

the Briefs

A Publication of the Orange County Bar Association



Lawyers in the arts...



February 2012
Vol. 80 No. 2

Inside this Issue:

President's Message

*Lawyers and Artists – A Likely Pairing
Indeed*

Thomas A. Zehnder

OCBA Luncheon

Jaime Piñero

Hispanic Heritage Scholarship Fund
of Metro Orlando

Lawyers in the Arts

David G. Atchison

Dale A. Burkett

Philip K. Calandrino

Jennifer R. Dixon

Jon H. Gutmacher

Keith J. Hesse

Alyson M. Innes

Lawrence H. Kolin

Scott R. McMillen

David S. Willis

**"I spend my
time working
on my cases,
not my
banking."**



If you're taking too much time away from your practice to manage your banking, contact an M&I Banker. Your banker will help you make knowledgeable financial decisions about cash flow, remote deposit capture, business checking and more. We can also help you manage your personal finances, too.

Contact us today.

**Preferred Banking Institution
and Proud Sponsor of the
Orange County Bar Association**



Christopher Dale
Preferred Banker
407-513-9590
Orlando



Tom Bacchus
Commercial Banker
407-648-2141
Orlando



A part of BMO Financial Group

Dear Colleagues in the Ninth Judicial Circuit,

I am running for my final term on the Florida Bar Board of Governors.

My previous work on behalf of the lawyers of the Ninth Circuit has included years of service on Orange County Bar committees and the Executive Council, culminating in serving as Orange County Bar President in 1999-2000.

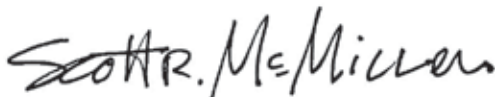
I have also served you on the Board of Trustees of the Legal Aid Society, and served as Legal Aid Society President in 1996-97.

I have been a member and the chairman of the Florida Judicial Nominating Commission for the Fifth District Court of Appeals, a member and the chairman of a local Florida Bar Grievance committee, and I currently serve as the Board of Governors' liaison to two Florida Bar Grievance Committees, and also as Chairman of the Board of Governors' Review Committee on Professional Ethics.

I am quite proud to say my current re-election bid to continue this work is being endorsed by 25 former presidents of the Orange County Bar Association.

Thank you for allowing me to serve you in the past, and I would greatly appreciate your support and your vote when the ballots come out in March.

Please do not hesitate to call or email me to discuss Florida Bar matters at any time.



McMillen Law Firm

A Professional Association

608 East Central Blvd.

Orlando, FL 32801

Phone: 407-843-0126

Email: Scott@mcmillenlawfirm.com

Contents

3

President's Message

Lawyers and Artists – A Likely Pairing Indeed
Thomas A. Zehnder

4

Professionalism Committee

Lessons in Ethics and Professionalism from the Casey Anthony Trial
Judith M. Mercier

5

OCBA Luncheon

Jaime Piñero
Chair, Hispanic Heritage Scholarship Fund of Metro Orlando
Director of National Inside Sales
CenturyLink

6

Intellectual Property Law Committee

U.S. Copyright – Fountain of Youth and Home for Zombies
James R. Lussier

8

Judicial News

Korean Delegation Meets Ninth Judicial Circuit Judges

10

Family Law Committee

Keeping Children Safe Act: The Statutory Amendments Effective July 1, 2011 Finally Fix Most Shortcomings
Lori Caldwell-Carr

12

Foundation News

UCF Department of Legal Studies Hosts Regional Moot Court Competition
Richard S. Dellinger

13

InnSider

Attorney-Client Relationship: Rules of Professional Conduct
The Honorable Antoinette Plogstedt
The Honorable Leon Cheek

19

Legal Aid Society

What We Do...
Breakfast of Champions
Donna A. Haynes

DEADLINE INFORMATION

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

All contents ©2012 Orange County Bar Association. All rights reserved. Designer: Catherine E. Hebert

22

Lawyers in the Arts

David G. Atchison
Dale A. Burket
Philip K. Calandrino
Jennifer R. Dixon
Jon H. Gutmacher
Keith J. Hesse
Alyson M. Innes
Lawrence H. Kolin
Scott R. McMillen
David S. Willis

33

YLS on the Move

Jacquelynne J. Regan

37

Intellectual Property Law Committee

Echoes of the Lone Dissenter: Copyright Registration as a Claim Processing Rule
Coleman W. Watson

39

Corporate Legal Diversity Pipeline
Heather Pinder Rodriguez

40

Paralegal Post

Top Trial Tips for Paralegals to Assist Their Attorney, the Court and the Jury or How Your Paralegal Can Save the Day and the Case – Part 4
The Honorable John Marshall Kest

44

Rainmaking

Reduce Stress by Selecting Clients Wisely: Clean Up Your Caseload – Part 1
Mark Powers & Shawn McNalis

47

Announcements

48

New Members

51

Classifieds

52

Calendar

the Briefs

Co-Editors

Allison C. McMillen & Suzanne D. Meehle

Associate Editors

Nick Dancaescu & Diana M. Serrano

Side Bar Columnist

Sunny Lim Hillary

YLS Columnist

Jacquelynne J. Regan



OFFICERS

Thomas A. Zehnder, President
Kristyne E. Kennedy, President-Elect
Paul J. Scheck, Treasurer
Nicholas A. Shannin, Secretary



EXECUTIVE COUNCIL

Wiley S. Boston
Mary Ann Etzler
Elizabeth F. McCausland
Nichole M. Mooney
Jamie Billotte Moses
Eric C. Reed
Gary S. Salzman
William D. Umansky
William C. Vose
Kimberly D. Webb
Esther M. Whitehead
Frank M. Bedell, Ex Officio
LaShawnda K. Jackson, YLS President



EXECUTIVE DIRECTOR

Brant S. Bittner



Communications Manager

Peggy Storch

Marketing Manager

Mente Piccoli

Marketing Assistant

William M. Remensnyder



Residential Mortgage Foreclosure Program
407-649-1833

880 North Orange Avenue • Orlando, FL 32801
(407) 422-4551 • Fax (407) 843-3470

Legal Aid Society	407-841-8310
Citizen Dispute	407-423-5732
Family Law Mediation	407-422-4551
Lawyer Referral Service	407-422-4537
Legal Placement Service	407-422-4551
Young Lawyers Section	407-422-4551



Thomas A. Zehnder, Esq.

Lawyers and Artists – A Likely Pairing Indeed

I hope you are enjoying this very special issue of *The Briefs*. I admit that when I first heard the idea, I was a bit skeptical and small-mindedly questioned how an issue dedicated to the Arts could benefit our lawyer-based membership. But as I thought more about it, I realized how wrong I was.

In addition to the obvious societal contributions of pure aesthetic beauty and enjoyment, the Arts offer so much more. Across its many disciplines – writing, acting, painting, sculpture and music, to name a few – the Arts opens all of us to a larger world of creativity and reflection. It reminds us of the indomitable human spirit and shows us the fullness and wonder of life. It challenges us to look at things differently, to open up to new ideas, and to broaden our views. The Arts also serves as a voice for the minority, the unpopular and sometimes even the outcast. The Arts often functions as a watchdog, shining a light on injustice and inequality in our society. In 1965, Congress had the foresight to ensure the preservation and promotion of the Arts when it passed the National Foundation of the Arts and Humanities Act, establishing the National Endowment for the Arts (NEA). Since its formation, the NEA has awarded more than \$4 billion to support artists in all disciplines. It is interesting, I think, that the passage of a law has contributed to one of the great advancements of *the Arts* in our country's history.

While giving an address in honor of the great poet Robert Frost at Amherst College in 1963, President John F. Kennedy described the artist this way:

The artist, however faithful to his personal vision of reality, becomes the last champion of the individual mind and sensibility against an intrusive society and an officious state. The great artist is thus a solitary figure. He has as [Robert] Frost said, a lover's quarrel with the world. In pursuing perceptions of reality, he must often sail against the currents of his time.

* * * *

If sometimes our great artists have been the most critical of our society, it is because their sensitivity and their concern for justice, which must motivate any true artist, makes him aware that our Nation falls short of its highest potential. I see little of more importance to the future of

our country and our civilization than full recognition of the place of the artist.

As I read President Kennedy's words about the role of an artist, it occurred to me that he just as easily could have been talking about the role of a lawyer. As lawyers, we are often called to serve as the watchdogs of our society, ensuring that equality and justice overcome unfair advantage and oppression. We are, at times, faced with taking the unpopular view, with bucking the trend and standing up for principal over custom or convenience. And we are sometimes lauded, but perhaps more often criticized and even ridiculed. For these reasons, the role of a lawyer – like that of the artist – can be a lonely one; a single voice speaking out in a chorus of convention.

So I've learned that despite their superficial differences, lawyers and artists are similar in many ways. Throughout history lawyers have played a critical role in shaping our future, not only as a nation, but as a society. Artists have served us in much the same way – challenging us to reach new heights, to aspire to new ideals and to reject the status quo where change leads to advancement.

I trust you will find this unique issue of *The Briefs* a refreshing departure from our usual publication. And I hope you will join us in celebrating the Arts and all that it has to offer.

Thomas A. Zehnder, Esq. is a partner with King, Blackwell, Downs & Zehnder, P.A. He has been a member of the OCBA since 1995.

Cover images clockwise from top right:

Dale A. Burket playing in the Christmas Eve services at Northland Church, along with fellow Northlander, Scotty Alderman. Photo: Everett Montiel

Jennifer Dixon, The REP Youth Academy's 2011 summer stock musical, *Hairspray*. Photo: Michael Cairns, Wet Orange Studios

Scott R. McMillen, sculpture, *Self Portrait*

Lawrence H. Kolin, watercolor, *Go West*

Alyson Innes, butterfly photograph

David C. Willis, photograph, *Fiji*



Judith M. Mercier, Esq.

