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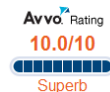
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the Briefs

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Advertising - 10th of the month prior to the month of publication

Copy - 15th of the month six weeks prior to the month of publication

If the deadline falls on a weekend or holiday, the deadline is the next business day.

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President's Message

November 2009

● Honoring Those Who Have ● Served Our Legal Community

The practice of law has many pitfalls. Many of us are strapped with the stresses of our clients and the demands of our cases. Regardless of whether your practice focuses on litigation or transactional work; regardless of whether you are a government lawyer or a private lawyer; regardless of whether you are a solo practitioner or part of a larger firm; regardless of whether you specialize in criminal, civil, plaintiff's work, or insurance defense; and regardless of your gender, most lawyers would agree that their lives and their practices are filled with stress.

Lawyers must provide their clients with accurate advice in a timely fashion. They need to advocate their client's case with zeal, yet they must also temper that zeal with wisdom and sound advice – even if runs counter to their client's desires. In this ever changing society, clients put increasing pressure on lawyers to resolve their issues immediately. With the advances in technology comes the demand for more “instant lawyering,” which is to provide legal advice by e-mail, phone, or even in some cases by texting. The letter sent by U.S. mail has now been replaced with faxed correspondence.

As a lawyer matures and gains experience, his or her hourly rates increase, as do the stakes and the pressures associated with each of those cases. Because there are more lawyers than ever before, there is more litigation and more interpretations of the law. With that comes the constant obligation to maintain a working knowledge of one's practice area.

Then there are the pressures of running a business. There are bills to pay and payrolls to make. There are vendors that hound you or your staff as they hawk their services. There are clients that need to be hounded to collect payment for the services you rendered. There are the “unexpected investments” in your business, such as the new computers that help run the office more efficiently, that sometimes come at a steep price. There is the liability insurance, which some of you don't carry, that gives you peace of mind throughout the year – except when it comes time to pay the premiums. With more work comes the responsibility of hiring, and sometimes firing, new associates and the accountability for their progress as they represent your clients. There is the need to constantly account for your clients' funds and to insure that their trust accounts are balanced. There is the need to insure that your own separate bank accounts are in order.

There are, of course, tremendous financial and emotional rewards for practicing law, but the daily stresses abound. Your win in a landmark case is short lived as the opposing counsel will surely be filing an appeal. The closing of one significant purchase is substituted by the demands of the next client in waiting. The acquittal or successful prosecution of one defendant is quickly replaced by the facts of another. The successful settlement of one matter in mediation simply means that you now have more time to address the needs of the next file that is waiting in your office.

So to practice in this environment is a challenge to the mind and body of each and every lawyer. Most of us can consider

ourselves blessed if we have practiced for 25 plus years and have not burned out or died of an early stroke. To reach the 40-year milestone represents a good book of trials and tribulations, which we can hopefully share with the grandkids if we have invested wisely. But to reach half a century of practice is a tremendous accomplishment that is limited to a select few.



Diego “Woody” Rodriguez

This month, as we head into the holidays, I hope you will take a break from the stresses of your daily lives and join me at our November luncheon in honoring four OCBA members from different practice areas for their contributions to the legal community and their commitment to service. Each of these members, **Charlie Abbott, Leon Handley, Jim Russ, and Russell Troutman**, will be recognized for having practiced in the Central Florida legal community for the past 50 years. Regardless of where you are on the experience timeline, we can all benefit from this discussion. Our panelists will share with us some lighthearted stories of their successes and failures as each has been practicing long enough to have had their shares of both. They will also give us a snapshot of some of the more historical changes in the profession. Hopefully, by the conclusion of the lunch, you will be inspired and challenged by their stories to remember that as lawyers we do make a tremendous difference in our community and in the lives of our clients.

Woody Rodriguez is a partner with Marchena & Graham, P.A. He has been a member of the OCBA since 1998.

Honoring Those Who Serve...

In keeping with this month's recognition of four Central Florida attorneys who have served and continue to serve the legal profession with integrity and commitment, the editors of *The Briefs* pay tribute to all U.S. service men and women this Veterans Day with the selection of an iconic image – the Vietnam War Memorial's “The Wall” – as November's cover. Ninety years ago, President Woodrow Wilson proclaimed November 11 as the first commemoration of Armistice Day in words that speak of service: “To us in America, the reflections of Armistice Day will be filled with solemn pride in the heroism of those who died in the country's service and with gratitude for the victory, both because of the thing from which it has freed us and because of the opportunity it has given America to show her sympathy with peace and justice in the councils of the nations.”

Killinger v. Guardianship of Grable,
983 So. 2d 30 (Fla. 5th DCA 2008)

Denied certiorari petition contesting
extensive discovery in guardianship
proceeding.

Caiazza v. Tuff Realty Corp.,
805 So. 2d 29 (Fla. 5th DCA 2001)

Protected ownership of two multi-million
dollar Florida corporations.

McGhee v. Volusia County,
679 So. 2d 729 (Fla. 1996)

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

Whigham v. Shands Teaching Hospital,
613 So. 2d 110 (Fla. 1st DCA 1993)

Reinstated multi-million dollar medical
malpractice action against blood bank.

Pixton v. Scotsman,
924 So. 2d 37 (Fla. 5th DCA 2006)

Reversed dismissal of negligence action
for failure to comply with RCP 1.070(j).

Acadia Partners, L.P. v. Tompkins,
759 So. 2d 732 (Fla. 5th DCA 2000)

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

Pettry v. Pettry,
768 So. 2d 8 (Fla. 5th DCA 2000)

Reversed conversion of rehabilitative
alimony to permanent alimony.

GEICO v. Krawzak,
675 So. 2d 115 (Fla. 1996)

Required disclosure of uninsured motorist
insurance carrier as a party defendant.

***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".

Thomas v. Fusilier,
966 So. 2d 1001 (Fla. 5th DCA 2007)

Reversed forfeiture of \$250,000 payment
required by marital settlement agreement.

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OCBA Luncheon **November 18, 2009**

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Russell Troutman

Making a Difference in the Legal Community



Charles W. Abbott

Charles "Charlie" Abbott graduated from the University of Florida Law School in January 1953. After two years active duty as an Air Force JAG officer, he began his career as a litigation associate at the Orlando firm of Maguire, Voorhis & Wells, and ultimately he became a shareholder and the head of its litigation section. Concentrating on medical malpractice cases, Charlie grew to be recognized as one of the premier defense lawyers in the state of Florida.

Charlie's common sense, down to earth and ethical approach to cases, together with a good sense of humor, earned him the respect of and excellent results from both judges and juries. With the amalgamation of Maguire, Voorhis & Wells and Holland & Knight in 1998, Charlie became a partner of Holland & Knight. Winding his trial practice down, Charlie was certified as a Circuit Court civil mediator and was involved as a mediator for several years. He is a fellow of the American College of Trial Lawyers and a founding member of both the Central Florida Chapter of the American Board of

Abbott • continued page 8

Leon H. Handley

If you ask Leon Handley how he describes himself after 58 years of practice, he'll say "I'm just a veteran small town trial lawyer." The truth is, however, that Leon is not "just" anything. Well respected in the Central Florida legal community, this past OCBA president has seen it all and done it all. Forty-five years ago, he served as OCBA president and president of Legal Aid concurrently. Since joining the OCBA in 1951, he moved up the ranks serving in different roles, including chair of various committees, secretary, vice president, and eventually president.

When asked about some of the more significant changes in the practice of law, Leon will tell you that law has become much more technical than it used to be. "It's much more sophisticated. It used to be just head to head." He adds, "Information is so much more accessible than it used to be. Jurors are more sophisticated and cases are more complex."

Handley • continued page 8



James M. Russ

Whether on behalf of the famous, the infamous, or the unknown, the wealthy or the indigent, the hallmark of Jim Russ' representation of his clients is zealous advocacy based on thorough preparation and command of the case. From the old justice of the peace court to the United States Supreme Court, in state and federal trial and appellate courts, Jim has steadfastly advocated for his clients. After serving as the elected Orange County solicitor/prosecutor from 1961-65, Jim has practiced for years as a top criminal defense attorney. Board certified in both criminal trial

Russ • continued page 8



Russell Troutman

Fifty-three years ago, newly married West Virginia native, Russell Troutman, fresh out of Marshall University with a Bachelor of Arts degree in journalism, arrived in Florida to continue his formal education and pursue a legal career.

The reason for Troutman's change of both his personal venue and his professional career plans was the contrasting economic conditions of West Virginia and Florida. The West Virginia economy was not conducive to his planned journalistic career. His physician father (a coal mine doctor) encouraged Russell to consider law as a profession and offered him some financial assistance. In post-World War II 1955, Florida, the fastest growing state in the Union, was booming. It had a magnetic attraction for many, including Russell Troutman and his bride. His academic record achieved at Marshall enabled him to easily gain entry to Stetson University Law School in the fall of 1955. He transferred to the University of Miami a year later. There, he received his Bachelor

Troutman • continued page 8

The Ballroom at Church Street

11:30 a.m. - 1:00 p.m.

225 S. Garland Avenue

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Please RSVP to reservations@ocbanet.org
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Church Street and South Street

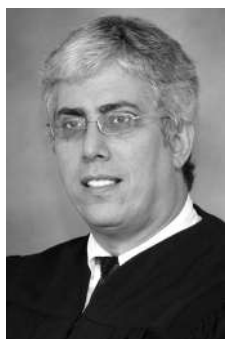
To ensure a proper luncheon count, RSVPs and CANCELLATIONS are requested no later than Thursday, November 12, 2009. The OCBA is happy to provide 10 luncheons as part of your member benefits, **but no-shows incur additional charges for the Bar and walk-ins cannot be guaranteed a seat.** Please keep us up-to-date on your reservation status!

Professionalism Committee

2010 OCBA William Trickel, Jr.; Lawrence G. Mathews, Jr.; and James G. Glazebrook, Jr. Professionalism Awards Are Now Being Accepted!

Distinguished members and guests, as the year draws to a close and we approach "Ohten," the Professionalism Committee and Professionalism Awards Subcommittee are preparing to select the recipients of the 2010 OCBA Trickel, Mathews, and Glazebrook professionalism awards. Honor our distinguished attorneys and jurists by making your nomination today.

The Trickel and Mathews awards seek to honor those who, throughout his or her



General Magistrate Howard D. Friedman, Chair of the OCBA Professionalism Committee, has been a member of the OCBA since 2005.

career, have exemplified the qualities of what an attorney ought to be – an effective advocate and counselor; a reputable and respected leading attorney in his or her area of practice; a person of the highest integrity; a person that is active in the bar and makes a difference in the community; a leader and mentor. I submit to you that there are many attorneys in our community that possess these qualities. Every year the Professionalism Committee and the Professionalism Awards Subcommittee strive to select the individual who best

exemplifies these qualities. Please make your nomination today for the best candidate for either or both of these prestigious awards.

The Glazebrook Memorial Bar Service Award seeks to recognize an outstanding state or federal jurist who, throughout his or her career, has been an exemplary leader in promoting and improving professionalism in the legal profession; a jurist who has been devoted to engaging in activities to improve the law, the legal system and the administration of justice; and who has been active in service to the bar and community. Again, please make your nomination today for the best candidate for this prestigious award.

As you may have gathered, these awards are for "lifetime" achievement. A previous nominee's continuation in the path of truth, honor, and service may well result in his or her selection. Accordingly, you may renew your previous nomination or provide an addendum/update to a previous nomination.

