Practice Section seminar: Preparing for Appellate Oral Argument.

Clement L. Hyland of Hyland Mediation LLC, has recently spoken at seminars presented by the National Business Institute on "Expert Selection and Retention" and for Lorman Education Practices on "Miscellaneous Leaves of Absence."

Woody Igou of The Law Office of Igou & Smith, recently spoke at the Georgia Bar Association Traumatic Brain Injury Seminar in Atlanta, Georgia, on *New Issues in Proving "TBI" claims*, sponsored by the Brain Injury Association of Georgia and the Shepherds Center.

Susan McKenna, Keith Hammond and **Kristyne Kennedy**, all with Jackson Lewis LLP, recently participated as speakers in a full-day seminar entitled "Employment Law from A to Z." Ms. McKenna opened the program with an *Overview of Employment Law*, Mr. Hammond presented on *Discipline and Workplace Violence* and Ms. Kennedy's topic was *Privacy, Drugs and Alcohol in the Workplace*.

Publications

The **FAMU Law Review** has announced the release its journal Volume II, Issue No. 1. The journal is a culmination of the hard work and dedication of the Law Review Executive Board and its 2006-2007 and 2007-2008 members and their advisors: Associate Dean and Professor Lundy Langston and Assistant Professor John Harper. To purchase a copy of this issue, please contact Ericka Garcia, Managing Editor, at egarcia96@yahoo.com or call 407-254-3298. The journals are \$15 per copy.

Dennis Wall of Orlando, Florida, was the guest speaker on A.M. Best Company's Podcast about "Web Logs and Insurance Law." The Podcast can be downloaded from the Web at www.ambest.com or through an Internet Search using the keyword: Podcasts.

News to Note

Congratulations to the **Barry University Dwayne O. Andreas School of Law Trial Team**. The Team recently won the ABA National Criminal Justice Trial Advocacy Competition in Chicago. This was Barry's first appearance at the competition, which featured 22 law school teams from across the country and one team from India.

Per Administrative Order 2008-07-01 from Chief Judge Belvin Perry, Jr., effective May 1, 2008, no circuit court foreclosure case may be scheduled for telephonic hearing. Any case placed on the schedule prior to May 1, 2008, regardless of the actual hearing date, shall be heard telephonically if so arranged. See the OCBA website for a copy of the Order.

Seminars

Wed., May 21 - Practice Pointers for Family Law Attorneys: A Panel Discussion from Practitioners in Related Areas of Law. OCBA Family Law Committee. 1:00 p.m.-5:00 p.m.; OCBA Center; 4.0 CLE (pending).

Tues., May 27 - Domestic Violence and Children. Legal Aid Society Lunchtime Training. 12:00 p.m.-1:30 p.m.; First Presbyterian Church, Downtown.

Thurs., May 29 - Criminal Law Seminar. OCBA & George C. Young First Central Florida Inn of Court. 1:00 p.m.-5:00 p.m.; Marriott Downtown; 4.5 CLE (including 1.5 Ethics). Cost: \$25. Sponsored by Westlaw.

Tues., June 3 - Lawyers Professional Liability: Claims Avoidance, the Policy & Ethics. OCBA and Florida Lawyers Mutual Insurance Company. 11:30 a.m.-3:00 p.m.; OCBA Center; 3.0 CLE (including 3.0 Ethics).

Fri., June 20 - An Afternoon at the State Courthouse. YLS. Registration: 1:00 p.m.; seminar: 1:30 p.m.-4:00 p.m.; Orange County Courthouse, Jury Assembly Room; CLE (pending).

Please see the OCBA website at www.orangecountybar.org for details and registration forms.