Lessons in Ethics and Professionalism from the Casey Anthony Trial

On October 27, 2011, approximately 160 members of the Orange County Bar Association attended the seminar “Lessons in Ethics and Professionalism from the Casey Anthony Trial” and heard from members of the prosecution and defense teams from the Casey Anthony case, two legal analysts, who provided insights and commentary during the highly publicized trial, and a University of Florida law professor, who teaches Legal Ethics and Professionalism. The seminar, presented by the OCBA Professionalism, Criminal Law and Judicial Relations committees, included introductions by Tad Yates and three panel discussions moderated by Mayanne Downs.

Taking the stage first were members of the prosecution team: Linda Drane Burdick and Jeff Ashton. Ashton recently retired after a thirty-year career as an Assistant State Attorney and appeared noticeably tanner than usual. Both fielded questions from the moderator, from students in the Boone High School Law Magnet program whose video-taped questions were played during the seminar, and from audience members. Burdick and Ashton declined to comment on strategy issues related to the trial. Ashton did not hesitate to express, however, his belief that the Florida Public Records Law needs to change or that, at a minimum, a dialogue needs to begin because he believes the laws are hurting the criminal justice system. Not giving judges the power to restrict discovery in a criminal case is a mistake, according to Ashton. He would have such discovery be exempt from public records. Burdick agreed.

Questioned about the extensive media coverage, Burdick noted that although the media coverage did not impact how the prosecution tried the case, it seems to have resulted in her receiving an overabundance of emails from people expressing their opinions about issues across the spectrum – from what she should wear to what the prosecution should be doing in the case.

In response to the question, “If you could have a ‘do over’ of anything in the trial, what would it be?” Ashton smiled and said he would take back his “smirk.”

The second panel featured Cheney Mason, who was a member of Casey Anthony’s defense team, along with Bill Schaeffer and Diana Tennis, both legal analysts who provided commentary for various television stations during the trial. Similar to the prosecution panel, these panelists also fielded questions from the moderator, the audi-

ence and the Boone High School Law Magnet students via videotape. Mason commented that in this rare instance, he actually agreed with the members of the prosecution team and believes that discovery in criminal cases should be exempt from public records. Both Schaeffer and Tennis disagreed. Schaeffer pointed to Florida’s long history of government in the sunshine and explained the purposes it serves. He noted that the system works and said that the Casey Anthony case was the most highly publicized trial of all time. He believed that the defendant got a fair trial. Schaeffer was adamant that Florida laws should not be changed to exempt discovery in criminal cases from public records. Tennis cautioned about being reactionary and agreed that no changes were needed for the Public Records Law.

Schaeffer and Tennis both stated that they thought their trial analysis would only be needed periodically but instead found that their roles seemed to quickly evolve and expand as coverage of the trial became non-stop.

When asked if he would “do over” anything in the trial, Mason responded: “Not one thing.” Mason told the audience that the public may not realize that he worked *pro bono* on the case and was not paid for hundreds of thousands of dollars worth of work he did. He also explained that the defense team was faced with a variety of hardships throughout the case, including the last-minute withdrawal of various team members.

Professor Amy Mashburn, from the Levin College of Law at the University of Florida, led the final discussion regarding ethics and professionalism. In response to a question regarding whether an attorney can make a statement in opening if there will not be any evidence presented at trial to prove that statement, Mashburn noted that the ethical issue arises if an attorney *knows* that the statement is false. Mashburn drew the distinction between knowing that a statement is false versus a reasonable belief that something is false. The latter does not prevent an attorney from making comment on it.

The seminar wrapped up with Mashburn acknowledging a concern about “trials as entertainment.”

Judith M. Mercier, Esq., chair of the OCBA Judicial Relations Committee, is a partner with Holland & Knight LLP. She has been a member of the OCBA since 1990.



Jaime Piñero

Chair, Hispanic Heritage Scholarship Fund of Metro Orlando Director of National Inside Sales, CenturyLink

Jaime Piñero currently serves as the Director of Inside Sales at CenturyLink. He leads an organization responsible for the revenue growth and retention of business clients across the nation in a market segment generating \$1.5 billion in annual revenue. His 25-year career in the communications industry includes leadership positions in engineering, strategic planning, operations, network planning, sales and consulting.

Transformational leadership combined with a strong work ethic has elevated the performance of every organization Jaime has had the privilege of leading. In his current role he exceeded all objectives, with one-third fewer people, by transforming his organization of 53 sales professionals with attention to metrics, accountability to results and selecting the right leadership team and sales professionals.

From 2008 through 2010, as the Director of National Accounts for CenturyLink, he increased annual revenue 21% to \$200 million by leading a team of select National Executives in complex contract negotiations with Fortune 100 clients such as Target, Best Buy, Wells Fargo, Progress Energy, Hilton, Home Depot and CitiGroup. From 2005-2007, as Director of Public Safety & Indirect Channels, he increased annual revenue in the Public Safety segment by 14% to \$30 million while serving as CenturyLink's representative executive at national public safety forums.

Jaime's industry experience also includes leadership roles at Time Warner, consulting for start-ups and various leadership roles at Sprint. At Time Warner he exceeded significant revenue milestones in new markets and served as a subject matter expert for company acquisitions. As a consultant for start-ups he directed national business development efforts uncovering \$1.2 million in client opportunities in 3 months. Jaime has been recognized for his leadership during Florida's hurricanes in 2004-2005 where he led Sprint's Regional Command Center, coordinating state logistics for hurricane restoration. But more importantly, he has been recognized by his peers for his commitment and "lead from the front" attitude to get things done.

ability, development, compassion, vision and courage drive his passion for achievement, excellence, elevating the performance of others and his continuing commitment to the community. Jaime has mentored high school students in Connecticut, recognized as a YMCA Achiever, served on the board of directors for several organizations which include the YMCA, the Early Learning Coalition of Orange County and the Hispanic Heritage Scholarship Fund of Metro Orlando (HHSFMO). He also serves on the regional business council for the Hispanic Business Initiative Forum (HBIF), is a member of the Hispanic Chamber of Commerce of Metro Orlando (HCCMO) and was recently recognized as a Don Quijote Award finalist for Business Professional of the Year. His commitment to the community is exceeded by his passion for education.

Jaime joined the HHSFMO board of directors in 2008 and since 2010 has served as its board chairman. The HHSFMO is a non-profit 501(c)(3) corporation that provides college scholarships to Hispanic students in Central Florida. To date the HHSFMO has awarded over \$630,000 in college scholarships to 173 students. Under his board leadership the HHSFMO has doubled the number of scholarship applications, introduced a presence in social media, developed a HHSFMO website, automated the scholarship application process, expanded partnerships and increased focus on metric development and board accountability.

Jaime's leadership, drive for excellence, and passion for education were formed early in his life. He was born and raised in New York City, the South Bronx, and what his parents lacked in educational attain-

continued page 43

The Ballroom at Church Street

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

225 S. Garland Avenue • Orlando, FL 32801

Co-hosted by the Hispanic Bar Association of Central Florida

Please RSVP to reservations@ocbanet.org
by Thursday, February 16, 2012.

Main Entrance: Garland Avenue between
Church Street and South Street

To ensure a proper luncheon count, RSVPs and CANCELLATIONS are requested no later than Thursday, February 16, 2012. 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!



James R. Lussier, Esq.

U.S. Copyright – Fountain of Youth and Home for Zombies

*Editor's Note: On January 25, 2012, the day this article went to press, the U.S. Supreme Court issued its decision in *Golan v. Holder*. The Court ruled 6-2 in favor of the Zombies. After you read the article, you can read the Court's decision at 23 Fla. L. Weekly Fed. S71a.*

The United States Constitution gives Congress the power to “promote the Progress Science and Useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.” Article I, §8, cl. 8. Derived from this text, U.S. copyright law awards authors of original works the exclusive rights to copy those works. The Constitution leaves it to Congress to establish the duration of the “limited times” copyrights are protected. This power appears to be supernatural. Copyrights drink from the fountain of youth, as they regularly get extended. They are also zombie-like, as Congress has now revived works that had entered the public domain.¹ On October 5, 2011, the U.S. Supreme Court debated these “supernatural” powers at the oral argument in the case of *Golan v. Holder*, No. 10-545 (U.S. Oct. 30, 2010). These notions of longevity and reincarnation raised the general question, how long do copyrights last, anyway? In answer, I reviewed the changes in duration of copyrights over the years, as context for a discussion of the *Golan* case, where this legal zombie status has been challenged.

The first Copyright Act was passed in 1790. The founding fathers standardized existing practices among the states, and first interpreted the Constitution's requirements that copyrights exist for “limited times,” and only to “promote the progress of knowledge and learning.” U.S. CONST. Art. I, § 8, cl. 8. From 1790 to 1998, Congress expanded the duration of copyright protection four times.² The table below tracks the history of these Copyright Act revisions.³

The 1998 change is called the Copyright Term Extension Act (CTEA), also called the Sonny Bono Copyright Term Extension Act.⁴ Pressure continues to extend the duration further, as media companies and authors strive to protect their exclusive rights and profits.⁵

A court challenge to the time extensions granted by the CTEA was rebuffed by the U.S. Supreme Court in *Eldred v. Ashcroft*, 537 U.S. 186 (2003). The *Eldred* Court's description of the congressional authority to prescribe the duration of copyrights was clear:

[W]e reject petitioners' challenges to the CTEA. In that 1998 legislation, as in all previous copyright term extensions, Congress placed existing and future copyrights in parity. In prescribing that alignment, we hold, Congress acted within its authority and did not transgress constitutional limitations.

Id. at 194. This ruling set the stage for the *Golan* controversy.

The *Golan* case, or Death to Zombies!