Please submit your nominations for the OCBA William Trickel, Jr. Professionalism Award (15 years or more in practice); the Lawrence G. Mathews, Jr. Young Lawyer Professionalism Award (less than 15 years in practice), and the James G. Glazebrook Memorial Bar Service Award (jurist). **The deadline for nominations is December 4, 2009.**

Award nomination forms containing the specific awards criteria are available on the OCBA website. You may make your nomination by submitting an e-mail or letter. Clearly identify your nominee, indicate for which award you are making the nomination, and explain why your nominee embodies the qualities worthy of receiving the award. Ensure that you provide your contact information so that we may contact you if we have questions. Also, let us know if you desire to have the committee consider a previously submitted application. Please forward your nomination(s) or any question(s) regarding the awards to either:

Brant Bittner, Executive Director
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880 N. Orange Avenue
Orlando, FL 32801
Phone: 407-422-4551
Fax: 407-843-3470
Email: brantb@ocbanet.org

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OCBA November Luncheon Speakers

continued from page 5

Charles W. Abbott *continued*

Trial Advocates and the Central Florida Chapter of the American Inns of Court. He was the second president of the Central Florida Chapter of the American Inns of Court. He was appointed by the Supreme Court as a member of the initial Civil Trial Certification Board of The Florida Bar and is a Board Certified Civil Trial Lawyer. He is a former national director of the Defense Research Institute and a past president of the Florida Defense Lawyers Association. He is a member of the Federation of Insurance and Corporate Council and a former member of the International Association of Insurance Council.

Charlie has been a member of the OCBA since 1955. During the three years he chaired the Blood Bank Committee, he set up the process of having the Bloodmobile visit larger law offices twice a year. This resulted in the development of a large blood account for OCBA members and their families. He was a member of the OCBA Judicial Relations Committee for over 10 years and once chaired that committee. He also served as a mediator for several years with the Citizens Dispute Resolution program.

A devoted family man, Charlie has been married to his wife, BJ, for 50 years and is the proud father of three daughters, Brenda, Kathy and Abby, and a grandfather of seven grandchildren.

Russell Troutman *continued*

Laws degree in mid-1958. Without delay, he was employed by a prominent Orlando firm. He quickly established a reputation as a competent, effective lawyer and an outspoken participant in bar and public issues. Ten years later, the Troutman, Williams, Irvin, Green & Helms law firm, of which Troutman is senior partner and executive officer, was formed.

Early in his legal career, Troutman became acutely aware of, and outspoken on, the subject of the lack of legal services for those in need. He observed first-hand the resultant inequities imposed on the poor in many such instances. Believing as he did, and yet does, that the oath of admission to the bar imposes on all members the duty to help provide legal services for those in need who are unable to pay, Troutman embarked on a personal remedial campaign. This campaign resulted in the establishment of the Legal Aid Society of the Orange County Bar Association. All members of that association annually contribute legal services or funding, or both, for the society's projects. This has resulted in many thousands of hours of legal services and substantial funding to provide legal aid for the needy. Troutman is recognized as the driving force behind the society's formation and the implementation of its legal services

program. He was its first president for the first full year of its existence. The Legal Aid Society, and his effective leadership in its formation and operation, is typical of Troutman's campaigns and projects.

Troutman's activities and accomplishments are legion, both in manner and scope, and are amazing. But the record is there. As an active and successful practicing lawyer, the demands on his time and effort would appear to preclude other extensive involvement; however, this is not the case. He is an active member of the American Board of Trial Advocates, the Association of Trial Lawyers of America and the Florida Justice Association (formerly the Academy of Florida Trial Lawyers). He has managed to find the time and energy to participate in many significant activities, including serving as the president of The Florida Bar, the Orange County Bar Association and its Legal Aid Society; serving as a member of the American Bar Association House of Delegates, The Florida Bar Board of Governors, The Florida Bar Foundation Board of Trustees and four years as a member of the Florida Supreme Court Nominating Commissions. He has written more than three hundred articles on various subjects, which have been published in such publications as the *Orlando Sentinel*, the *Orlando Business Journal*,

Leon H. Handley *continued*

Showing no signs of slowing down, Leon uses his experience to mentor younger attorneys at Rumberger, Kirk & Caldwell. Infamously known for his story telling capabilities, he knows everyone and anyone in town. Equipped with a sharp sense of humor, this lion of the courtroom is always happy to sit with you and talk about the days of old, his travels around the world, or the Gators.

James M. Russ *continued*

and appellate law, he has been recognized by local, state, and national organizations for his criminal defense work. Equally as important, his extraordinary work on behalf of his indigent clients was recognized by the Florida Supreme Court with its Tobias Simon Award.

But Jim has never let his full-time litigation schedule limit his contributions to the legal profession. He served for years on local and state legal aid boards. He has served on the board of directors of the Orange County Bar Association and the National Association of Criminal Defense Lawyers, as well as numerous state and federal bar committees. Always willing to share his expertise, he has written for and lectured to lawyers groups and participated in training programs at law schools across the country.

A naval aviator for over 20 years and a father of eight, Jim has always had an involved life outside the law. Still actively practicing, Jim Russ' career – both in his legal work and his volunteer work for our profession – is a model for any attorney.

The Florida Bar Journal, the *Winter Park Outlook/Observer* and *The Orlando Times*.

Russell Troutman also has an outstanding record of service for The Florida Supreme Court Historical Society. He served as vice-president in 1996, served as president from 1997 through 1999, and served as Chairman, Board of Trustees, from 2000 to 2002.

Troutman has made commencement addresses at the University of Florida Law School, Florida State University Law School, Marshall University, and other institutions of higher learning. He has traveled to other countries to study their legal systems. He has written a book of poems and is an accomplished musician and singer. For seventeen years, he was host of a talk show on WFTV-TV, an ABC affiliate. Some of his guests were Bob Hope, John Glenn, Art Buchwald, Jack Anderson, James J. Kilpatrick, Lawrence Welk, Ginger Rogers, Johnnie Unitis, and numerous other notables.

During his distinguished fifty-three year career of service to the bench, the bar and the public, Russell Troutman has been dedicated to programs and activities providing legal services to those in need.

Board of Governors Report : September 25, 2009

Mayanne Downs*

Dan DeCubellis

Scott McMillen

Mary Ann Morgan

*President-Elect, The Florida Bar

At its September 25, 2009, meeting in Hollywood, Florida, The Florida Bar Board of Governors met to discuss the following business:

Redesigning the Bar's Web Site

Communications Committee Chair, Juliet Roulhac, reported on three improvements being made to the Bar's Web site: an improved Google-based search engine; a "quick links" function on the homepage to help users find popular parts of the site; and a new career resource center to help connect lawyers looking for jobs and firms with openings. Ms. Roulhac also reported the Bar is reviewing requests for proposals made by various consultants regarding the redesign of the Bar's Web site, and also noted they are nearing the end of the selection process.

Committee Campaigns

During the meeting the Board approved a committee motion for a Consumer Protection Law Committee (CPLC) public service campaign on legal rights regarding foreclosure. The CPLC will apply for a Florida Bar Foundation grant to fund the campaign. The Board also approved a committee motion regarding the Board of Legal Specialization and Education Strategic Communication Plan Implementation Campaign.

Electronic Filing

The Board received a report from Board member Murray Silverstein on ongoing efforts to bring e-filing to the state court system amid the broader goal of having electronic access to court records. Mr. Silverstein noted the Supreme Court Technology Commission, on which he serves, is overseeing the work, and that it is critical that the courts, not the clerks, set the standards and control e-filing and electronic access systems to prevent each county court clerk from setting up a separate system. Mr. Silverstein reported that legislative action earlier this year has spurred recent activity, but it will also be necessary for the legislature to come up with funding.

Investment Committee

Investment Committee Chair, Ian Comisky, reported that Bar investments are up 16 percent for the year and more than 9 percent for the quarter. Bar President, Jesse Diner, added that if the good performance holds, the current Bar budget will likely have a surplus instead of the \$300,000 deficit initially expected. Mr. Comisky added the Investment Committee began a sweeping review of Bar investment policies at the suggestion of its advisor, Morgan Stanley Smith Barney.

Lawyer Regulation

The Board gave final approval to a rule change that adds new requirements for lawyers suspended or ineligible to practice for three years or longer who seek reinstatement. The new requirements include that the lawyers must complete 10 hours of CLE for each year, or part of a year, they

are ineligible to practice. Further, those ineligible to practice for five years or longer must retake the Florida section of the bar exam.

CLE

Bar Programs Director, Terry Hill, reported that Bar CLE operations have shown an overall increase despite a slow economy, and that revenues from the Bar's Member Benefits Program are also up.

Section Annual Reports

Public Interest Law Chair, Tracey McPharlin, gave the section's annual report and informed the Board that the section, along with the Bar's Legal Needs of Children Committee, are working together to create a Children's Law certification area.

Submitted by **Daniel L. DeCubellis**, Carlton Fields, P.A. He has been a member of the OCBA since 1984.

SPECIALTY EDITION OF THE BRIEFS INVITES YOUR PARTICIPATION

Editors' Note

Going Green



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Co-editor



Kimberly D. Healy
Co-editor

In March of 2010, the OCBA will publish its first ever **specialty edition** of *The Briefs*. As many individuals, law firms, businesses and governments are going "green," the OCBA has decided to dedicate its March edition to "green" topics and issues. We are currently accepting substantive "green" legal and industry articles, as well as other submissions describing your experiences with going "green" in your personal lives, law firms, law schools or businesses.

If you are interested in contributing to *The Briefs*' "green" issue, please contact Kim Healy (khealy@kdbdzlaw.com), LaShawnda Jackson (ljackson@rumberger.com) or Peggy Storch (peggys@ocbanet.org). The deadline for all submissions is **January 15, 2010**.

LaShawnda K. Jackson, an associate with Rumberger, Kirk & Caldwell, P.A., has been a member of the OCBA since 2002. **Kimberly D. Healy**, an associate with King, Blackwell, Downs & Zehnder, P.A., has been a member of the OCBA since 2002.

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Orange County Legal Aid Receives \$84,000 through Mortgage Foreclosure Defense Fund



Attorney General Bill McCollum (center) presented the Legal Aid Society an \$84,000 check for the LAS's new foreclosure defense fund. Pictured with Mr. McCollum are LAS president-elect, Jamie Billotte Moses; OCBA president, Woody Rodriguez; LAS president, Heather Pinder Rodriguez; and LAS immediate past-president, Nick Shannin.

On August 31, 2009, **Attorney General Bill McCollum** and The Florida Bar Foundation awarded \$84,000 to the Legal Aid Society of the Orange County Bar Association, Inc., to be used for a new foreclosure defense assistance program. The program is funded by money obtained by the Attorney General through a settlement with Countrywide Financial. A total of \$4 million will be available over two years to fund additional lawyer and paralegal positions devoted to providing free assistance to homeowners facing foreclosures who cannot afford legal defense.

"With these funds, we can provide direct legal assistance to Central Florida homeowners trying to save their homes," said Attorney General McCollum.

The Florida Bar Foundation received \$2 million from the Attorney General's Office to distribute in the form of annual grants. The grants will vary in amount depending on the number of foreclosures in a particular area. A total of \$2 million is available for distribution this year, and another \$2 million will be available next year.