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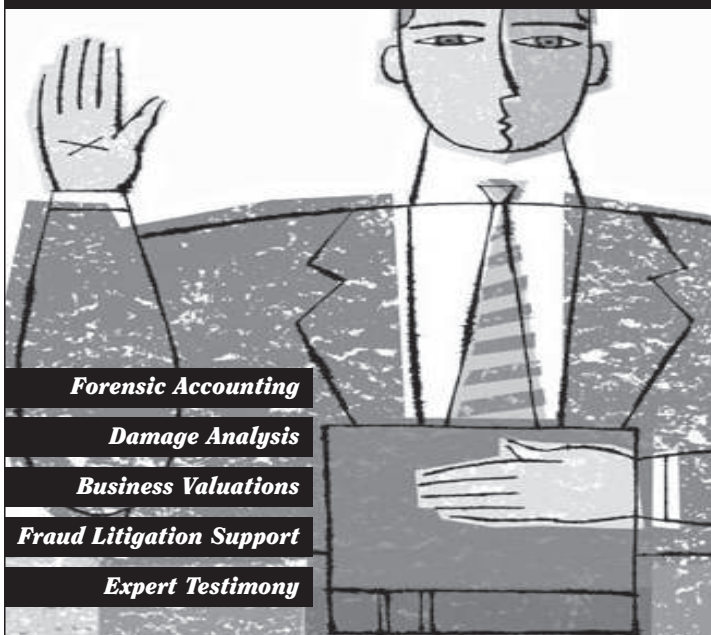
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Be on the lookout for your 2008-2009 Dues Renewal Statement. Renewal notices will be sent at the end of May and payment is requested by June 30, 2008. A \$25 late fee will apply beginning July 1, 2008. Look for information on your form about paying online, signing up for free committees and sections, selecting practice areas, making Foundation donations, and purchasing a subscription to the Online Lawyer-to-Lawyer Network media package.

***For information, contact:
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2008

May - June Calendar

OCBA Installation Banquet

Thursday, May 29, 2008

The Honorable Emerson R. Thompson, Jr.

RSVP to: reservations@ocbanet.org

May

- 13 Executive Council Meeting**
11:30 a.m. • Bar Center

Legal Aid Society Lunchtime Training
*Domestic Violence & Litigation
Issues in Family Law Cases*
12:00 p.m. • First Presbyterian Church

OCBA Paralegal Committee
5:30 p.m. • Bar Center

- 14 Estate Guardianship & Trust**
12:00 p.m. • Bar Center

Judicial Relations Committee
12:15 p.m. • Courthouse

- 15 YLS Luncheon**
11:45 a.m. • Citrus Club

Appellate Practice Committee
12:00 p.m. • Bar Center

"Lawyers Rock!" Benefit Event
Hosted by the Social Committee
and the Entertainment Committee
6:00 p.m. • Voyage Night Club

- 16 Family Law Committee**
8:00 a.m. • 425 N. Orange Ave.
#2310

- 20 Professionalism Committee**
8:00 a.m. • Bar Center

Legal Aid Society Board Meeting
11:45 a.m. • 100 E. Robinson St.

Entertainment Law Committee
12:00 p.m. • TBA

- 21 Insurance Law Committee**
12:00 p.m. • Bar Center

Family Law Committee Seminar
*Practice Pointers for Family Law
Attorneys: A Panel Discussion from
Practitioners in Related Areas of Law*
1:00 p.m. • Bar Center

- 27 Legal Aid Society Lunchtime Training**
Domestic Violence & Children
12:00 p.m. • First Presbyterian Church

- 28 Labor and Employment Committee**
12:00 p.m. • OCBA Center

Business Law Committee
12:00 p.m. • BakerHostetler

- 29 OCBA and George C. Young First
Central Florida Inn of Court Seminar**
Criminal Law Seminar
Sponsored by WestLaw
1:00 p.m. • Downtown Marriott

OCBA Installation Dinner
The Hon. Emerson R. Thompson, Jr.
5:30 p.m. • The Ballroom at Church
Street

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

June

- 3 OCBA and Florida Lawyers Mutual
Insurance Seminar**
*Lawyers' Professional Liability: Claims
Avoidance: The Policy & Ethics*
11:30 a.m. • Bar Center