The Copyright Act of 1790 specifically denied to foreigners any U.S. copyrights, and their works were placed in the public domain. For two centuries, negotiations and treaties have attempted to resolve this and other disparities between U.S. and foreign practices. In 1988, the United States signed the Berne Convention for the Protection of Literary and Artistic Works, a triumph for those seeking to harmonize U.S. and international copyright laws. Congress has since implemented much of the Berne Convention,⁶ but has been slow to enact other parts. In 1994, Congress adopted the Uruguay Round Agreements Act (URAA), codified at 17 U.S.C. §104A & 109. Section 514 of the URAA grants automatic protection to a large body of existing foreign works that were previously in the public domain of the

Date of Act	Durations Enacted
1790	14 years from date of publication, renewable for additional 14 years
1831	28 years from publication, renewable for additional 14 years
1909	28 years from publication, renewable for additional 28 years
1976	If author is natural person, from creation to 50 years after death; for “corporate” works, lesser of 75 years from publication or 100 years from creation
1998	If author is natural person, from creation to 70 years after death; for “corporate” works, lesser of 95 years from publication or 120 years from creation

United States, many for decades.⁷ After this “reincarnation,” they are treated as if they had never died. See 17 U.S.C. §104A(a)(1) and (h)(6).⁸ This zombie-like reappearance of lost rights generated the *Golan* lawsuit.

The Petitioners in *Golan* are “orchestra conductors, educators, performers, film archivists, and motion picture distributors who depend upon the public domain for their livelihood.” *Golan*, No. 10-545 (U.S. Oct. 20, 2010), Brief of Petitioners at 10. The Petitioners filed suit in Colorado in 2001, seeking to invalidate both the CTEA and § 514 of the URAA as unconstitutional, because they both reinstated copyrights for literary and artistic works that had entered the public domain and staunched the flow of such works into the public domain. The trial court’s initial decision was to uphold the CTEA’s extension of copyright duration, and to deny the motions to dismiss as they related to the constitutional challenges to § 514. In 2004, the Tenth Circuit Court of Appeal affirmed in part and reversed in part. On remand, the District Court invalidated § 514 on First Amendment grounds. That judgment was reversed by the Tenth Circuit in June, 2010.⁹ That court found that Congress had the power to reinstate lost rights and, although free speech rights were clearly impacted, the governmental interests at stake outweighed those impacts. Petitioners have abandoned their challenge to the CTEA in the face of the *Eldred* decision, but their challenge to § 514 of the URAA has now been fully briefed and argued to the U.S. Supreme Court.

Section 514 was intended to seal a bargain struck in the Berne Convention. Foreign governments were refusing to grant copyrights to U.S. works that had obtained those protections in the U.S. but not in the foreign venues, unless the U.S. did the same for foreign works. The Tenth Circuit found that the U.S. stood to gain much more than it lost by raising foreign works from the dead. Bringing the U.S. into compliance with this part of the Berne Convention was a compelling governmental interest, and the burden on free speech rights was small enough to be outweighed.

The Tenth Circuit case attracted a dozen amicus briefs, including from the Motion Picture Association of America, Inc.; the American Society of Composers, Authors and Publishers; the Software and Information Industry Association; the Recording Industry Association of America; and Houghton Mifflin Harcourt Publishing Company. Twenty-seven amicus briefs were filed with the U.S. Supreme Court, with nineteen supporting the Petitioners and eight supporting the government. The identity of the amici aligned on either side gives an indication of the financial issues at stake, and presages the competing substantive arguments. In favor of the Petitioners and against the statute are Google, Inc.; numerous library organizations and libraries; Internet Archive; Wikimedia Foundation; the Cato Institute; and the American Civil Liberties Union. Supporters of the statute’s extension of copyrights to people who had lost them include the music and publishing interests who filed briefs with the Tenth Circuit, similar organizations from the United States and around the world, the Intellectual Property Owners Association, and the American Bar Association.

In their initial brief, the Petitioners identified the questions for the Supreme Court to resolve as follows:

§514 of the Uruguay Round Agreement Acts of 1994 granted copyright protection to millions of works that the Copyright Act had placed in the public domain of the United States, where they had remained for years as

continued page 15

ORANGE COUNTY BAR ASSOCIATION ELECTION NOTICE

The names of nominees for the following offices will be announced on the OCBA website on Monday, February 6, 2012:

OCBA Vice President / President-Elect

OCBA Treasurer

OCBA Secretary

OCBA Executive Council (3 nominees)

Legal Aid Society Board of Trustees (1 nominee)

Young Lawyers Section At-Large Board Members
(5 nominees)

Voting shall be by secret ballot mailed to each Regular and Judicial Honorary Member of the Association on or before Thursday, March 1, 2012.

Voted ballots must be returned to the OCBA no later than 5:00 p.m., Friday, March 30, 2012. In order for your vote to be counted, you must sign and print your name on the back of the return envelope. Mail or bring voted ballot to the OCBA office, 880 N. Orange Ave., Orlando, FL 32801.

If you have any questions, please contact the communications manager at 407-422-4551, ext. 227, or peggys@ocbanet.org.



Korean Delegation Meets Ninth Judicial Circuit Judges

Ninth Circuit Judges Antoinette Plogstedt, Belvin Perry, Jr., Jose Rodriguez and Margaret Schreiber (not pictured) hosted a group of judges from the Republic of Korea on November 29, 2011. The Korean judges were interested in learning more about the U.S. jury system.

The visiting judges, who presided over the Seoul High Court of Korea and Suwon District Court, inquired about all aspects of jury service, including court expenses and juror yields, and had the opportunity to observe both criminal and civil jury proceedings being held in the Orange County Courthouse. Judges Perry, Plogstedt, Rodriguez and Schreiber answered questions about local jury service.

The South Korean judges shared their own experiences with the limited role of juries in South Korea and explained the advisory role of juries and the three-judge panels in trials. The visiting judges inquired about court budgets, administrative staff, and court assignments and were interested in learning about the courthouse facility, along with the process of selecting the chief judge.

The local judges, likewise, enjoyed the opportunity to share cultural distinctions and traditions in the very different foreign court systems.



South Korean Judicial Delegation with Judges of the Ninth Circuit

PREMISES LIABILITY

NEGLIGENT SECURITY

MEDICAL MALPRACTICE

DEFECTIVE PRODUCTS

VEHICLE NEGLIGENCE

LEGAL MALPRACTICE

Because sometimes bad things just happen to good people.

Leighton Law focuses on representing plaintiffs in complex and catastrophic personal injury and wrongful death cases,

with special emphasis on violent crime/
negligent premises security, medical
malpractice, trucking, aviation, cruise
ship/maritime, product liability and
Resort Torts™.



Miami ▼ Orlando
LeightonLaw.com ▼ 888.395.0001

*Personal
Injury*
**Serious Lawyers for
Serious Cases.®**

Leighton Law

TRIAL LAWYERS

©2012 Leighton Law, P.A.

St. Alban's Cathedral

Presents

**The 19th Annual Judge Bill
Wieland Golf Tournament**

Wednesday, April 11, 2012

Call (407) 841-7699

or

JudgeWielandGolfTournament.com



JAMES F. PAGE, JR., ESQ., MEDIATOR

■ 31 years statewide trial lawyer

■ Supreme Court Certified Circuit Mediator
since 2001

■ Engaging, enthusiastic, and patient negotiator

Online scheduling available. Up-to-date calendar at
www.pagemediation.com or call cell at 407-341-0069.

*Now also providing legal placement for firms & professionals in
joint venture with Jim Bindley, Esq. of www.bindleyassociates.com.*

**“We Occupy a Specific Place
where creative ideas lead to better answers.”**



Kimberly Sands



Richard Lord



A. Michelle Jernigan



Sandra Upchurch

Upchurch Watson White and Max specializes in settling disputes - anywhere.
For over 20 years, the principals and panelists at our firm, have successfully guided
clients and attorneys through the field of conflict resolution.

**Our experienced mediators will help you and your clients
find the road to common ground.**

Resolution



Specialists

uww-adr.com

Daytona Beach, FL • Maitland / Orlando, FL • Miami, FL • Birmingham, AL



Lori Caldwell-Carr, Esq.

Keeping Children Safe Act: The Statutory Amendments Effective July 1, 2011 Finally Fix Most Shortcomings

Historical Review of the Keeping Children Safe Act (KCSA)

Florida Statutes §39.0139, Florida's Keeping Children Safe Act (KCSA) was enacted on July 1, 2007, with the declared purpose of protecting children "who have been sexually abused or exploited by a parent or other caregiver." The legislative findings and intent of the Act recognized that "children that have been sexually abused or exploited by a parent or other caregiver are at risk of suffering from further harm during timesharing or other contact." The Act sought to prevent this further harm from occurring. Thus, the 2007 KCSA was created with a valid purpose that, upon initial review, appears to support the legislative intent.

The Florida Bar Journal in its May 2008 edition featured an article on the then relatively new act written by Judge Sue Robbins.¹ In her article, Judge Robbins states that the KCSA as originally enacted in July of 2007 is inherently flawed, laying out four main areas of concern that all primarily relate to the statute being overly broad. Interestingly, Senate Bill 504 corrects three of the four issues. The remainder of this article discusses the changes that were made and what remains unchanged.

How Does Senate Bill 504 Change the KCSA?

Statutory Intent – Limited to Chapter 39 Cases

SB 504 revises the legislative intent of Fla. Stat. § 31.0139(1)(b)(2) by clarifying that the KCSA relates only to "any proceeding pursuant to **this** chapter" (emphasis added). This prevents the KCSA from being interpreted as applying to proceedings under Chapters 61, 63, 742, 751 or any other family law proceeding and limits its application to solely Chapter 39 dependency cases. There is now no ambiguity relating to the nature of cases to which the statute applies.

Rebuttable Presumption/Probable Cause Requirement

There is a rebuttable presumption of detriment to a child under certain conditions defined within the statute. The amendment seeks to prevent the abuse of this rebuttable presumption. Under the Presumption of Detriment section of the statute, Fla. Stat. § 39.0139(3)(a)(1), language has been added requiring that, before that section may be triggered, "a court of competent jurisdiction has found **probable cause** exists that a parent or caregiver has sexually abused a child" (emphasis

added). The probable cause requirement will hopefully limit abuse of the KCSA in that the burden of proof must be reached.