"With this critical funding from the great work of Attorney General McCollum and his staff, the Orange County Bar Association's Legal Aid Society will be able to fund a Foreclosure Clinic staffed by an experienced housing attorney to provide free legal advice to Central Floridians facing foreclosure," said **Heather Rodriguez**, President of the Legal Aid Society. "We are truly thankful for the hard work and aggressive advocacy of Attorney General McCollum and his commitment to use the funds received from this settlement to improve the lives of all Floridians."

According to the Legal Aid Society, there

were 11,315 new foreclosure cases filed in Orange County in 2007. In 2008, the number of new foreclosure cases more than doubled to 26,131, and experts project there will be 40,000 new foreclosure cases filed in Orange County alone in 2009.

Orange County residents who need legal assistance to avoid foreclosure may contact the Orange County Bar Association's Legal Aid Society at 407-841-8310 or visit the website at <http://www.legalaidocba.org>. Assistance is also available in several languages, including Spanish and Creole.

Provided by Sandi Copes, media representative, at 850-245-0150. Press release: <http://www.myfloridalegal.com/newsrel.nsf/mortgage/E422A430E21118BF85257623004DB8D7>

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Florida Legal Services Award

Bruce Blackwell was honored by Florida Legal Services for his Leadership Gift to the organization's capital campaign on September 22 at the OCBA Center.



Justice Charley and Mrs. Linda Wells

Kent Spuhler, Florida Legal Services Executive Director; and Bruce Blackwell

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Legal Aid Society News

● LAS and Pro Bono Attorneys Team Up to ● Assist Legal Residents Become Citizens

Larri T. Thancher, Esq.

For the past three years the American Immigration Lawyers Association (AILA) has sponsored National Citizenship Day. Citizenship Day was designed to be a single-day workshop with sites all around the country to assist lawful permanent residents who are eligible for Naturalization. The goal is to have *pro bono* lawyers available on this particular day to assist eligible residents fill out all necessary paperwork, receive detailed

lay volunteers, many of whom were law students from Barry University. The lay volunteers gathered basic application and factual information, and the lawyers then met individually with the residents to review their particular facts and application.

Teresa B. Finer, an attorney who practices immigration law with the firm of Lowndes, Drosdick, Doster, Kantor & Reed, P.A., was one of the participating volunteer attorneys this year.

She has been a member of the OCBA for twenty-five years. She also brought another attorney, **Omar Perez**, and a paralegal, **Natalia Gove**, from her firm to help out. Teresa noted that

Lowndes, Drosdick, Doster, Kantor & Reed was organizing a Firm Community Service Day on that day. Since AILA was encouraging local immigration lawyers to participate in National Citizenship Day on that same day, I thought it would be a great combination. We really enjoyed the time we spent with The Legal Aid Society helping to complete Naturalization applications. The applicants were appreciative of our efforts on their behalf, and, in each case that I reviewed, there were legal issues that needed special attention. We had a lot of fun participating in this project and I hope that we can bring along more lawyers next year.

This year's Citizenship Day was a huge success. We look forward to an even larger turnout next year. We are looking to recruit more *pro bono* attorneys. You do not need to practice immigration law to participate. Several training sessions will be offered prior to the event. Next year's Citizenship Day is scheduled for Saturday, April 17, 2010. If you or someone you know are interested, please contact KRomero-Craft@legalaidocba.org.

Larri T. Thancher, Esq., is the Intake, Outreach and Community Education Coordinator at the Legal Aid Society. She has been a member of the OCBA since 1998.



Pictured: Natalia Gove, Kira Romero-Craft, Teresa Finer and Omar Perez at Barry Law School.

instructions on what steps to take to accomplish Naturalization, and receive free legal advice.

For the second year, the Legal Aid Society of the Orange County Bar Association hosted this event in the Orlando area. Last year, with only one site, we were able to assist thirty-three residents. This year, LAS staff attorney **Kira Romero-Craft** took the lead in expanding to two sites. One site was in Orlando at Barry University Law School and the other site was The Hope Community Center in Apopka. We are very pleased to announce that with the expansion, we assisted one hundred and twenty-three individuals this year.

This year's event was staffed by eighteen volunteer immigration attorneys from the Orlando area, as well as twenty-eight



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Intellectual Property Committee

● Under Review: Fraud-Based Defenses in ● Patent, Trademark, and Copyright Cases

Jeffrey S. Boyles

Intellectual property litigation is often a high-stakes, bet-the-farm business. Defendants accused of infringing a patent, copyright, or trademark often seek to come out swinging, and defenses based on fraud during the procurement of the asserted intellectual property rights are certainly an aggressive counter-punch. The allure is obvious. If a patent, copyright, or trademark is found to have been procured by fraud on the United States Patent and Trademark Office (USPTO) or the United States Copyright Office, the rights granted may be invalid and usually end any infringement lawsuit. While such charges are sometimes warranted, they are also subject to overuse. What is more, the routine assertion of fraud-based defenses serves to further the proliferation as intellectual property attorneys come to view them as standard practice or even required to avoid malpractice. Some recent patent, copyright, and trademark cases have placed fraud-based defenses under review and provided important considerations for attorneys preparing infringement actions and defenses.

Patents: *Exergen Corp. v. Wal-Mart Stores, Inc.*

In 1988, the Court of Appeals for the Federal Circuit (CAFC)¹ suggested “the habit of charging inequitable conduct in almost every major patent case has become an absolute plague.” *Burlington Indus., Inc. v. Dayco Corp.*, 849 F.2d 1418, 1422 (Fed. Cir. 1988). More than 20 years later, inequitable conduct remains a staple attack of defendants in patent infringement cases. This is not surprising since a finding of inequitable conduct in the prosecution of a patent before the USPTO may render the patent unenforceable – a defense to infringement. A court may also find that other patents in the same family are likewise infected and unenforceable. The issue of inequitable conduct has recently been the subject of proposed patent reform legislation, and numerous cases have examined the type of conduct that might support a claim. But perhaps the most significant effect may come from the CAFC’s review of the standard for pleading inequitable conduct in *Exergen Corp. v. Wal-Mart Stores, Inc.*, 575 F.3d 1312 (Fed. Cir. 2009).

The elements of inequitable conduct are proof, by clear and convincing evidence, that (i) an individual associated with the filing and prosecution of a patent application made an affirmative misrepresentation of a material fact, failed to disclose material information, or submitted false material information; and (ii) the individual did so with the intent to deceive the USPTO. In *Exergen*, the CAFC affirmed the denial of a defendant’s motion for leave to amend its answer to assert inequitable conduct based on the defendant’s failure to sufficiently plead the defense. The CAFC first found that Federal Circuit law, not regional circuit law, governed the pleading standard for inequitable conduct. The CAFC then held that inequitable conduct must be pleaded with particularity under Rule 9(b), identifying the specific “who, what, when, where, and how” of the material misrepresentation or omission committed before the USPTO.

The CAFC explained in great detail the level of particularity required to meet the pleading standard in the context of an allegedly withheld reference. In identifying the “who,” allegations such as “plaintiff, its agents and/or attorneys” are not particular enough. Rather, a defendant must identify the specific individual associated with the prosecution who both knew of the material information and deliberately withheld or misrepresented it. The “what” and “where” require identification of what specific patent

claims – and the limitations in those patent claims – the withheld references are relevant to, and specifically where in the withheld references the material information is found. The defendant must also explain “why” the withheld information was material, and not cumulative, to the other evidence of record in the USPTO, as well as “how” a patent examiner would have used the information in assessing the relevant claim’s patentability. Finally, and potentially

most difficult, a pleading must allege sufficient underlying facts from which a court may “reasonably infer” that a party acted with the requisite state of mind. In doing so, the CAFC found that pleading on information and belief is permitted, but that the pleading must “set forth specific facts upon which the belief is reasonably based.” Alleging awareness of specific prior art references is not enough. The pleading must contain specific factual allegations to show that the identified individual deliberately decided to withhold the identified references from the USPTO. The CAFC found that, in the absence of such allegations, the district court was correct not to draw any permissive inference of deceptive intent, “lest inequitable conduct devolve into ‘a magic incantation to be asserted against every patentee’ and its ‘allegation established upon a mere showing that art or information having some degree of materiality was not disclosed.’”

In most cases, the level of particularity seemingly required to plead inequitable conduct will be nearly impossible for defendants to satisfy at the initial pleading stage. Plaintiffs are likely to challenge allegations of inequitable conduct with more vigor, while defendants will most likely be forced to conduct significant discovery and move to amend their answer well into the litigation – if and when they are able to gather sufficient facts.

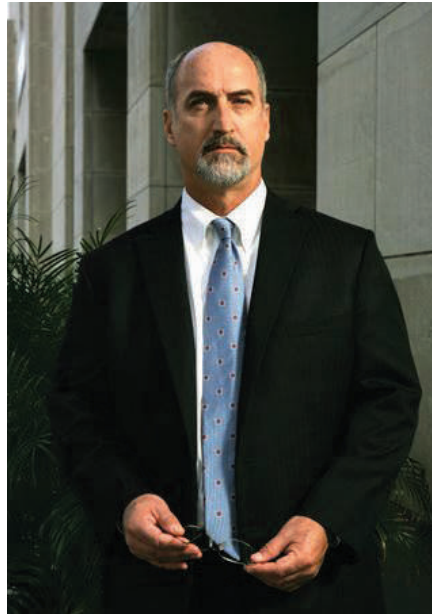
Trademarks: *In re Bose*

In 2003, *Medinol Ltd. v. Neuro Vasc, Inc.*, 67 U.S.P.Q. 2d 1205 (TTAB 2003), caused a stir among trademark owners and attorneys when the Trademark Trial and Appeals Board (TTAB)² found that a trademark applicant commits fraud when it falsely claims use of its mark in connection with the goods or services identified. In *Medinol*, the trademark applicant filed an intent-to-use application identifying the goods on which the subject mark would be used as “stents and catheters.” The applicant did in fact use the mark on catheters, but had not used the mark on stents when its statement of use was filed claiming use on both. The applicant claimed the continued inclusion of “stents” on the statement of use was simply an oversight, but the TTAB found that the applicant “should have known” the statement was false and cancelled the applicant’s trademark registration for fraud. The TTAB’s decision in *Medinol* effectively lowered the standard for finding fraud and caused concern among trademark owners

continued page 18

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The Power of Branding Matt Meinrod

Drive down I-4, turn on your local news, or read the marquee in any shopping plaza: attorney advertisements are literally a dime a dozen. What separates the successful firms from those struggling to make ends meet is the power of branding.

The key to a powerful brand is being memorable to those you target. When a consumer or, in legal terms, a client thinks of hiring your firm it should be on the top of their mind the same way Coke®, Nike®, and Google™ have become household names.

So how do you build a brand among an ocean of attorneys with budget concerns and compounding work piling up on your desk? You take a strategic approach to your marketing and use smart, creative tools that stand out from the competition. Branding tools include logo, slogan, company name, combination of patterns and colors, web design, attitude, and musical tones.

To expand on one of those tools, an extension of every law office should include a captivating website that grabs potential clients' attention with every stroke of the keyboard and click of the mouse. Having an online presence should be more than just a boring template that is hard to update, doesn't express the image of the firm, and lacks cutting edge technology.

Your firm's website should include social media outlets like Facebook®, LinkedIn®, and Twitter®. Have weekly if not daily blog updates highlighting successful verdicts, charity events, and other legal news. Clearly express the personality of the firm through visual content, corporate colors, and tactical photography of the attorneys. And of course, provide clear content to describe the specialties of the law office.