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

- 5 Elder Law Committee**
12:00 p.m. • Bar Center

- 7 YLS Summer Pub Crawl**
TBA • TBA

- 10 Executive Council Meeting**
11:30 a.m. • Bar Center

Legal Aid Society Lunchtime Training
Temporary Custody/Chapter 751
12:00 p.m. • First Presbyterian Church

OCBA Paralegal Committee
5:30 p.m. • Bar Center

- 11 Estate Guardianship & Trust**
12:00 p.m. • Bar Center

- 12 Legal Aid Society Board Meeting**
11:45 a.m. • 100 E. Robinson St.

Real Property Law Committee
12:00 p.m. • Bar Center

Social Security Committee
12:00 p.m. • Bar Center

YLS Executive Board Meeting
5:30 p.m. • Bar Center

- 13 Workers' Compensation Committee**
11:45 a.m. • Smokey Bones

- 17 Professionalism Committee**
8:00 a.m. • Bar Center

Legal Aid Society Board Meeting
11:45 a.m. • 100 E. Robinson St.

Entertainment Law Committee
12:00 p.m. • TBA

- 18 Insurance Law Committee**
12:00 p.m. • Bar Center

- 19 YLS Luncheon**
11:30 a.m. • Citrus Club

Appellate Practice Committee
12:00 p.m. • Bar Center

Social Committee
5:30 p.m. • TBA

- 20 Family Law Committee**
8:00 a.m. • 425 N. Orange Ave.
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**YLS's An Afternoon at the State
Courthouse**
1:30 p.m. • 425 N. Orange Ave., Jury
Assembly Room

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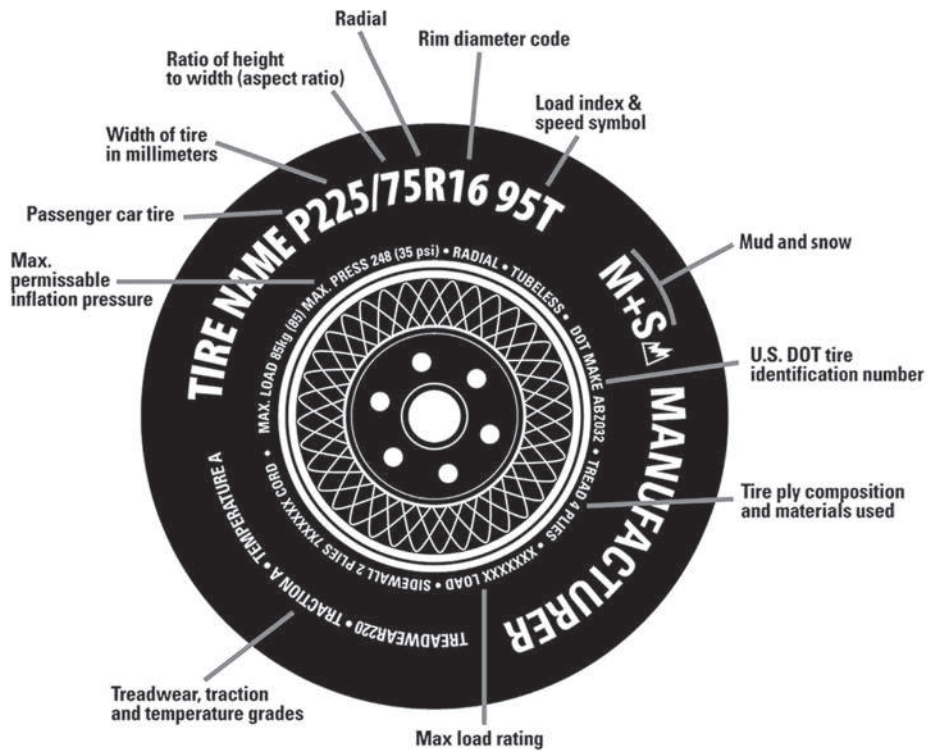
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