Removal of Report to Abuse Hotline as Triggering Rebuttable Presumption

Additionally, the amendments to this same section have removed the language previously triggering the rebuttable presumption of detriment when the child is the subject of a report to the child abuse hotline alleging sexual abuse. As Judge Robbins pointed out so appropriately in her article, the prior version of the statute contained no requirement that the report be found to have been true or even that it be subject to a finding of probable cause before the rebuttable presumption arises. The abuse hotline takes reports from any person who "knows, or has reasonable cause to suspect, that a child is abused..." Accordingly, with this amendment, reports to the hotline deemed unreliable or false will not give rise to the rebuttable presumption.

Requirement of Hearing AND Order for Contact

Under Fla. Stat. § 39.0139(3)(a)(3), Presumption of Detriment, language has been added to the statute providing that if a court determines a parent or caregiver to be a sexual predator pursuant to the criteria set forth in paragraph (a), the parent or caregiver may **not** visit with a child without a hearing **and** order by the court (emphasis added). This statutory revision terminates contact and imposes the requirement of a hearing and order prior to contact with the child recommencing for the protection of the child.

Requirement of Hearing for Rebuttal of Presumption of Detriment

Fla. Stat. § 39.0139(4)(a-d) has been substantially rewritten to clarify who has a right to a hearing to resume contact if contact has been terminated pursuant to Fla. Stat. § 39.0139(3)(a) and sets forth the requirements for all stages of the hearing, including obligations prior to, during, and after the hearing. The overall effect of the changes is to provide a right to an evidentiary hearing to any parent or caregiver denied timesharing pursuant to Fla. Stat. § 39.0139(3)(a).

Prior to the hearing, there is a requirement that an attorney *ad litem* or guardian *ad litem* with special child sexual abuse training be appointed for the child. At the hearing the court can rely on written and oral reports or recommendations

made by an attorney *ad litem*, guardian *ad litem*, therapist for the child, or a child protective team, even if this evidence would not normally be admissible under the rules of evidence. This addition clearly opens the door to the admissibility of all types of hearsay.

Once all evidence is presented and the parent or caregiver establishes by clear and convincing evidence that the child is not in danger while in his or her care, then they have rebutted the presumption in subsection 3 and contact may resume. Regardless of the ruling, the court is required to enter a written order setting forth findings of fact as to why contact should or should not resume. If contact is to resume, the order shall also specify any conditions the court finds necessary to protect the child.

Requirement of Hearing When it is Alleged that a Person has Attempted to Influence the Child's Testimony

Fla. Stat. § 39.0139(6)(a) requires that if there is a rebuttable presumption of detriment under subsection 3 or an order of contact under subsection 4 in which a party or participant is accused of attempting to influence the testimony of the child, a hearing **must** be held within 7 business days to determine if contact should be restricted or terminated with the person who is alleged to have influenced the testimony of the child. Prior to the statutory amendment, contact was terminated immediately upon a report that a person or party was influencing the child's testimony, without the requirement of a hearing within any set period of time. Therefore, in theory, a person or party accused of influencing a child's testimony could have had contact terminated immediately with no idea of when a hearing would be held for contact to be resumed.

The Glitch that Senate Bill 504 Failed to Correct in the Amendments to KCSA

Judge Robbins' other stated concern in her May 2008 Florida Bar Article regarded Fla. Stat. § 39.0139(3)(a)(2). Senate Bill 504 made no changes to that section, other than to add language defining the parties as "[a] parent or caregiver." If we examine the legislative intent of the KCSA, which is to protect children that have been sexually abused or exploited, the crimes that create a rebuttable presumption of detriment should be both sexual in nature **and** involve children (emphasis added). Of the crimes listed within the statute that trigger this rebuttal presumption **none** of them are sexual in nature **and** exclusively involve children (emphasis added).

The crimes specifically enumerated within the statute which trigger the presumption are:

Fla. Stat. § 787.04, relating to removing minors from the state or concealing minors contrary to court order. While violations of this statute necessarily always involve minors, it is **not** limited to sexual acts (emphasis added).

Fla. Stat. § 794.011, relating to sexual battery. This statute, though limited to sexual acts, does not always involve children.

Fla. Stat. § 798.02, relating to lewd and lascivious behavior. This statute is limited to sexual acts, but does not always involve children. By definition, lewd and lascivious behavior can occur between two contesting adults, in which case there isn't even a victim.

Fla. Stat. Chapter 800, relating to lewdness and indecent exposure. This statute is again clearly a sexual act, but is not limited to children.

Fla. Stat. § 826.04, relating to incest. This statute is again clearly a sexual act, but is not limited to children.

Fla. Stat. Chapter 827, relating to the abuse of children. Like Fla. Stat. § 787.04, 827 is restricted to children, but may not be sexual in nature.

Pursuant to Fla. Stat. § 39.0139, if a parent or caregiver has been found guilty or entered a plea of guilty to charges under the above statutes/chapters, they are presumed to be a detriment as part of the termination of access proceedings. I would suggest, as Judge Robbins did in her article, that the statute should contain some defining language that clarifies that the convictions, charges or pleas involve both sex and children in order to comply with the stated purpose of the statute.

Conclusion

In closing, Senate Bill 504, which was enacted as law and became effective on July 1, 2011, goes a long way in correcting the overly broad language of the KCSA. However, there are still some legitimate concerns in relation to some of the triggering language for termination of contact under Fla. Stat. § 39.0139(3)(a)(2). If the act is to remain true to its stated legislative purpose of protecting children who have been sexually abused or exploited by a parent or other caregiver, should not every part of the act be limited to sexual exploitation of children by a parent or caregiver?

Lori Caldwell-Carr, Esq. is an attorney with In Focus Family Law Firm, P.L. She has been a member of the OCBA since 2005.

¹Judge Robbins is a family law administrative judge for the Fifth Circuit who hears dependency and termination of parental rights cases.



The Law Firm of
Anthony Diaz

"Put my experience to work for you today"

- Certified Family Mediator
- Certified Circuit Civil Mediator
- Approved Ninth Circuit Residential Mediator
- Certified Mediator for Middle District of Florida
- Qualified State Arbitrator

501 N. Magnolia Ave • Orlando, FL 32801

Ph: (407) 774-4949 Fax: (407) 774-4960 adiaz@orlandomediationarbitration.com





LAWRENCE H. KOLIN, P.A.

**FLORIDA SUPREME COURT
CIRCUIT-CIVIL CERTIFIED MEDIATOR
AND APPROVED ARBITRATOR**

Resolving complex disputes from PI to IP since 2001SM

1065 W. Morse Blvd. Ste. 100 Winter Park, FL 32789
lkolin@live.com | (407) 488-5560
www.nadn.org/lawrence-kolin

Tired? Stressed out? Not feeling on top of your practice?

Talk with someone who's been there.

Suellen Fagin-Allen, JD, LMHC

Attorney since 1986/Licensed Mental Health Counselor

(407) 242-2956 – Suellen@CounselingFL.com

1417 N. Semoran Blvd., Suite 201, Orlando, FL 32807

Depression – Anxiety – Substance Abuse – Work/Life Balance



Richard S. Dellinger, Esq.

UCF Department of Legal Studies Hosts Regional Moot Court Competition

On Friday, December 2, 2011 and Saturday, December 3, 2011, the University of Central Florida hosted the American Collegiate Moot Court Association's (ACMA) South Atlantic Regional Moot Court tournament. The tournament was held at UCF's College of Health and Public Affairs and was organized by the Department of Legal Studies, College of Health and Public Affairs.

The competition was between fifty two-person teams from UCF, University of West Florida, University of Tampa, University of Louisville, Florida Atlantic University, Armstrong Atlantic

the students on the University of Louisville teams were all recipients of the University of Louisville's prestigious McConnell Scholarship.

Participants in the regional tournament here in Orlando were narrowed down based on the judges' scores and their win and loss record over two days. The three rounds of day one trimmed the field to twenty four teams, and the five rounds of "March Madness"-style completion on the second day yielded the Atlantic Regional winner.

The team of Bridget Degnan and Blake Meadows from Patrick Henry College won the tournament, narrowly defeating the impressive team of Ben Shepard and Arsh Haque from the University of Louisville. The final four was rounded out by the excellent teams of Zachary Crippen and Paulo Dutra from the United States Air Force Academy, and Ben Weyman and Melissa Moore of the University of Louisville. The University of Central Florida's Lizette Santiago, Yisell Rodriguez and Rob Zahradnik-Mitch advanced past the first day to the final twenty-four teams before being eliminated. The students on those teams were coached by Dr. James Beckman and Professor Kathy Cook. Foundation president Richard S. Dellinger, Foundation board member Cynthia Schmidt, Judge Bob LeBlanc, Justin Infurna and Mark Cooper all served as judges. The UCF Legal Studies Program has thirteen full-time faculty members and adjuncts from Central Florida's professional community, many of whom are OCBA members. The Legal Studies Program enrollment typically exceeds 775 students.

With the OCBA's support, the Foundation will continue to improve the legal profession by supporting education programs. The Foundation serves as the bar's outreach arm and focuses on community education. From the consequences of one's actions, to how the judicial system works, to supporting the local schools, to mentoring, the Foundation aids local citizens in gaining a better understanding of the judicial system. The Foundation supports local high school moot court competitions, Law Week programming, the Florida Supreme Court's Justice Teaching Program and other outreach programs.

Richard S. Dellinger, Esq., a shareholder with Lowndes, Drosdick, Doster, Kantor & Reed, P.A., serves as President of the OCBA Foundation. He has been a member of the OCBA since 1999.



UCF's Jim Beckman (left), chair of the Department of Legal Studies, and Mike Frumkin, dean of the College of Health and Public Affairs

State University, Middle Tennessee State University, Saginaw Valley State University, United States Air Force Academy, College of the Holy Cross, Hampden-Sydney College, Patrick Henry College, and College of Wooster. Only the top twenty percent of finalists in the regional tournament were eligible to obtain a bid to the ACMA National Tournament in Orange County, California, on January 13, 2012.