So now you have a website that is attracting attention, but how do we get those visitors as clients? The power of a brand is getting potential clients to not only think of you first, but to trust and

value your services. When clients hire your law firm the brand image should be that of a winner. There should be no shadow of a doubt in your clients' mind that not only will you win their case, but it will be a smooth and seamless process.

Although the latest trends tell us new media marketing is here to stay, in order to build a broad audience and reach all demographics, you should still take advantage of traditional media outlets such as television, radio, and billboards. The critical element in the entire process is brand consistency by integrating new media with traditional while remaining consistent across the board. Visual effects, as well as the unconscious message, should resonate regardless of the outlet of advertisement.

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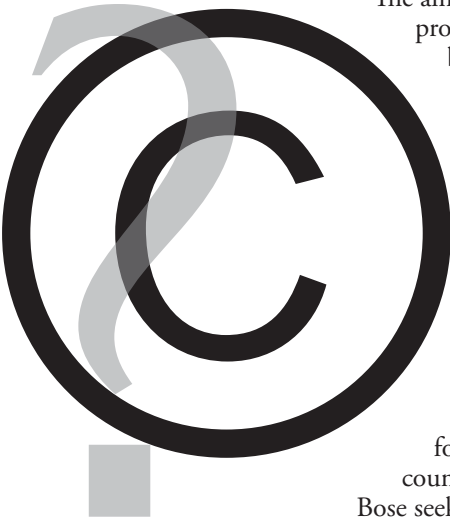
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Intellectual Property Committee

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and attorneys due to the common practice of filing trademark applications identifying an extensive list of goods and services within a particular classification. For instance, a trademark applicant might typically have identified nearly every article that might be classified as clothing (think definition of “document” in most requests for production), despite use on only shirts. After *Medinol*, this identification would be considered fraud and subject the *entire* registration to cancellation (including with respect to shirts). Even applicants who *mistakenly* identified goods or services the subject mark was not used on would be at risk since the “should have known” standard made proof of intent to deceive ostensibly irrelevant. A byproduct of *Medinol* was an increased focus on fraud counterclaims and cancellation proceedings in defense strategy.



The almost strict liability approach to fraud implemented by the TTAB in *Medinol* was recently reviewed by the CAFC in *In re Bose*, No. 2008-1448, 2009 U.S. App. LEXIS 19658 (Federal Circuit August 31, 2009). The case arose when Bose opposed the registration of HEXAWAVE by a competitor based on Bose's prior registration for the mark WAVE. A counterclaim was filed against Bose seeking to cancel the WAVE registration, alleging that Bose committed

fraud in its affidavit of continued use and renewal application (Renewal). The Renewal, signed by Bose's general counsel, stated that the WAVE mark was still in use on all goods listed in the original registration. The original registration had included audio tape recorders and players; however, Bose had stopped manufacturing those products prior to the filing of the Renewal. Bose argued that it was still “repairing” tape recorders under warranty and had a good-faith belief that this constituted use in commerce. The TTAB rejected Bose's argument and cancelled the entire WAVE registration based on fraud.

On appeal, the CAFC held that fraud requires a finding of intent to deceive the USPTO. The CAFC found that by equating “should have known” of the falsity with a subjective intent, the TTAB erroneously lowered the fraud standard to a simple negligence standard. Applying the correct standard, the CAFC found that Bose's repair of tape recorders did not meet the use in commerce requirement, and Bose had therefore made a material misrepresentation. However, the CAFC also found that there is no fraud if a false misrepresentation is occasioned by an honest misunderstanding or inadvertence without a willful intent to deceive. Based on the evidence presented, the CAFC held that Bose did not commit fraud and that the TTAB erred in cancelling the WAVE mark in its entirety. The case was remanded for further proceedings to remove only tape recorders and players from the registration.

In re Bose provides some comfort for trademark registrants who have mistakenly made material misrepresentations in USPTO

filings, but it remains to be seen if the new standard will decrease the number of cancellation proceedings based on fraud and how the standard will be applied. Whatever the result, it remains important that trademark owners and their attorneys be precise in identifying goods and services on which a mark is used. If they have not done so recently, trademark owners should also consider a “fraudit” to ensure that there are no fraud issues lurking in old registrations.

Copyrights: *St. Luke's Cataract and Laser Institute, P.A. v. Sanderson*

St. Luke's Cataract and Laser Institute, P.A. v. Sanderson, 573 F.3d 1186 (11th Cir. 2009), offers a number of useful lessons for trademark and copyright litigators, particularly in the context of fraud on the Copyright Office. The case arose out of a typical dispute between a former employee and a former employer, albeit with a modern twist: the appropriation of the employer's website and its distinctive service mark. The employee, Dr. Sanderson, maintained a specialty practice of cosmetic eyelid surgery. The employer, St. Luke's, promoted Dr. Sanderson's practice by paying for the design and programming of a website, using the domain name www.laserspecialist.com along with a distinctive logo. When Dr. Sanderson left St. Luke's, he took the website and its contents with him by secretly enlisting the help of St. Luke's webmaster to obtain the transfer of the domain name to his own hosting company. He then changed the watermark on the website's videos to display his name, rather than St. Luke's, and claimed copyright in the contents of the website – using in his new practice the same name, content and logo that he had used while an employee of St. Luke's. St. Luke's filed suit for copyright infringement, service mark infringement, cyberpiracy, and related claims. The Eleventh Circuit had little difficulty in affirming a jury verdict and a resulting judgment for service mark infringement and cyberpiracy under the Lanham Act.³ But the court also affirmed a jury verdict for the defendant on the copyright claim upon finding that St. Luke's had, in effect, committed fraud on the Copyright Office in connection with the two copyright applications at issue.

The first copyright application, filed hurriedly after St. Luke's had discovered Dr. Sanderson's infringement, improperly claimed copyright in the “entire website.” St. Luke's compounded this error by submitting as the deposit copy to support the application, website content it had reconstructed from the Internet Archive.⁴ This was not a proper deposit, for it included content that was not from the original claimed work in 2003 and, worse still, it included the content of others, including content that Dr. Sanderson had originated after he left St. Luke's. The second copyright application, presumably prepared by St. Luke's attorneys, sought to “cure” the errors of the first by claiming copyright back to 2000, but on essentially the same website content. The application did not disclose that most of the content in which copyright was claimed had already been registered in St. Luke's earlier application. St. Luke's submitted as its deposit for this application a copy of the 2000-era website obtained from Dr. Sanderson in discovery, and asked the Copyright Office for “special relief” to submit an incomplete copy of the claimed work under 37 C.F.R. § 202.20. In so doing, St. Luke's represented to the Copyright Office that the deposit it submitted contained 90 to 95% of the original claimed work, while omitting from its disclosure that most of the same content had previously been submitted with its first application. St. Luke's argued that the discrepancies in its applications and deposits were “clerical

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OCBA Paralegals Gain Section Status

On September 24, 2009, the OCBA installed officers and board members for what is the first and only paralegal section of any voluntary bar in the state and one of only a handful in state or voluntary bars in the nation. Four state bar associations have

members are: **Amy Guy**, CP, FRP (Calandrino Law Firm, P.A.); **Cyndee Dahlgren**, CP, FRP (GrayRobinson, P.A.); **Phillip L. Gordin**, FRP (GrayRobinson, P.A.); **Christina M. Lee**, FRP (Akerman Senterfitt); and special board member **Catrina M. Chapin** (Roetzel & Andress).

officers and executive council to develop the new section's foundation and bylaws. The FRP designation is achieved by paralegals who voluntarily undertake continuing education and successfully complete the Paralegal Advanced Competency Exam offered by the National Federation of Paralegal Associations (NFPA), or the Certified Legal Assistant/Certified Paralegal examination offered by the National Association of Legal Assistants (NALA).

According to Lori, a litigation paralegal in the Orlando office of Roetzel & Andress, LPA, the section's first-year goals are to "inform Central Florida paralegals about the newly formed Paralegal Section, the importance of becoming a Florida Registered Paralegal, and the networking opportunities that exist within the Orange County Bar Association." She notes that "this is especially important given the current economic situation that myriad paralegals face as their law firms continue to downsize."

Lori and Lissa, who have co-chaired the OCBA's ABA-award winning Law Week program for five of the past six years, anticipate that more than 80 area paralegals will be active in the section by year's end.



Judge Jenifer M. Davis installed Paralegal Section officers and board members at September's luncheon.

a paralegal section or division, including the Montana State Bar; the Michigan State Bar; the Utah State Bar; and the Texas State Bar. Other voluntary associations with a paralegal section include the Fairfax Bar in Virginia, the Gate City Bar in Georgia, and the Evansville Bar in Indiana.

OCBA president **Woody Rodriguez** praised both Lori and Lissa for their persistence in taking The Florida Bar's 2008 creation of the Florida Registered Paralegal (FRP) program to its logical conclusion by working with the OCBA's



Lori M. Spangler, President

The OCBA's Paralegal Section officers and board members were sworn in by the **Honorable Jenifer M. Davis** of the Ninth Judicial Circuit Court at the OCBA's monthly luncheon.

Newly installed 2009-2010 officers are OCBA mem-

bers: **Lori M. Spangler**, FRP (Roetzel & Andress), president; **Lissa Bealke**, FRP (GrayRobinson, P.A.), vice-president; and **Christine Stram**, FRP (Broad and Cassel), secretary/treasurer. Board mem-

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Intellectual Property Committee

continued from page 18

errors” and not accompanied by evidence that any omissions or misrepresentations were intentional. The Eleventh Circuit concluded that the evidence was sufficient for the jury to infer that St. Luke’s had intentionally misled the Copyright Office by falsely claiming copyright in content that was not eligible for registration and by failing to disclose in the second application that it had registered a version of the website having substantially the same content as that covered by the first.

St. Luke’s illustrates the danger both to client and counsel in submitting over-inclusive copyright applications and in carelessly handling the deposit requirement, which, under 17 U.S.C. §408, must be a bonafide copy of the original claimed work. As the *St. Luke’s* opinion, and a number of other recent cases show, an applicant runs the risk of invalidation by attempting to enforce a copyright in work X after depositing a copy of work Y or by depositing only a reconstruction of, or a revision to, work X, or by intentionally misleading the Copyright Office about the deposit while seeking a special exception to the deposit requirement.⁵

Conclusion

It is interesting that fraud-based defenses at issue in the cases above appeared to receive greater scrutiny in the patent and trademark contexts than in the copyright context. This is possibly attributable to the different facts or procedural postures of the cases, or it could be the different philosophies of the CAFC and the Eleventh Circuit. However, there is a distinction to be made in terms of the examination that applications receive in the USPTO and the Copyright Office. While trademark examiners and patent examiners more intensely scrutinize and substantively examine the applications before them, copyright registrations are reviewed primarily for compliance with basic formalities. Since the statements made by copyright applicants are accepted with little review, it is arguable that representations made to the Copyright Office should be held to a higher standard.

After *Exergen*, one would expect a significant decrease in charges of inequitable conduct in patent cases, at least early in such cases. It is also likely that fraud claims in trademark cases will be less important after *In re Bose*, if the entire registration is not invalidated by false statements of use concerning only certain goods or services. Copyright cases, on the other hand, may see increased attention paid to the applications and deposits made by plaintiffs for the asserted works after the verdict upheld in *St. Luke’s*. In each context, plaintiffs and defendants are well served to consider fraud issues early.



Jeffrey S. Boyles is a shareholder with Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A. He has been a member of the OCBA since 2004.

¹The CAFC has exclusive jurisdiction over, inter alia, appeals from district court relating to patents and appeals from the United States Trademark Trial and Appeal Board (TTAB).