Many of the college students who participated in the competition were very impressive. The United States Air Force Academy had a team comprised of a Rhodes Scholar and a Fulbright Scholar, a team from Patrick Henry College had two members who were ranked in the top three at the 2011 ACMA National Tournament, and



The Honorable
Antoinette D. Plogstedt



The Honorable
Leon B. Cheek, III

Attorney-Client Relationship: Rules of Professional Conduct

The George C. Young First Central Florida American Inn of Court held its monthly program on November 15, 2011. More than 120 Inn members attended the dinner program at Dubsdread. The program was provided by Pupilage Group Two under the leadership of Orange County Judge Antoinette D. Plogstedt. The program addressed the Rules of Professional Conduct, Section 4-1- Client-Lawyer Relationship. Group Two presented a thorough overview of Rules 4-1.1- *Competence* and 4-1.2- *Objectives and Scope of Representation*. Group Two furnished helpful advice for lawyers in maintaining a successful client-lawyer relationship.

Judge Antoinette D. Plogstedt and Seymour Benson moderated Group Two's presentation throughout the evening. The Group presented information on four distinct topics. First, Group Two commenced with a live skit, followed by a PowerPoint-guided discussion relating to a lawyer's responsibility to provide competent representation. Rule 4-1.1 provides as follows:

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

The participants discussed that a lawyer need not necessarily have special training or prior experience to handle legal problems of a type with which the lawyer is unfamiliar.

In fact, a newly admitted lawyer can be as competent as a practitioner with long experience. A lawyer can provide adequate representation in a wholly novel field through necessary study. Also, in an emergency, a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required where referral to or consultation or association with another lawyer would be impractical. *Rule 4-1.1 Comment.*



Judge Antoinette D. Plogstedt and Seymour Benson

Tad Yates led the small group program and discussion relating to competence. The presentation was developed and provided by Tad Yates, Margaret Garner, and Pamela Martini. This section of the program was well received by the Inn members.

Next, Pupilage Group Two addressed the requirement of a lawyer to abide by a client's decision. Rule 4-1.2(a) provides, *in part*, as follows:

... a lawyer **shall** abide by a client's decisions concerning the objectives of representation ... and shall reasonably consult with the client as to the means by which they are to be pursued. ... (emphasis added).

A lawyer shall abide by a client's decision to settle a matter. ...

In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial, and whether the client will testify.

Juan Burgos and Gene Shipley entertained the membership with a previously recorded skit. Mr. Burgos led a discussion using the "Wheel of Misfortune." The presentation stressed the requirement that a lawyer adequately inform the client and then abide by the client's ultimate decision. They also discussed sanctions for violating this Rule.

Next, Frank Hamner provided a very detailed discussion on limiting the scope of representation. Frank Hamner, Robin Bara and Lanise Parker provided recommendations for a lawyer to use in drafting representation agreements. Rule 4-1.2(c) provides, *in part*, as follows:

... a lawyer and client may agree to limit the objectives or scope of representation if the limitation is reasonable under the circumstances and the client gives informed consent in writing ...

Mr. Hamner reviewed prohibitions on limitations in a criminal case and in limiting malpractice liability. He addressed limitations based upon retainer style in civil, criminal and contingency matters.

The client has the ultimate authority to choose whether to accept a settlement. A lawyer has

continued page 20

Guantánamo's Legacy: Reflections on a Decade of Detention

Barry Law Review
2012 Symposium

This symposium will feature panel discussions with a diverse group of nationally prominent legal scholars that have direct experience with the U.S. detention policies in Guantánamo Bay, Cuba.

FEATURED SPEAKERS INCLUDE:

JORDAN PAUST, University of Houston Law Center

PETER JAN HONIGSBERG, Director of Witness to Guantánamo, University of San Francisco School of Law

CLE CREDITS PENDING

FRIDAY, FEB. 24, 2012
9 A.M. – 5 P.M.



6441 E. Colonial Drive, Orlando, FL 32807

Visit **BARRY.EDU/LAW**
for more information and registration



OCBA Online Membership Directory

Be sure to check out your photo and contact information in our **Online Membership Directory** – a member benefit just for you!

Join the Online Lawyer-to-Lawyer Specialty Index. For a nominal fee, list your practice areas and board certifications and begin taking referrals from your colleagues!

Go to Member Login on the OCBA website at www.orangecountybar.org to access the Online Directory, sign up for the Lawyer-to-Lawyer Specialty Index, and edit your membership record and photo.

For more information, contact Karen Fast, Membership Manager, at karenf@ocbanet.org or 407-422-4551, ext. 225.

For your next mediation please consider:



Patrick C. Crowell
Certified Circuit Civil Court Mediator



With more than 25 years legal experience in various matters including:

- Construction disputes
- Contract disputes
- Business issues
- Landlord/tenant issues
- Labor/employment issues
- Tort/personal injury cases
- Environmental concerns
- Real Estate/Title Insurance

"It would be a privilege to work with you in attempting to settle your client's dispute, avoiding the cost and time of trial. I offer my experience, understanding of negotiation and determination to achieve resolution efficiently."

407-251-1131

www.patrickcrowell.com

Patrick C. Crowell, P.A.

4853 S. Orange Avenue, Suite B
Orlando, FL 32806

the common properties of all Americans and free to use without restriction. The questions presented here are:

1. Does the Copyrights Clause of the United States Constitution prohibit Congress from taking works out of the public domain?
2. Does Section 514 violate the First Amendment of the United States Constitution?

Golan, No. 10-545 (U.S. Oct. 20, 2010), Brief of Petitioners at i. In their statement of the case, petitioners frame their argument with these words:

In 1994, Congress did something unique in the history of American copyright law. After expressing doubts about its constitutional authority to do so, Congress granted copyright protection to a large body of foreign works that the Copyright Act had placed in the public domain, where most had remained for decades. As a result, petitioners lost importance speech and expression rights central to their professions, as well as the expected return on significant investments.

Golan, No. 10-545 (U.S. Oct. 20, 2010), Brief of Petitioners at 2. In the body of their argument, petitioners urge the Court to conclude that reviving rights is not the same as setting limits on their duration, so the Constitution does not give Congress power to reincarnate lost rights. With regard to the First Amendment violation, petitioners argue that “Section 514 imposes extraordinary burdens on core speech and expression rights by eliminating established rights to perform music, distribute films and publish books that were in the public domain.” *Golan*, No. 10-545 (U.S. Oct. 20, 2010), Brief of Petitioners at 41. The three interests that the government invokes to support Section 514 – (1) promoting the rights of U.S. copyright holders abroad; (2) complying with the Berne Convention; and (3) correcting the supposedly inequitable treatment of foreign authors – are viewed by petitioners as inadequate to eliminate the important free speech rights at issue, speech rights of people who for years have relied on the freedom of public domain access to these foreign works.

The government’s arguments were substantially adopted by the Tenth Circuit and are re-asserted in the Respondent’s Brief. The Government argues that § 514 of the URAA is consistent with the text of the Constitution because the applicable periods of protection are “limited” as the Copyright Clause requires. The government cites a number of occasions when Congress not only changed the duration of the rights, but in fact restored rights that had previously entered the public domain. Additionally, since one of the goals of the URAA was to bring American copyright law into compliance with the laws of other countries and thus secure greater protections for American authors abroad, the government’s interest was substantial, legitimate, rationally exercised, and narrowly tailored. Finally, the government argues that the traditional contours of copyright protection are not altered and that therefore, this statute survives First Amendment scrutiny, even if the intermediate level of scrutiny is employed.

The oral argument in *Golan* on October 5, 2011 attracted numerous news articles, as the Supreme Court Justices displayed an awareness of popular and literary culture that produced questions about Jimi Hendrix, Shostakovich, *King Lear* and John Coltrane. The predicted commercial impact of this decision will vary with

a party’s perspective, but some will gain and others lose. Section 514 grants rights to works that were never copyrighted under prior U.S. law. Affected works included films by Hitchcock and Fellini, books by C. S. Lewis and Virginia Woolf, symphonies by Prokofiev and Stravinsky, and paintings by Picasso. Google, Inc. has placed huge financial bets on offering works such as books, articles, music and other content on the Internet, and now has to buy rights for those works that used to be free. The library amici have similar interests as Google, without the profit motive. If the statute is upheld, sorting out this revised playing field will take a number of years and intermediate appellate decisions. Will the local symphony owe royalties for last year’s concert? Will Jimi Hendrix’ “Star-Spangled Banner” recording now be considered commercial exploitation of the long-dead composer’s zombie rights? Will publishers pull books from the market until they can acquire rights they did not need when the books were printed?

The tensions Congress always faces when adjusting the durational limits of copyrights alone – when should the public benefit and not just the author? – are sharpened and tangled when what was once free, no longer is. How the Supreme Court handles these competing interests will be entertaining reading for some and will affect entertainment rights and costs for many more. The Court is predicted to rule by July, 2012.¹⁰ After the Court speaks, another important question may remain: If zombies can be legally created, what powers does our Congress not possess?

Jim Lussier, Esq. is a shareholder at Mateer & Harbert, P.A. His practice includes intellectual property rights perfection and litigation (trademarks, copyrights, trade secrets), as well as general business law and civil litigation. He has been a member of the OCBA since 1992.

¹A work is in the public domain when it is free for use by anyone for any purpose without restriction under copyright, either because the copyrights have expired, or the copyright owner didn’t get a valid copyright, or the work wasn’t eligible for copyright in the first place, or its creator dedicated it to the public domain. <http://www.copyright.gov/help/faq/faq-definitions.html>

²See 17 U.S.C. § 302. The U.S. Congress is not alone in extending the duration of copyrights. In September 2011, the European Union extended the term of copyright on sound recordings to 70 years from 50 years. Had the EU not acted, many recordings of the British Invasion of the 1960s, including albums by the Beatles, the Rolling Stones, the Who and the Yardbirds, would have fallen in the public domain in the near future.

³For a summary of these durational changes and legislative history, see *Eldred v. Ashcroft*, 537 U.S. 186, 194-5 (2003). For a review of the copyright law landscape in 1790 when the first Copyright Act was passed, see *Golan v. Holder*, No. 10-545 (U.S. Oct. 20, 2010), Brief of Respondent, pp. 18-21.

⁴Sonny Bono was a recording artist who sponsored the legislation after being elected to Congress. *Eldred v. Ashcroft*, 537 U.S. 186, 256 (2003)

⁵Congressman Bono died in office 9 months before the CTEA was enacted. His widow, Mary Bono, was elected to his seat. She told her colleagues: “Actually Sonny wanted the term of copyright protection to last forever. I am informed by staff that such change will violate the Constitution... there is a proposal for a term to last forever less 1 day. Perhaps the committee may look at that next Congress.” 144 Cong. Rec. H9952 (daily ed. Oct. 7, 1998) (statement of Rep. Mary Bono).

⁶E.g., the unique U.S. requirement to display a copyright notice on the first published version of a work, or lose copyright protection, was eliminated. Now, qualified works enjoy copyright protection from the moment of their creation.

⁷The foreign works had public domain status in the U.S. because of a failure to comply with U.S. copyright formalities (since eliminated), a lack of subject matter eligibility, or a lack of national eligibility. *Golan v. Holder*, No. 10-545 (U.S. Oct. 20, 2010), Brief of Petitioners at 8-11.

⁸For the history of these changes in copyright law, and the adoption of § 514, see *Golan v. Holder*, No. 10-545 (U.S. Oct. 20, 2010), Briefs of Petitioners and Respondent. The briefs of the parties as well as the 30 amicus briefs can be downloaded for free at www.americanbar.org/publications/preview_home/10-545.html.

⁹*Golan v. Holder*, 609 F.3d 1076 (10th Cir. 2010).

¹⁰The recusal of Justice Kagan raises the possibility of a 4-4 tie that would automatically affirm the Tenth Circuit’s decision and uphold the law.

Have you or someone you know made a New Year's resolution to get in shape?

Florida Fitness Concepts and the Legal Aid Society are offering an opportunity that will benefit you and the Legal Aid Society!

For a modest \$50 donation to Legal Aid, Florida Fitness Concepts provides you with:

- Two (2) complimentary training sessions at one of Orlando's top full-service personal training studios
 - A body fat analysis by one of Florida Fitness Concept's personal trainers
 - Access to state-of-the-art training equipment
 - Convenient location on North Mills Avenue, Orlando
- Use the sessions yourself or give them to a friend!*

To sign up, go to Florida Fitness Concept's website at www.floridafitnessconcepts.com, or contact Donna Haynes, LAS Development Manager, at 407-841-8310, ext. 3150.

(Offer good now through February 29, 2012. Some restrictions apply.)

Need Ethics? DVD Now Available!

LESSONS IN ETHICS & PROFESSIONALISM FROM THE CASEY ANTHONY TRIAL

Presented by the OCBA's Professionalism, Judicial Relations & Criminal Law Committees

CLE: 3.0 General, including 3.0 Ethics

FEE:

- \$50 – OCBA Members
- \$75 – Non-OCBA members



Order forms are available on the OCBA website: www.orangecountybar.org. To order and pay by credit card, call Karen Fast, Membership Manager, at 407-422-4551, ext. 225.

Talk to a Judge

and learn how things really work in our courts
Register today for **Inside the Courts**

Tuesday, March 27
Tuesday, April 3
Tuesday, April 10
Tuesday, April 17

6:30 p.m. – 8:30 p.m.

Orange County Courthouse
Jury Assembly Room
425 North Orange Avenue
Downtown Orlando



Inside the Courts is a dynamic 4-night program that will show you how our judicial system really operates. You'll learn about the judge's role, the processes of a case, the challenges our courts face today and what the court of the future looks like. Plus, you'll have the opportunity to ask your questions - and it's all FREE!

"I now understand better what I learned in class."
-Paralegal Studies Student

"It helped me narrow my career path." - Law Student

"A great program that answered my questions."
-Criminal Justice Student

Attend 3 or more sessions and receive a certificate of completion from the court. Seating is limited so register today by calling, 407-836-4517 or register online, at www.NinthCircuit.org.



THE ROSENTHAL
LAW FIRM, P.A.

The Rosenthal Law Firm, P.A.
is pleased to announce the
opening of our Miami office
and the addition of our newest associates,
Regen J. Shanzer (Miami),
and
Kenneth J. "Jayme" Idle (Orlando).

Orlando Office:
4798 New Broad Street, Ste. 310
Orlando, FL 32814
Phone 407.488.1220
Fax 407.488.1228

Miami Office:
200 S. Biscayne Blvd., Ste. 2790
Miami, FL 33131
Phone: 305.755.9300
Fax: 305.755.9590
www.therosenthallaw.com

Jason A. Rosenthal
Ashley N. Rosenthal
Andrea J. Fowler
Karen L. Persis
Regen J. Shanzer
Amanda D. Perry
Jason C. Kelly
Kenneth J. "Jayme" Idle
Adam P. Hartley
Jennifer L. Morando
Lauren A. Cascino

OCBA Luncheon | November 22, 2011

Sponsored by M & I Bank, A part of BMO Financial Group

William T. (Bill) Robinson

President, American Bar Association, 2011 – 2012



Bill Robinson, Tom Zehnder, Kristyne Kennedy, Suzanne Gilbert



Tom Bacchus, M&I Bank



Judge Antoinette Plogstedt



Bill Robinson



Glen Wieland
Wieland, Hilado & DeLattre, P.A.



David Trevett & Maytel Bonham – The Law
Offices of Trevett and Bonham, P.L.



Suzanne Glibert



Phillip Miller, Professor Joan Bullock, Bill Robinson



PHOTOS: Florian Boehm, Boehm & Boehm

Mayor Buddy Dyer



Legal Aid Society of the Orange County Bar Association, Inc. 4th Annual Breakfast of Champions

Wednesday, November 9, 2011

The Ballroom at Church Street

Champion Sponsors

Gold – \$1,000.00

ABC Fine Wine & Spirits

Curtis Protective Services

Cole, Scott & Kissane, P.A.

Dean Mead

Fishback, Dominick, Bennett, Stepter,
Ardaman,

Ahlers & Langley LLP

GrayRobinson, P.A.

Holland & Knight LLP

Orange County Bar Association, Inc. –
Paralegal Section

Universal Orlando Resorts

Silver – \$500.00

DRB Benefits

M&I, a part of BMO Financial Group

Psychological Affiliates, Inc. and
Partners with Families, Inc.

Bronze – \$250.00

Acer Legal Resources, Inc.

All Good Reporters, LLC

Sue Castner

Fisher, Rushmer, Werrenrath, Dickson,
Talley & Dunlap, P.A.

Legal Talent, LLC

Waldorf Astoria Orlando / Hilton
Orlando Bonnet Creek

Hurley, Rogner, Miller, Cox, Waranch
& Westcott, P.A.

Paul C. Perkins, Jr.



Joe DuRocher



"D"



GAL client with
Maytel Sorondo
Bonham



Tad A. Yates





Donna A. Haynes

Breakfast of Champions

More than 400 lawyers and members of the legal community attended the Legal Aid Society's 4th annual *Breakfast of Champions* held on November 9, 2011, at the Ballroom at Church Street. With severe funding reductions from foundations, such as The Florida Bar Foundation, this annual fundraiser has become a lifeline to our nonprofit charity. Tad Yates, president of the Board of Trustees, and Orlando mayor, Buddy Dyer, kicked off the event with a proclamation that acknowledged the Legal Aid Society's 50 years of service to the community. A Guardian ad Litem client danced to the song, "My Love," by Justin Timberlake, and Joe DuRocher, an adjunct professor of law at the Barry University Dwayne O. Andreas School of Law and past executive director of the Legal Aid Society, spoke about Legal Aid's history. After a video presentation prepared by GBY Productions, Maytel Sorondo Bonham and Jack Levine explained why access to justice is so critical and how it changes the lives of many Orange County residents. The breakfast concluded with remarks by Paul C. Perkins, Jr., who reiterated what many attorneys feel – that working with Legal Aid clients enriches his life in ways that other experiences and activities do not. He provided sobering information about the Legal Aid Society's financial circumstances:

Legal Aid strongly believes in justice no matter what someone's income level is. We believe that justice is a basic need. It is our mission for justice that makes us fight so that children spend fewer months in foster care and so that the legal rights of the poor are not violated. Legal Aid is fortunate to have four major sources of funding – The Florida Bar Foundation, the State of Florida, Orange County, and contributions from local attorneys. Our largest funding source has been for many years The Florida Bar Foundation. The Foundation's chief source of revenue for legal aid grants is the IOTA program. Because of the drop in bank interest rates since the recession, IOTA revenue has dropped 88% since 2008 and is not expected to increase until at least 2014. The remaining Foundation grant reserves are to be used over the next two years.

Unfortunately, our legal aid funding from The Florida Bar Foundation has dropped from \$1.2 million in 2010 to \$800,000 in 2012, and will drop to \$600,000 in 2013. That is a 54% cut in The Florida Bar Foun-

dation funding from 2010 to 2013! Without additional new funding, Legal Aid could lose up to six attorney positions from 2010. Each staff cut will result in cuts to client services and more community costs in terms of children languishing in foster care at great expense to the state and more homeless families. Although you have heard today about the many wonderful services provided by Legal Aid, you have not heard about the number of cases we had to turn away. This year, we truly need your help. We are facing deep cuts as state, county, and foundation grants likely will continue to decrease in this economy. The reality is our doors will remain open, but with the anticipated cuts, they will be open to fewer and fewer clients.

On average, a Legal Aid staff attorney handles over 1,000 clients. Think about what that means to our community. Think about what happens if we lose just one staff attorney. Children without child support could mean a lack of food, housing and stability. An elder person, maybe someone you know, with the lights or heat turned off due to an unscrupulous landlord. More people homeless on the streets. But this doesn't have to happen! You can help prevent this potential loss of services.