²The TTAB is a body within the USPTO responsible for hearing and deciding trademark cases including appeals from decisions by USPTO examiners denying registration of marks, oppositions to registrations, and cancellations proceedings against registrations.

³Noteworthy is the Eleventh Circuit’s ruling on the issue of damages: *St. Luke’s* was entitled to recover both statutory damages for cyberpiracy and compensatory damages for service mark infringement even though that would, in effect, award double damages for the same wrong under different legal theories.

⁴The Internet Archive provides a digital library of Internet sites captured between 1996 and the present at www.archive.org. Websites are not always captured in their entirety and users may be provided search results that include material from the closest date archived. It is therefore necessary to review the date code embedded in the url to determine the capture date.

⁵E.g., *Mortgage Marketing Guide, LLC v. Freedman Report, LLC*, 2008 U.S. LEXIS 56871, *73 (D. N.J. July 28, 2008).

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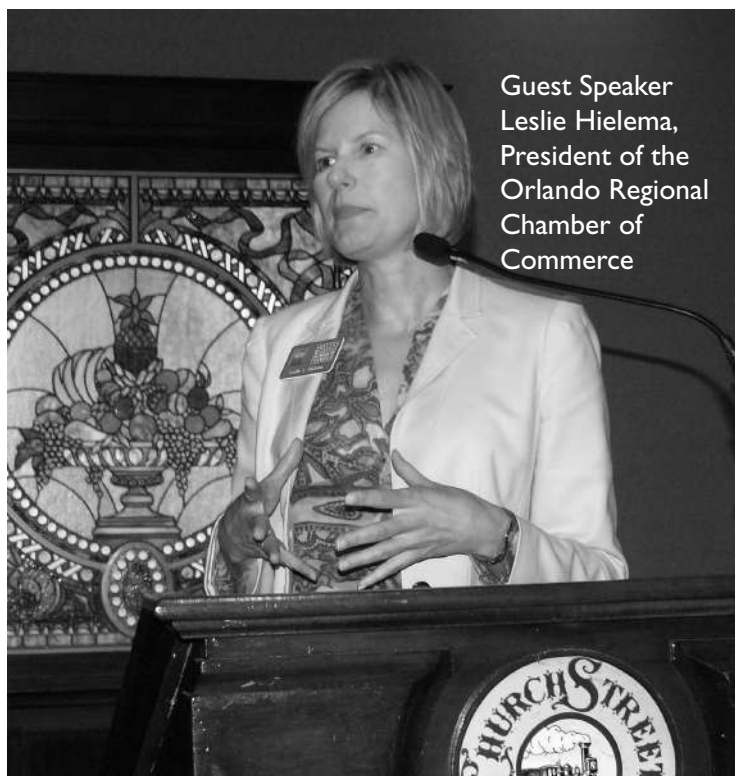
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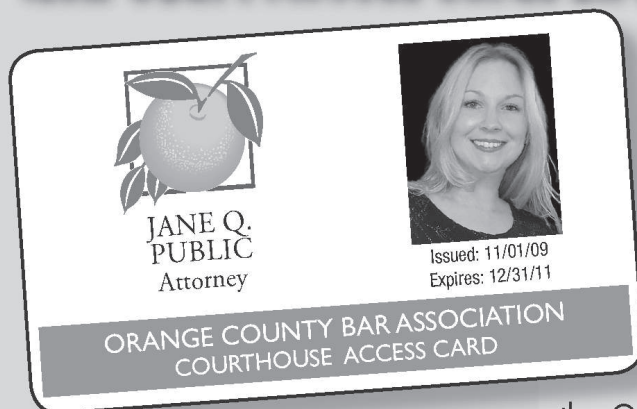
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Breaking Up Is Hard to Do

– Take a Proactive Approach to Physician Separation Issues

David L. Schick

Physician separation issues are best dealt with at the beginning of the relationship in the documents the physician enters into with the practice – when the physician joins the practice as an employee and/or when the physician becomes an owner of the practice. Obtaining a Separation Agreement at the time a physician departs, while ideal, is often not possible. This is especially true where the departure is not amicable, which is generally the case when the practice terminates the physician's employment. The best way to avoid costly and time consuming litigation at the time of separation is to have carefully drafted documents prepared on the front end. Think of these documents as a prenuptial agreement of sorts, designed to govern post-practice relationship issues, rather than post-marital relationship issues.

For example, a well drafted Employment Agreement will specify the manner in which the physician's employment may be terminated, whether for cause (i.e., a specific set of reasons the practice may terminate the physician's employment immediately) or for no cause (i.e., by the practice or by the physician voluntarily with a required period of notice). This agreement also will specify the parties' rights and obligations to each other following termination. These rights and/or obligations can vary depending upon whether the physician terminated his employment, whether the practice terminated the physician's employment for cause, or whether the practice terminated the physician's employment without cause.

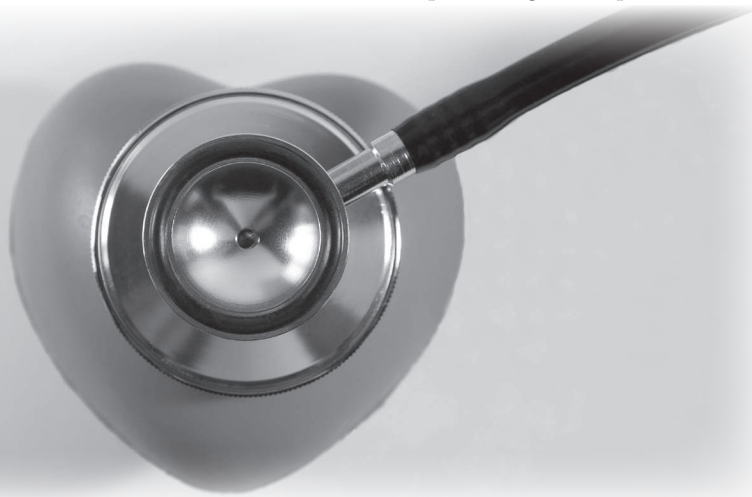
For example, the practice usually will pay for the physician's malpractice insurance during the physician's employment. However, the physician is usually responsible for the cost of "tail" coverage upon termination of employment, which can be very expensive. A common compromise is for the physician to be responsible for the cost of "tail" coverage if the physician terminates his own employment (i.e., quits), or if the practice terminates the physician's employment for cause (i.e., because the physician committed one of the wrongful acts specified in the Employment Agreement); however, the practice may be obligated to purchase the "tail" coverage if the practice terminates the physician's employment without cause.

The well drafted Employment Agreement also will specify that all patients treated by the physician are the practice's patients, not the physician's patients. In that event, the patients' medical records remain the property of the practice upon termination. However, the Employment Agreement should grant the physician the right to make copies of such records at his or her expense for any legitimate (non-competitive) purpose, including defense of a malpractice action or a third party audit.

These Employment Agreements also will specify the parties' obligations to each other regarding the non-disclosure of confidential information, the non-solicitation of the practice's patients and employees, and non-competition, both during employment and

following termination. The non-competition provisions will typically specify a certain geographic service area within (and a time period during which) the physician may not practice or establish an office. These provisions are of particular importance to both the physician and the practice. If they are not properly drafted, they can be rendered unenforceable. A non-competition provision that turns out to be unenforceable will come as a pleasant surprise for the departing physician and as a bitter pill for the practice to swallow. This area of the law is currently in a state of flux, and legal expertise is critical to drafting contractual language that stands the best chance of meeting the parties' expectations during and after the parties' relationship.

Carefully drafted buy-in and entity governing documents also are necessary to deal with the issues pertaining to the practice's



and the physician's relationship with each other during the period of ownership, and upon termination of such ownership. The physician owner's Employment Agreement will not only deal with the issues described above, but also will deal with the payment of any earned, but unpaid, compensation payable upon the physician's termination of employment. This earned, but unpaid, compensation typically represents the physician's share of the practice's accounts receivables based on a formula set forth in the Employment Agreement. The amount payable can sometimes vary depending upon whether the practice terminated the physician's employment for cause or without cause, or whether the physician terminated his employment.

The buy-in documents (i.e., shareholder buy-sell, operating and/or partnership agreements, depending on the nature of the entity involved) also will deal with the amount of money, if any, the physician is entitled to be paid for the physician's ownership interest in the practice. These agreements, if properly drafted, spell out how the value of such ownership interest will be determined, and the manner in which payment for such interest will be made (i.e., immediately, via insurance proceeds in the event of death, and/or via a promissory note over time). Once again, the purchase price and/or the manner of payment can vary depending upon the reason for the separation and/or on whether the physician's separation occurs close to (or coincidentally with)

continued page 33

Hearsay • • •

"The thinnest yellow light of November is more warming and exhilarating than any wine they tell of. The mite which November contributes becomes equal in value to the bounty of July." - Henry David Thoreau



Kimberly D. Webb

Thanksgiving Day is just around the corner. I can't believe it is that time of year already. I know I am not alone in my amazement that it is already November. But I am also sure that I am not alone in my excitement that it is almost Thanksgiving! Thanksgiving Day is my absolute favorite day of the year. What can possibly be better than a day filled with family and friends and stuffing yourself on all that fabulous Thanksgiving fare. What do you and your loved ones like to do on Thanksgiving day? Do you sit around the kitchen eating and talking? Go on a hike? Toss around the old pigskin and gather round the TV for the game? Whatever your traditions, I wish you a Happy Thanksgiving surrounded by loved ones and a fabulous Thanksgiving Day feast!

Before that big day, though – come join the OCBA for a gathering of friends of another sort. The OCBA will be hosting its annual **Joint Happy Hour** in conjunction with other area voluntary bar associations, on **November 3 at Ember on Central Avenue** in downtown Orlando. Come join us for drinks, appetizers and socializing. And don't forget your canned goods. This happy hour will benefit the **Second Harvest Food Bank**, so that we can help more of our friends and neighbors celebrate the holidays even during these tough economic times.

Having a good time with friends while supporting a great cause – fantastic! OCBA members **Liz McCausland** and **Musette Stewart** took that to the extreme in September when they joined Climate Ride 2009 for a five-day, 300-mile journey *on a bicycle* from Manhattan to Washington, D.C. Liz and Musette each raised \$2,400 in charitable contributions to support advancement of climate change education and renewable energy policies and then rode from New York, through New Jersey, Pennsylvania and Maryland, ending their journey at the U.S. Capitol building to bring awareness to their cause. Congratulations, Liz and Musette!

We've had a lot of other very busy OCBA members this fall, as well:

Former OCBA President **Bruce Blackwell** has been elected second vice president of the Florida Supreme Court Historical Society for 2009-2010. This election positions Bruce to serve as the organization's president in 2011-2012.

Michael S. Orfinger, principal with Upchurch Watson White and Max Mediation Group, has been inducted as a Fellow of the Academy of Court-Appointed Masters (ACAM). ACAM is the only national organization for special masters.

Carrie Lee has been named the new director of the Juvenile Justice Center at the Barry University Dwayne O. Andreas School of Law. Carrie Lee has dedicated her career to child advocacy and, as director, she will continue to advocate for children caught up in this State's delinquency system and lead the Center in its advocacy for quality representation for those children.