The *Breakfast of Champions* fundraiser raised approximately \$44,142 in donations and \$20,758 in pledges, for a total of \$64,900. These funds will help us reduce our funding deficit as we continue to look for new funding sources and donors. If you missed the *Breakfast of Champions* and are in a position to assist with funding a lawyer position or help with ongoing LAS expenses, please consider making a contribution today. Contact Donna Haynes, manager of development, at 407-841-8310, ext. 3150, or at dhaynes@legalaidocba.org. Donations are also accepted online, through check or credit card. Please visit the Legal Aid website at www.legalaidocba.org.

We extend our sincere thanks to our sponsors, table captains, attendees and donors, and we especially thank all of the presenters and speakers, including Paul C. Perkins, Jr. for his compelling remarks and for the \$25,000 donation from the firm, Paul & Perkins, P.A.

Donna A. Haynes is the Director of Development at the Legal Aid Society. She has been a member of the OCBA since 2008.

InnSider

continued from page 13

responsibility to inform a client of all settlement offers and consequences. However, a lawyer can require a client to consult with an attorney prior to settling.

A lawyer is advised to clearly indicate the scope of representation in engagement letters. Further, a lawyer should supplement engagement letters to redefine representation when providing additional services or when the scope of services changes. A lawyer should always confirm, in writing, to a prospective client when a lawyer declines to accept representation.

Lastly, Jonathan Rose and David Bear addressed a lawyer's responsibility when criminal or fraudulent conduct is involved. Rule 4-1.2(d) states, *in part*, as follows:

A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows or reasonably should know is criminal or fraudulent. . . .

The group reviewed scenarios involving a client committing criminal and fraudulent conduct. They discussed the misconduct and the ethical responsibilities of the lawyer.

Pupilage Group Two provided a thorough overview of Rules 4-1.1 and Rule 4-1.2

relating to maintaining a successful client-lawyer relationship. Many Florida Bar grievances can easily be avoided by reviewing these Rules and observing the helpful advice provided.

The **Honorable Antoinette D. Plogstedt** has been a member of the OCBA since 1994, and the **Honorable Leon B. Cheek, III** has been a member of the OCBA since 1987. Both judges serve in the Ninth Judicial Circuit.



First Central Florida American Inn of Court Dinner Meeting, November 2011

Judge John Jordan accepts the Gold Status Award on behalf of the George C. Young Inn of Court from Pam Wittman of the American Inns of Court



Judge Tom Turner, Kelly Lester

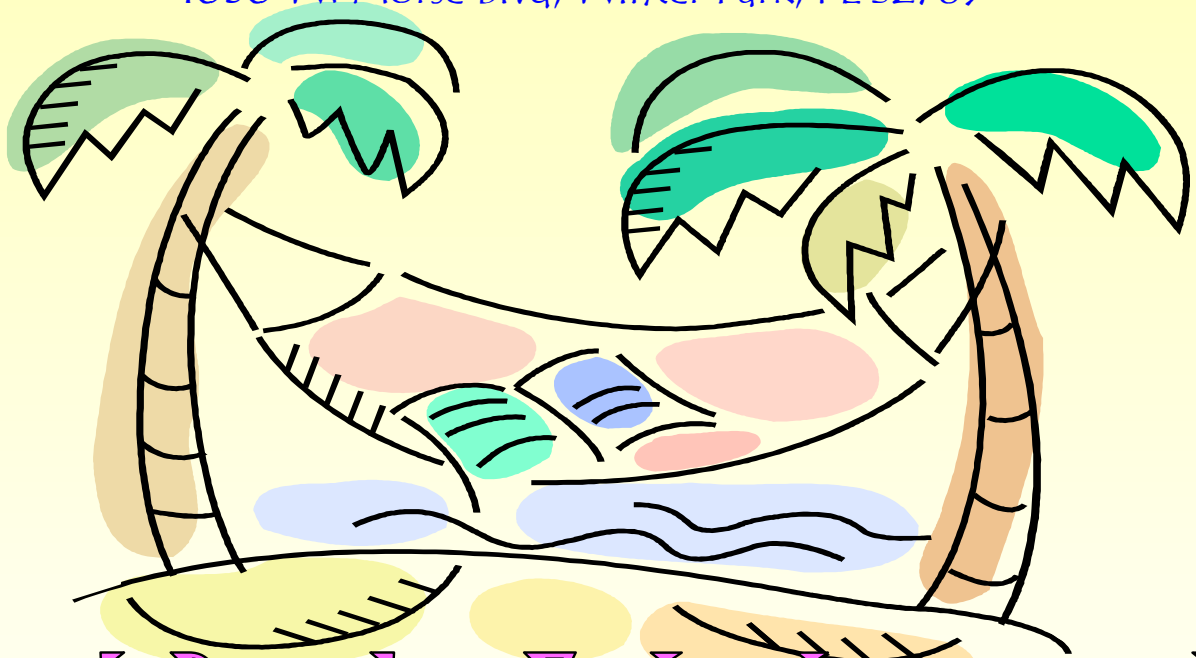
Evening with the Judiciary Escape to the Islands!

February 29, 2012

5:30 to 8:30 p.m.

Winter Park Civic Center

1050 W. Morse Blvd, Winter Park, FL 32789



Food-Drinks-Entertainment

Payment Details

Judges: Free. Please RSVP to kpersis@therosenthallaw.com

Private Practice attorneys: \$35.00

Solo Practitioners/Government Attorneys/Law Students: \$30.00

Guests of any of the above: \$35.00

Price after Deadline/at the Door: \$40.00

Attorneys: RSVP by mailing payment to Karen Persis,

c/o The Rosenthal Law Firm, 4798 New Broad Street, Suite 310, Orlando, FL 32814

Checks payable to OCBA. Please send a list of attendees along with payment.

All checks must be received by February 24, 2012. The price increases after this date!

Questions? Email kpersis@therosenthallaw.com

Lawyers in the arts...



David Atchison

David Atchison, a first-year law student at the FAMU College of Law, has a varied “first” career in the arts – as a musician, a founding member of a non-profit arts organization and a stage producer for the Walt Disney Company.

As a musician, David plays the French horn and is currently a member of the Florida Lakes Symphony Orchestra (FLSO), a 60-member professional orchestra in Lake County. He also serves on the FLSO’s

Strategic Leadership Team. David has played horn professionally since he was fifteen years old, touring with the Bobby Goldsboro Orchestra, the Henry Mancini Orchestra and the Ray Charles Orchestra, among others.

Locally, David is the co-founder of Arts for Humanity, a new 501(c)3 endeavor developed to provide live music to those who generally cannot attend events due to physical or other limitations. In August 2010, he and others gave a concert to VA nursing home residents. Arts for Humanity hopes to expand its outreach to include senior centers and terminally ill children’s camps and treatment centers.

David has also been a producer and stage manager and served for thirteen years as Disney’s Manager of Special Events. He founded Disney Magic

Music Days in the mid-1980s, which is a program that showcases school, military and community performing groups at Disney. While at Disney, David was also part of the production team that produced three Super Bowl halftime shows, numerous television specials, parades and special events, including the grand opening of Epcot and the Disney Studio.

After leaving Disney in the 1990s, David embarked on a freelance career that included serving as a contract member of President Reagan’s special event staff, as an associate producer of the World Cup Opening Ceremonies (Orlando venue), as a producer for twelve events for the 2000 Republican National Convention in Philadelphia, and as a producer/consultant to the Indy 500 Parade, San Francisco Chinese Parade and Final Four opening ceremonies. He has produced or stage-managed a wide variety of corporate events, product launches and large-scale conventions.

David’s interest in a legal career was spurred when, at Disney, he had the opportunity to work with recently retired Chief Justice Warren Burger in 1987-88. Justice Burger was serving as the spokesperson for the bicentennial of the United States Constitution, and the Disney Magic Music Days program became a partner with Justice Burger’s school outreach program. David says that having the honor to work alongside Justice Burger and travel together on a few occasions inspired him to go in to the legal profession.

At age 53, David is fulfilling (another) a life-long dream!

David G. Atchison, a law student at FAMU College of Law, has been a member of the OCBA since 2011.

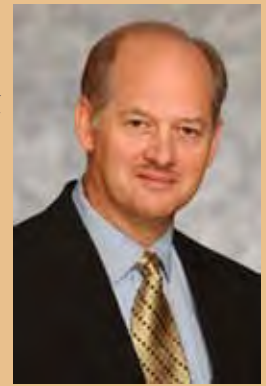


A Love for Music Builds Our Community

When I began my legal career in Central Florida thirty years ago as an associate at Lowndes, Drosdick, Doster, Kantor & Reed, P.A., partners John Lowndes and Hal Kantor told me to get involved in the community with organizations and causes for which I was passionate. I had just graduated from FSU law school, following a two-year stint as a public school band director at a Tallahassee middle school. I have had a lifelong love of making music, learning to play the guitar from my grandfather, and learning the trumpet in school bands starting at age 12. I received my undergraduate degree in music education from FSU, playing

The Florida Young Artists Orchestra (FYAO). The FYAO was a spin-off organization from the long-standing Florida Symphony Youth Orchestra, and we joined the FYAO the year after it began. Austin started with the Sinfonia, a beginning FYAO ensemble of the youngest string players. He continued in the FYAO through his elementary, middle and high school years, eventually playing in the top and largest orchestra, the Symphony. During his involvement, I became very involved in the support of this organization, serving on the board of directors, with three terms as president, for most of Austin's twelve years with the FYAO.

the late Jonathan May, Margaret Patten (Maitland Symphony Orchestra) and Dr. Alvaro Gomez, who is our current artistic director and the co-concertmaster of the Bach Festival Orchestra. Dr. Gomez, an internationally recognized violinist and conductor, born in Chile and educated at the Moscow Conservatory, is challenging the FYAO with difficult and exciting music by South American and Russian composers. It is truly an exhilarating time for the FYAO.



Dale A. Burket, Esq.