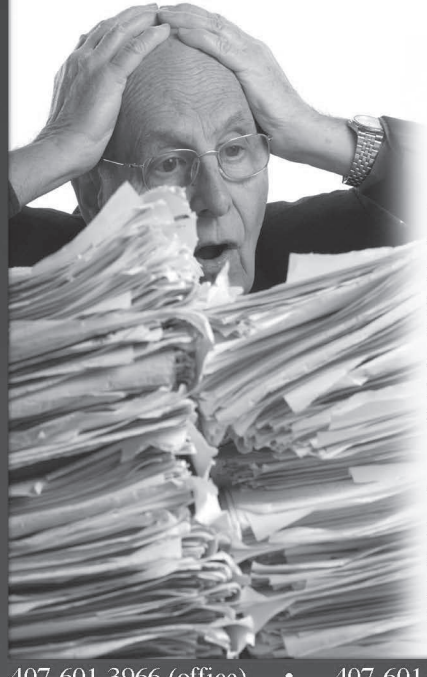
Stefan A. Rubin of Ruden McClosky will be doing double duty. He has been

reappointed to serve as vice chair of both The Florida Bar Business Law Section's (BLS) Continuing Legal Education (CLE) Committee, and the Florida Institute of Certified Public Accountants (FICPA) Liaison Committee.

Congratulations to all of you for these hard-earned and well-deserved honors. As we all know, OCBA members are the hardest-working, most dedicated community servants around. And the accomplishments of these individuals offer further proof of the commitment our members make every day to help better the community in which we live and work. So, this Thanksgiving Day, as we recognize the beauty and blessings of our friends and family, maybe each of us can also take a moment to say Thank You for the dedication of individuals like these who do all they can to make our community a better place.

Happy Thanksgiving! And, as always, keep sending your information, pictures, and Hearsay-worthy items to me at kdbwebb@gmail.com.

Kimberly D. Webb has been a member of the OCBA since 2002.



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YLS on the move

Events Galore!

Sunny A. Hillary

Just a few more weeks, and the holidays will be here! October has been an eventful month, so let's get started.

At the YLS luncheon on October 15, 2009, **Lisa Warren** of the **Adult Literacy League** spoke to the YLS about the new **Lawyers for Literacy** initiative. The mission of the Adult Literacy League is to build a strong and literate community by developing readers' skills. Hopefully, through the new Lawyers for Literacy initiative, we will bring together attorneys and judges to work with students through mentoring and tutoring and by providing learning materials.

The ceremonious **Oath Administration and Reception** gets bigger and bigger every year! This year, nearly 300 members of the YLS, OCBA, and supportive family and friends celebrated the swearing-in of almost 70 law school graduates at City Hall. Attendees heard inspiring speeches from notable colleagues and enjoyed a classy array of food and drinks. Special thanks to **Lauren Carmody, Bridget Labutta**, and their committee for welcoming the official newest Young Lawyers to town!

Now, I must say that the **18th Annual YLS Charity Golf Tournament** at Shingle Creek Golf Club on October 2, 2009, was a triumph! *All* proceeds from the tournament go to charity, and this year, with 110 players and 16 hole sponsors, we were able to raise almost \$13,000! The proud players of the Best Foursome were: **David Shontz, Brett Renton, Greg Swift, and Michael Gore**; Second Place went to **David Hathaway, Erik Bonnett, Carl Smith, and Brett Rice**; and Third Place went to **Eric Reed, Eric Castleson, Bud Bennington, and Jason Williams**. Additionally, the winners of the hole contests were **Erik Bonnett** for Men's Longest Drive, **Megan Malec** for Ladies' Closest to the Pin, **Megan Malec** for Straightest

Drive, and **Orange Reporting** won the Best Dressed hole sponsor! **Amber Nielson** and I would like to give a big shout out to our committee and to the OCBA for helping make this happen.

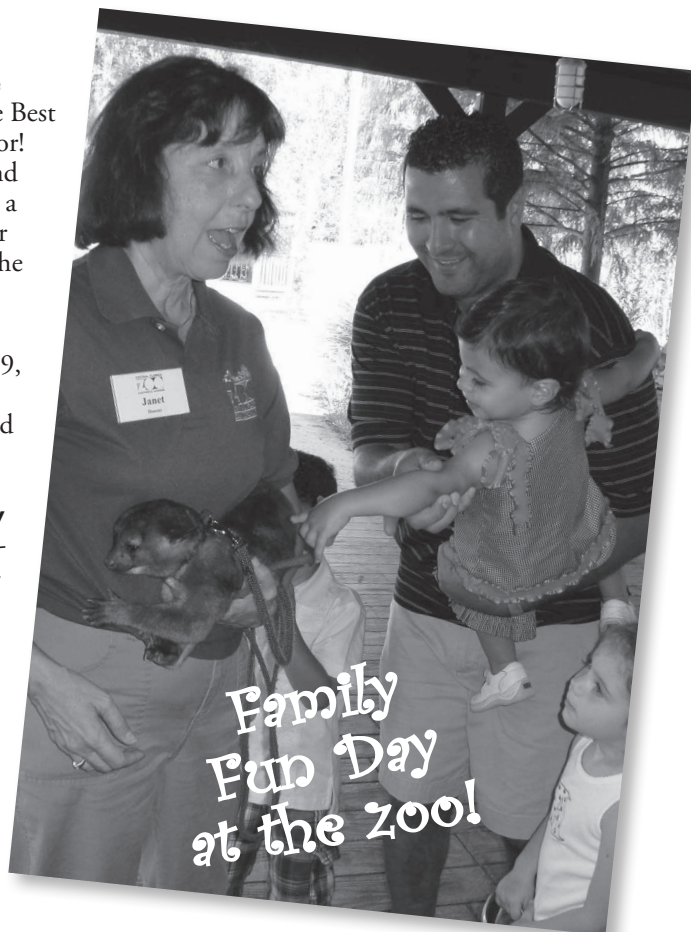
On October 3, 2009, young lawyers and their families headed out to the Central Florida Zoo for the annual **YLS Family Fun Day!** Folks enjoyed the entertaining experience with various mammals, reptiles, amphibians, birds, and an "animal encounter" followed by a barbecue lunch. Special thanks to **Kara Rogers** for a job well done!

The **2nd Annual College Park Pre-Jazz Fest** on October 10, 2009, was another night to remember. The YLS and their friends and families gathered in downtown College Park to enjoy a free outdoor jazz concert preceded by a happy hour featuring beer, wine, jazzy hors d'oeuvres, and a saxophone player to set the mood. Thank you to **Tony Sos, Doug Martin**, and the law firm of **Dellecker, Wilson, King, McKenna & Ruffier** for hosting this wonderful new tradition.

The **YLS November Luncheon** will take place on **November 19, 2009** at 11:45 a.m. at the Citrus Club. Please email your RSVP to ocbayls@gmail.com. The cost is \$20 if you RSVP before November 17, 2009, or \$22 at the door; \$12 for law students, government attorneys, sole practitioners, and judges.

If you want to find out more about our section and its committees and events,

please call me at 407-388-1900 or email me at sunny@brownstonelaw.com. If you are not receiving the YLS email blasts, send an email to me or ocbayls@gmail.com to sign up.



Sunny A. Hillary is an attorney with Brownstone, P.A. She has been a member of the OCBA since 2005.

Jurors Who Tweet, Blog & Surf – Deciding and Discussing Your Case, Part II

James A. Edwards, Esquire

For most Americans, modern life without immediate access to the internet is almost unimaginable. The miracle of cell phone communication is “so yesterday.” Internet connectivity via hand-held devices is today’s standard. Millions of Floridians jump online to find useful information, to see photographs of interesting places, and to share information about events in their daily lives. Unfortunately, when jurors start to tweet, blog and surf concerning cases they are sitting on, trouble may be just around the corner.

Problems that have happened before or could arise in your next trial

Prior to presentation of evidence

Even before a jury is selected, problems can arise. Such was the case when Al Roker shared photographs of his fellow jurors taken in the jury assembly room.¹ Publicizing the identity of potential jurors is at odds with the growing trend of protecting jurors in notorious or sensational cases, even to the point of Juror # 1 anonymity. There have also been claims regarding individuals intentionally web-posting case-specific information, hoping to reach the jury pool. For instance, KevinMD.com suggested in his August 2, 2007, blog that “[s]omeone is posting deposition videos on YouTube in an attempt to sway potential jurors in [a particular] malpractice case.”

During presentation of evidence

The number of instances of jurors conducting on-line research and investigating facts, people, and science is growing.² Writing messages, blogs, and tweets during trial may encourage jurors to prematurely form opinions of the case, contrary to typical instructions. A mistrial was requested, but denied in the federal corruption trial of former Pennsylvania state senator Vincent Fumo.³ In that case, a Ventura County, California jury foreman was held in contempt of court for blogging about the case facts and the judge, and for posting photographs of the murder weapon online during a nineteen-day-long trial. The convicted defendant included the blogging as an appellate issue.⁴

Problems during deliberation phase of case

Might a juror use GoogleEarth.com to get a real life, detailed satellite photo of the accident or crime scene? If the lawyers don’t know that it is taking place, there won’t be any testimony explaining how the satellite photo differs from the scene on the day in question.⁵ What happens when jurors start seeking legal information or advice in lieu of jury instructions? Jurors are going on line to look up “implied consent” and “beyond a reasonable doubt.”⁶ For instance, a well meaning New Hampshire juror researched important legal terms, got clear definitions, and shared them with the other jurors; however, the definitions were from California law.

Even Ripley would find this hard to believe. But, a juror serving on a criminal trial involving charges of sexual assault was unsure how to vote during deliberations. She posted a message on her Facebook wall describing the case and started conducting a poll on how the case should be decided. Before the deliberations ended, somebody alerted the court to her poll and she was excused.⁷

Possible solutions

Often times, jurors who tweet, blog and surf simply do not know that what they are doing is wrong, and they shouldn’t be

expected to. The internet is a part of modern life, and if its use needs to be prohibited or limited, then the jury clerks, judges and lawyers need to say so. There has to be a reasonable balance between allowing the use of cell phones and Blackberries for normal communication while prohibiting improper gathering or sharing of case-related information. People use their web-capable phones to check on children or spouses during breaks. Jurors need to be able to tell their family members they will be home late if the trial is running over time. Jurors have no business using those devices while court is in session, whether during voir dire, witness testimony, or closing argument. During deliberation, those same devices should be, and typically are, collected and held by the bailiff.

Jury instructions advising that internet research is not permitted must be given. There are those who say that mentioning the internet will only encourage jurors to use it during trials. We trust jurors to follow all jury instructions. The record has already been made that failing to specifically instruct against internet activities has resulted in hundreds and probably thousands of wasted court days. Florida’s current standard jury instructions make almost no mention of the internet, but the jury instruction committees are working on that even now. Idaho, Iowa, Mississippi, Kansas, Pennsylvania, Wisconsin and other states are also dealing with these issues.

In June of 2009, Michigan adopted a standard instruction embodied in amended Michigan Court Rule 2.511, which goes into detail about prohibited internet activities. The relevant portions are set forth below:

- (2) The court shall instruct the jurors that until their jury service is concluded, they shall **not**:
 - (a) discuss the case with others, including other jurors, except as otherwise authorized by the court;
 - (b) read or listen to any news reports about the case;
 - (c) **use a computer, cellular phone, or other electronic device with communication capabilities while in attendance at trial or during deliberation.** These devices may be used during breaks or recesses but may not be used to obtain or disclose information prohibited in subsection d) below;
 - (d) **use a computer, cellular phone, or other electronic device with communication capabilities, or any other method, to obtain or disclose information about the case when they are not in court.**

As used in this subsection, **information about the case** includes, but is not limited to, the following:

- (i) information about a party, witness, attorney, or court officer;
- (ii) news accounts of the case;
- (iii) information collected through juror research on any topics raised or testimony offered by any witness;
- (iv) information collected through juror research on any other topic the juror might think would be helpful in deciding the case. (Emphasis added)

It is not certain when the new Florida standard jury instructions will be approved. Given the constantly changing technology, standard instructions may not keep pace with potential problems. Consider using the Michigan instruction. Offer your own cautionary internet instruction drafted by you and approved by opposing counsel and the court. Or, consider using the instruction drafted by Judge John Kest:

I know that most of you have cell phones or other devices that may have internet access. I also suspect that most of you are computer literate – certainly more so than I am. I have cautioned you not to do any independent research and that your verdict must be based on the facts you hear in this courtroom from the witness box and the evidence. Let me extend that caution. You are not to conduct any independent research using computers, your cell phones, or in any other manner. Not the old fashion kind in encyclopedias, or the newer methods of “googling” and “tweeting” on your internet based research tools. Lastly, you have been advised not to discuss this case with anybody except your fellow jurors and then only when you retire at the conclusion of the case to deliberate. Therefore, you must not e-mail or otherwise electronically contact other people about this case nor seek their opinions, advice or even thoughts on the issues before you.

Conclusion

The use of the internet by jurors to gather and share information is already a problem that is wasting scarce judicial resources and often denying parties fair trials

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based only on the evidence presented in court. Being aware that jurors who tweet, blog and surf during trial have caused tremendous problems should encourage the bench and bar to take reasonable proactive steps, right now, to curb improper internet activities by juries.

James A. Edwards is a partner with Hewitt Wolensky, LLP. He has been a member of the OCBA since 1980 and is a Board Certified Civil Trial Lawyer by The Florida Bar.

¹*Roker Admits Mistake, Keeps Tweeting*. Gothamist.com. J. Carlson, posted May 29, 2009; *WHAT A TWIT: Al Roker Sorry for Twittering Pictures of Manhattan Jurors*, NewYorkPost.com, May 29, 2009.

²*Mistrial in U.S. v. Hernandez Federal Internet Pharmacy Trial*, InternetDrugLaw.com, posted March 25, 2009; *Mistrial by iPhone: Juries' Web Research Upends Trials*, J. Schwartz, NewYorkTimes.com, posted March 18, 2009.

³*Mistrial by iPhone*, supra.

⁴*Juror held in contempt for blog of murder trial*, R. Hernandez, VenturaCountyStar.com, posted January 23, 2008.

⁵*How can courts keep jurors from using Twitter, Google?* themorningcall.com, R. Yates and K. Amerman, posted March 30, 2009.

⁶*Juries raise a digital ruckus*, OregonLive.com, posted January 13, 2008.

⁷*British Juror Axed for Disclosure on Facebook*, news.cnet.com, posted November 25, 2008.



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Physician Separation Issues

continued from page 27

another owner's separation. Simultaneous withdrawal provisions are critical to prevent the practice from having to pay out multiple physicians at the same time, when those physicians leave together or within a relatively short period of time of each other. Otherwise, these "simultaneous" withdrawals can create a financial burden on the practice (or a "run on the bank") that the practice may not be able to satisfy – a disappointing result for both the practice and the departing physician.

Similar documents govern the parties' relationship with each other, during (and upon termination of) the parties' relationship with each other, in connection with other business entities connected with the practice. Typically, the practice owners also own interests in the building within which the practice is located, as well as other joint ventures or entities such as ambulatory surgical or imaging centers. Properly drafted shareholder buy-sell, operating and/or partnership agreements governing these ancillary entities also will define the parties' rights, duties, and obligations to each other in the event the physician's relationship with the practice is terminated. They also will dictate whether the departing physician is to be bought out or otherwise removed from these entities.

In summary, not all physician departures are amicable. In fact, many are not. Further, the practice might not even be dealing with the physician at the time of separation, which is the case in the event of a physician's death. Emotions typically run high at this juncture, and carefully drafted documents will give the parties the security of knowing what will be expected of them at the time of separation. The time and expense spent up front will also be significantly less than the time and expense associated with the litigation that is almost certain to ensue in the absence of pre-existing definitive agreements that govern the separation.



David L. Schick, a shareholder with the firm GrayRobinson, P.A., practices in the areas of Health Care, ERISA and Employee Benefits, Corporate and Tax law. He has been an OCBA member since 1988.



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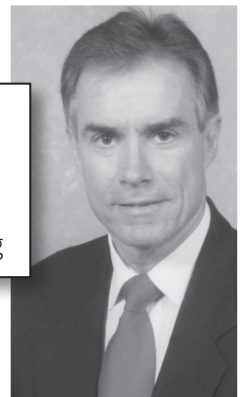
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Lesson Two: Client Types

Hopefully you have read Lesson One in last month's edition and have started to identify the "ideal" client types for each of your practice areas. Though it may sound simple, recognizing whom you best serve is an important first step in building a successful practice. Here's why: **the quality of your practice – and how much you enjoy working in your practice – is directly correlated to the quality of your clients.**

If you, like many of your colleagues, have stocked your practice with clients that aren't a good fit, you'll spend much of your career feeling frustrated and unappreciated. In addition, you'll never realize your income potential. Our research has shown that if you were to apply Pareto's Principle, also known as the "80/20 rule" to your client base, you would probably find that 80% of your income comes from 20% to 40% of your clients! In this lesson you will learn the power of this principle and how to apply it to your practice.

Most of you know from your own experience that all clients are not created equal – but haven't yet learned to trust your instincts during the intake process. You may recognize that the client that darkens your door with a page ripped out of the phone book is not quite the same as those sent by your best referral source – but you give everyone the benefit of the doubt. Don't. Become more rigorous in your screening procedures. Carefully selecting the clients you work with not only improves your morale, it minimizes collection problems and has the added benefit of protecting you against malpractice problems in the future.

The Four Client Types

There are four levels of client types. We call them "A", "B", "C" and "D" clients. Each level is judged on certain general criteria: the ability to pay; having needs consistent with your expertise; their ability to cooperate; their opinion of attorneys in general; whether they are high or low maintenance; their ability to be satisfied with services rendered; and the likelihood of sending more work or quality referrals. In addition, practice-specific criteria should also be developed that relate to the viability of the prospective client's case.

In this ranking system, which you can custom fit to your particular practice areas, "A" and "B" matters are the good, "C" matters are the bad, and "D" matters are downright ugly.

Who Are Your "A" and "B" Clients?

Our studies show that the "A" and "B" clients for most practice areas typically comprise 20% of your client base. Hidden among the other clients you serve, they are usually a small, quiet, but vitally important group. How important are they? As mentioned before, they will generate a hefty 60% - 80% of your revenues and only take up 20% - 40% of your time. In addition, they pay their bills; appreciate the value of the work you do for them; cooperate with you; show up on time and send quality referrals. In short, these are the clients you actually enjoy working with! They are the low maintenance clients that bring you the kind of matters that fit your expertise. They are not crisis driven and they trust your opinion. These are the clients that tend to get lost in

the shuffle as you scramble to handle the constant demands of your "C" and "D" clients.

The Next Step

If you find you have stocked your practice with "C" and "D" clients – conduct a "housecleaning." Most attorneys are appalled to discover how many problematic clients they work with. But there is a solution – follow the steps listed below to conduct your own "housecleaning." If you have any doubt during this process and begin to vacillate on whether or not a client is appropriate for you – ask your staff. "C" and "D" level clients often treat your staff poorly or take up an unreasonable amount of their time.

1. Rank your current clients and consider referring out, closing, or letting go of all the "D's" and most of the "C" clients.
2. You can do this in person, over the telephone, or by letter. Your bar will typically have sample disengagement letters that you can use. If the issue is nonpayment, you are not ethically bound to continue work for a client that is not paying you. (*Litigators must be careful here – confer with your trial judge.*)
3. Avoid working with more "C" and "D" clients! Refine your intake selection so you don't admit them into your practice in the first place!

Fortunately, "C" and "D" clients don't sneak into your practice unannounced. They usually arrive waving several red flags. You welcome them in – often because you *need* the money – hoping that uneasy feeling you felt upon meeting them was just heartburn. Ironically, the client that you take because you need the money ends up taking your time and not paying you for it. Begin to trust that uneasy feeling – it might be trying to tell you that you are getting involved with the wrong kind of client.

Mark Powers is the 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 marketing writers for *Lawyers, USA*. Mark founded *Rainmakers™*, a simple process for attorneys at all levels to stay focused on marketing, creating fresh ideas, and on-going accountability to marketing. To learn more about Atticus or *Rainmakers™*, please visit the Atticus website at www.atticusonline.com or contact the Atticus office at 352-383-0490.



Mark Powers



Shawn McNalis

Presentation Skills *Quick and Easy Trial Graphics*

How many times have your witnesses found themselves at a loss for words while trying to explain what happened to them or trying to explain what they saw? It happens more often than you'd like, doesn't it?

Early in my career, I was defending a motion to suppress in a Driving Under the Influence (DUI) case. The issue was whether or not the police officer had a valid reason to stop the defendant's car. When I asked the officer about the reason for the stop, he told us that the defendant had made a "wide turn."

"Could you explain that for us a little better, so that we understand what you saw?"

"He made a 'wide' turn. It was a lot wider than a normal turn -- he went out of the normal pathway for a turn, way out of the way, almost driving off the roadway. I'm not sure if I'm doing a good job of explaining what I saw, but when I saw him make the turn, I thought he was out of control and a danger to other drivers on the road."

He was right -- he wasn't doing a very good job of describing what he'd seen. Even though the picture in his mind was perfectly clear, neither the judge nor I could 'see' what the officer had seen. If I didn't help him paint a clear picture, we were going to lose the motion, and we would lose the case.

That's when I had a bright idea.

I took a magic marker out of my trial toolbox, walked over to the flipchart, and drew a quick sketch of the intersection the officer had been describing.

"May the witness step down the witness stand, your Honor?"

Intrigued, the judge said, "Officer, you may step down."

Taking a business card out of my wallet, I drew a large arrow on the back of my card and handed it to the officer. "Officer, pretend that this is the defendant's car, with the arrow pointing in his direction of travel. Please show us exactly what you saw when the defendant made this 'wide' turn."

In an instant, any doubts about the validity of the stop were removed. Using a crude, hand-drawn exhibit, the officer was able to show everyone exactly what he'd seen and exactly why he'd stopped the defendant's car. My opponent tried to cross-examine the officer, but wasn't able to cast any doubts on the officer's version of events. Thanks to poorly drawn artwork and a makeshift prop, we won the motion.

But if lousy artwork and a business card can save the day, just imagine what you can accomplish with a little time and effort. Here's a quick and easy way to create inexpensive courtroom exhibits that will help your witnesses tell their stories and show the jury **exactly** what happened.

Start by printing a large (30" x 40" is a good starting size, bigger is probably better) image of your scene. Maybe it's an aerial photograph of the apartment complex, the layout of the emergency room, or a map showing the fatal roadway or intersection.

After you've printed out your image, you'll want to give it a magnetic backing. You can either purchase magnetic backing (it's easy to find, just do a Google search for "Magnetic Adhesive Sheeting" and you'll find tons of suppliers) or you can temporarily

attach your image to a magnetic board, such as a magnetic dry erase board.

Once your image has a magnetic back, you can use small magnetic figures to "show" the jurors exactly where the collision took place, where the doctors and nurses were positioned, or where everyone was standing when the fight broke out.

For your "actors," you've got two different options. The first option is to print photos of the cars, the doctors' faces, etc., attach magnetic backing to the photos, and then let your witnesses play.



Elliott Wilcox

The second option is to use 3-D figurines. You might be tempted to use your old Star Wars figures ("I'll use Luke Skywalker for my client, and the role of my opponent will be played by Darth Vader!"), but it's probably better to check your local hobby shop or shop online for a wide variety of scale size replicas. A quick search in the Google Images library will turn up hundreds of figures in all shapes and sizes. You'll find office workers, cars, outdoor workers, trucks, teenagers, travelers, police officers, animals, fire fighters, nudists... Whatever you need, they've got it! Attach a small magnet to the bottom of each figurine, and you've got an instant exhibit that will help your witnesses tell their story.

A QUICK NOTE ABOUT SCALE: There are plenty of different sizes available. Hobby shops will have sizes running from 1:220 (Z scale), to 1:87 (HO scale, the most popular model train size), all the way up to 1:12 (dollhouse size). Don't worry about matching the scale exactly -- after all, this is a demonstrative exhibit, so the evidentiary requirements aren't as strict. Find one that's big enough for your jurors to see, and then use a consistent scale for all of your elements. You can't use a "Z" scale train to represent your poor defenseless client, and then use a 1:12 scale monster to represent your opponent. It might be fun, but the judge won't permit it.

By using these quick and easy exhibits, you'll make it easier for your witnesses to tell their stories. Not everyone can adequately describe the images in their heads or put thoughts into words. But if you give them some tools to help them tell their story, they can show you (and your decision maker) *exactly* what they saw.

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Elliott Wilcox is the editor of *Trial Tips Newsletter*. To get a free copy of "The Art of Cross-Examination," visit www.TheArtOfCrossExamination.com

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Speaking Engagements

Ken Clayton and **Jeff Stone** of Clayton & McCulloh were guest speakers for Sentry Management's September 22 seminar in Cocoa. They spoke on the topic of collections and foreclosure issues facing community associations in Florida.

Neal McCulloh of Clayton & McCulloh was a guest speaker for Sentry Management's September 17 seminars in Ocala and Trinity. He spoke on the topic of collections and foreclosure issues facing community associations in Florida.

Published

Dennis Wall of Winter Springs and Orlando is the author of "Litigation and Prevention of Insurer Bad Faith," Second Edition, published by Shepard's/McGraw-Hill. The 2009 Supplement has just been published online and in a printed edition by West Publishing Company. Dennis also co-author "CAT Claims, Insurance Coverage for Disasters," 2009 Supplement published by West Publishing Company in August, 2009.

Seminars

Nov. 5 - An Occurrence in Florida: The "Property Damage" CGL Decision of the Supreme Court of Florida - With and Without Contractors. Insurance Law Committee. 12:00 p.m., OCBA Center. Speaker: Dennis J. Wall. Details: Marie Marrero at mariem@ocbanet.org.

Nov. 10 - Representing Undocumented Children. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Comerica Bank, 111 N. Magnolia Ave., Ste. 1000, Orlando, FL 32801. 1.50 CLE pending. Speaker: Kira Romero Craft, Esq. Details: ctucker@legalaidocba.org or mcarbo@legalaidocba.org.

Nov. 13 - Appellate Writ: Extraordinary Remedies to Solve Extraordinary Problems. Appellate Practice Committee. 1:00 p.m. OCBA Center. Details: Marie Marrero at mariem@ocbanet.org.

Nov. 18 - 2009 Employment Law Case Review. Labor & Employment Committee. 12:00 p.m. OCBA Center. Details: Marie Marrero at mariem@ocbanet.org.

Nov. 20 - Wills Trusts for Divorcing Clients. Family Law Committee. 12:00 p.m. 425 N. Orange Ave., #2310. Details: Thomas Marks, committee chair, at tdm@markslawfla.com.

Nov. 24 - Attorney Fees: How to Get 'em & How to Avoid Being the One to Pay 'em. Solo & Small Firm Committee. 12:00 p.m. OCBA Center. Details: Marie Marrero at mariem@ocbanet.org.

Dec. 8 - Ethics Topic. LAS Lunchtime Training. 12:00 p.m. - 1:30 p.m. Comerica Bank, 111 N. Magnolia Ave., Ste. 1000, Orlando, FL 32801. 1.50 CLE pend-

ing. Speaker: Honorable Howard D. Friedman. Details: ctucker@legalaidocba.org or mcarbo@legalaidocba.org.

Other Seminars of Interest

The Orange County Office on Aging, the Orange County Library System, and Channel 9 will be presenting a monthly series of 30-minute seminars about caregiver services available for seniors in Central Florida entitled "Counsel for Caregivers: A Helping Hand of Healing." Seminars will be held at the library's downtown branch. For details, please contact: Jan Reynolds, Orange County Office on Aging, at 407-836-6553. (**Nov. 19** - *The ABC's of Alzheimer's Disease*. Speaker: Nancy Squallaciotti; **Dec. 17** - *Adult Children Caring for their Parents*. Speaker: Claire Gaynor.)



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DOWNTOWN WINTER PARK-807 West Morse- share space Exec offices w/ sec. partitions, kitchen, conference, potential referrals. \$1,200 per month 407-628-4878.

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OCBA CALENDAR

November - December 2009
January 2010

OCBA Luncheon

Thursday, November 18, 2009

Charles W. Abbott • Leon H. Handley
James M. Russ • Russell Troutman

RSVP by Thursday, November 12, 2009 to:
reservations@ocbanet.org

Sponsored by Curtis Protective Services, Inc.



November

- 3 Joint Happy Hour**
5:30 p.m. • Ember
- 4 Criminal Law Committee**
12:00 p.m. • Courthouse
23rd Flr. Judges' Conference Rm.
- Estate Guardianship & Trust Committee*
12:00 p.m. • Bar Center
- 5 Federal Judicial Relations**
12:00 p.m. • Judge Conway's Chambers
- Insurance Law Committee Seminar*
An Occurrence in Florida: The "Property Damage" CGL Decisions of the Supreme Court of Florida - With and Without Contractors
12:00 p.m. • Bar Center
- 10 LAS Lunchtime Training**
Representing Undocumented Children
12:00 p.m. • Comerica Bank, 10th Flr.
- 11 Executive Council Meeting**
4:00 p.m. • Bar Center
- 12 Breakfast of Champions**
LAS Fundraiser
8:00 a.m. • The Ballroom at Church St.
- Real Property Committee*
12:00 p.m. • Bar Center
- Social Security Committee*
12:00 p.m. • Bar Center
- Judicial Relations Committee*
12:15 p.m. • Courthouse
21st Flr. Conference Rm.
- 13 Workers' Compensation Committee**
11:45 a.m. • Smokey Bones
- Family Law Executive Committee Meeting*
11:45 a.m. • Houlihan's
- Appellate Practice Committee Seminar*
Appellate Writs: Extraordinary Remedies for Extraordinary Problems.
1:00 p.m. • Bar Center
- 17 Professionalism Committee**
12:00 p.m. • Bar Center

- 18 OCBA Luncheon**
Charles W. Abbott, Leon H. Handley
James M. Russ, Russell Troutman
11:30 a.m. • The Ballroom at Church St.
- Labor & Employment Committee Seminar*
2009 Employment Law Case Review
12:00 p.m. • Federal Courthouse
- 19 YLS Luncheon**
11:45 a.m. • Citrus Club
- Appellate Practice Committee*
12:00 p.m. • Bar Center
- 20 Legal Aid Volunteer Luncheon**
11:30 a.m. • Bar Center
- Family Law Committee Seminar*
Wills Trusts for Divorcing Clients
12:00 p.m. • 425 N. Orange Ave., #2310
- 24 Solo & Small Firm Committee Seminar**
Attorney Fees: How to Get 'em & How to Avoid Being the One to Pay 'em
12:00 p.m. • Bar Center
- 25 Business Law Committee**
12:00 p.m. • Location varies.
Please contact chair.
- Labor & Employment Law Committee*
12:00 p.m. • Bar Center
- 26 Thanksgiving Day - Bar Closed**
- 27 Thanksgiving Holiday - Bar Closed**

December

- 2 Criminal Law Committee**
12:00 p.m. • Courthouse
23rd Flr. Judges' Conference Rm.
- 8 LAS Lunchtime Training**
Ethics Topic
12:00 p.m. • Comerica Bank, 10th Flr.
- 9 Estate Guardianship & Trust Committee**
12:00 p.m. • Bar Center
- Executive Council Meeting*
4:00 p.m. • Bar Center
- 10 Real Property Committee**
12:00 p.m. • Bar Center

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

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

15 Professionalism Committee
12:00 p.m. • Bar Center

17 YLS Luncheon
11:45 a.m. • Citrus Club

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

20 Family Law Committee
12:00 p.m. • 425 N. Orange Ave., #2310

21-25

Christmas Holiday - Bar Closed

January 2010

- 6 Criminal Law Committee**
12:00 p.m. • Courthouse
23rd Flr. Judges' Conference Rm.
- Elder Law Committee*
12:00 p.m. • Bar Center
- 7 Federal Judicial Relations**
12:00 p.m. • Judge Conway's Chambers
- 8 Workers' Compensation Committee**
11:45 a.m. • Smokey Bones
- Family Law Executive Committee Meeting*
11:45 a.m. • Houlihan's
- 13 Estate Guardianship & Trust Committee**
12:15 p.m. • Courthouse
21st Flr. Conference Room
- Judicial Relations Committee*
12:15 p.m. • Courthouse
21st Flr. Conference Rm.
- Executive Council Meeting*
4:00 p.m. • Bar Center
- 14 Real Property Committee**
12:00 p.m. • Bar Center
- Social Security Committee*
12:00 p.m. • Bar Center
- 15 Family Law Committee**
12:00 p.m. • 425 N. Orange Ave., #2310



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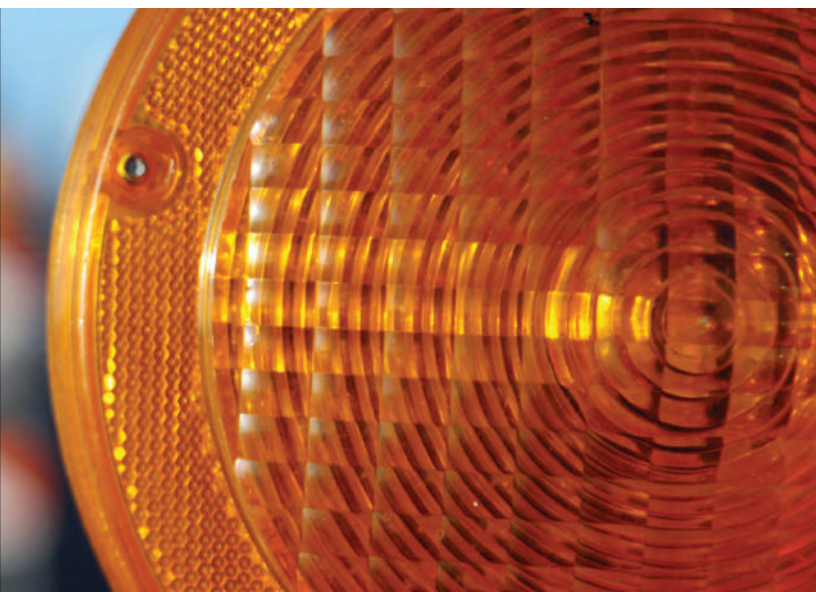
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