FYAO members (currently about 150 strong) come from 15 area counties. Fully 10% of students receive full or partial scholarships based on need. With so few orchestral programs in public schools and downward pressure on arts funding, the FYAO provides a much-needed outlet for music education in the Central Florida community.



The FYAO exposes young players to one of the most important art forms of the human race – music. The FYAO performs music by serious composers such as Mozart, Beethoven, Mendelssohn, Brahms, Stravinsky and Copland. There is something uniquely special about playing music that was written hundreds of years ago, something that cannot be duplicated in other, less abstract art forms. The musician and the listener become connected to the mind of the composer – and transported to the time of writing the piece. It is a very rewarding experience, and I can see it on the faces of the kids as they learn this music and then perform.

Over my years of involvement with the FYAO, I have had the pleasure of organizing their performance in Carnegie Hall, leading board members through strategic planning, working through leadership transition (our founding artistic director, Jonathan May, passed away in 2010), and generally doing whatever needs to be done. I've even been able to conduct a number of rehearsals when our artistic staff was unavailable (a rare treat and throwback to my educator days). This past fall, I was honored to be one of three nominees for "Individual Volunteer of the Year" at the United Arts "Arts + Awards" event. Over the years on behalf of the FYAO, I've been privileged to work and interact with the best of musicians and music educators in Central Florida on behalf of the FYAO, including John Sinclair (Bach Festival),

Some FYAO students go on to become accomplished musicians, studying at Julliard, FSU, Stetson and other fine colleges. Many more become doctors, lawyers and professionals in a variety of fields. But all of them leave the FYAO with a love for and better understanding of great music from the masters and a desire to support music in their adult lives. I have often thought that if we are to build Central Florida into a great community, one that attracts businesses and young professionals alike, we should start by building a love for the arts with our local youth. The FYAO provides a perfect vehicle to build our community for the long term, and I am very fortunate to have found my connection between passion and service.

Dale A. Burket, Esq., an attorney with Lowndes, Drosdick, Doster, Kantor & Reed, P.A., has been a member of the OCBA since 1989.



in the FSU Marching Chiefs and other ensembles. Little did I know at the time that my love for music would become my life's avocation and a strength in helping develop the Central Florida arts community.

As a band director, I had the daunting task of teaching 12-14 year olds to play flutes, clarinets, saxophones, trumpets, and other wind instruments. I have always said that teaching instrumental music was the hardest job I ever had! Music teachers must know and be able to communicate all of the fundamentals of playing multiple instruments, how to identify and correct common and uncommon problems, while at the same time providing enough positive feedback to encourage the kids to keep playing until they can make a beautiful sound.

When my youngest son, Austin, decided at age six to learn the violin, we enrolled him in private lessons and in the youth organization that would become the marriage of my passion for music and engagement in the Central Florida community –





Ellis Square, – Savannah, Georgia

Phil Calandrino, Calandrino Law Firm, P.A., the son of an architect, developed a deep appreciation for the fine arts, especially classical music and architecture, in his youth. Although his college degree was in finance and he now practices business law, Phil reconnects with his artistic side through photography.

One of Phil's favorite vacation spots is Savannah, Georgia. While visiting the city a few years ago, Phil sought out the recently renovated and highly controversial park at Ellis Square. He found its modern design a sharp contrast to the historical architectural backdrop. For this night shot of the square, Phil combined multiple exposures into a single image to distinguish the angular lines of the buildings from the circular walkway of the park.

Philip K. Calandrino, Esq., Calandrino Law Firm, P.A., has been a member of the OCBA since 2004.



The arts
Jennifer R. Dixon, Lowndes, Drosdick, Doster, Kantor & Reed, P.A., serves on the board of directors of the Orlando Repertory Theatre (The REP), and chairs its governance committee. The REP has the distinction of being Central Florida's only professional theater devoted solely to young audiences. Jennifer derives immense personal and professional satisfaction supporting the mission of The REP, perhaps because her first passions in life were theatre and music. Fueled by arts education programs in her hometown, Jennifer spent much of her youth on the stage – acting, singing, playing flute and guitar – and, after high school, pursued a career in music. She received a bachelors degree in music production and engineering from Berklee College of Music in Boston and, thereafter, worked as a music producer and recording engineer for Latin and contemporary jazz artists.

Despite the allure of the music business, Jennifer eventually returned to the theatre and spent the better part of the 1990s working professionally as an actress, musical theatre performer and stage manager. Reflecting on her acting career, one of Jennifer's most memorable experiences came when she worked with a New Hampshire-based touring children's theatre company. In that role, Jennifer travelled throughout the eastern United States, performing plays derived from classic literature for elementary and middle school students. "We visited schools

in some of the most affluent, as well as some of the most impoverished communities in the country – often in the same week. You get a healthy dose of perspective when you visit a public school in North Philadelphia one day and the next day roll up to a private boarding school in Greenwich, Connecticut," she says. For Jennifer, the experience was edifying. "Growing up where I did, I took for granted that every school had a drama program, a chorus, and a band. As I traveled from state to state, from town to town, I quickly learned that was not the case. It seemed unconscionable to me that a public school in northern Virginia could have a 1500-seat air conditioned auditorium with a costume shop, while another public school in rural West Virginia could not afford doors for the restroom stalls."

Perhaps not surprisingly, Jennifer found that it was often the children in the poorest communities who were the most enthusiastic audiences. Jennifer notes that "[f]or many of those kids, our performance was the only access to the arts they would have that entire school year. You could see the exuberance in their faces, and we heard it in their after-show comments. They were interested. They were fully engaged. We could certainly tell that, for at least some of those children, their worlds opened up a bit when they experienced live theatre for the first time. They began to see new possibilities."



Jennifer R. Dixon, Esq.

A 2010 report issued by the Americans for the Arts National Arts Policy Roundtable corroborates Jennifer's observances. "Studies show that access to arts education in school offers distinct benefits to economically disadvantaged youth and students at risk of dropping out. Strong arts programs can be used as a means to prevent the disengagement that usually predicts dropping out."¹ According to a 2008 report

released by the Dana Foundation, a philanthropic organization that funds brain research, "An interest in a performing art leads to a high state of motivation that produces the sustained attention necessary to improve performance and the training of attention that leads to improvement in other domains of cognition."²

Jennifer is convinced that her musical and theatrical training instilled in her the confidence, discipline and skills necessary to complete her education and succeed in the practice of law. Citing the recent research, as well as her own experience, Jennifer firmly believes that arts education is a cornerstone to academic and professional success. "Knowing what has been discovered about how the arts can positively impact children, one can't overemphasize the importance of the performing arts to the future of our community. Sadly, arts programs are continuing to be cut and even phased out of many public schools. Orlando is so fortunate to have The REP to fill in the gaps left by these budget cuts." The REP is unique in that it offers a multitude of programs catered to different interests. It has programs for students who want to appreciate plays from the audience, programs for those who want to sing and dance on the stage, and programs for budding playwrights. Even students who are fortunate to have quality arts education in their schools find that The REP provides an alternative outlet of professional-level training by which they can further develop as young artists. Additionally, The REP's Great Ideas For Teachers (G.I.F.T.) program provides free professional development workshops to teachers, offering a variety of theatre-based ideas to supplement their existing curriculum.



Jennifer Dixon (seated) and the cast of *Smoke on the Mountain* at the Mark Two Dinner Theater, July 1996. Photo: Orlando Sentinel

In her role with The REP, Jennifer is again seeing the positive impact that the arts can have on children – this time in our own community. "Being on the board of The REP has allowed me to return to the mission of introducing live theatre to kids who might not otherwise see it. There is nothing more rewarding than seeing how something as simple as watching a play ignites a spark in a child. As a board member, it is my duty and my pleasure to help ensure that The REP has the resources it needs to continue producing the highest quality theatre and education programs. I am grateful to have the support of my law firm in doing so," says Jennifer.

Jim Heekin, a Lowndes partner and long-time board member of The REP, introduced Jennifer to the organization in 2010, and the law firm has continued to support The REP by sponsoring a production each season. The REP, located just south of the Orlando Museum of Art in Loch Haven Park, regularly hosts school field trips at its



Jennifer Dixon (center) and the cast of *Blue Plate Special* at the Venice Theatre, May 2001. Photo: Purple Graphic Design and Photography

performances during the week. On weekends, the performances are open to the public. For more information about the Orlando Repertory Theatre, its programs and performances, visit www.orlandorep.com or call (407) 896-7365.

Jennifer R. Dixon, Esq., an attorney with Lowndes, Drosdick, Doster, Kantor & Reed, P.A., has been a member of the OCBA since 2005.

¹*The Role of the Arts in Educating America for Great Leadership and Economic Strength*, NATIONAL ARTS POLICY ROUNDTABLE (Americans for the Arts, Sundance, U.T.) September 2010 at 12 (citing Catterall, James S., *Involvement in the Arts and Success in Secondary School*, AMERICANS FOR THE ARTS MONOGRAPHS, 1998. Vol. 1 no. 9. and Barry, Nancy H., Taylor, Jack A. and Walls, Kimberly C., *The Role of the Fine and Performing Arts in High School Dropout Prevention*, (Florida State University, Center for Music Research, Tallahassee, FL) 1990).

²*Learning, Arts and the Brain*, DANA CONSORTIUM RPT. ON ARTS AND COGNITION (Dana Foundation, New York, N.Y./Washington, D.C.) 2008.

the arts

Jon H. Gutmacher, Jon H. Gutmacher P.A., has a passion for firearms and is a self-defense attorney. He also has a passion for writing fantasy poetry. Although he took a forty-year hiatus, he began writing again in 2011 and created a website for his art. He believes in writing visually and thinks that any poem, especially fantasy poetry, should create an image in one's mind and tell a complete story. Jon notes on his website that he also often writes in fairy-tale style and that many of his poems are allegorical and have double meaning to modern times. In addition to fantasy poems, Jon also writes spiritual, science fiction, cowboy and love poetry. His three "all-time favorites," at least for now, are "Tasmerelda," "The Seven Moons of Dargoor" and "The Legend of Evermore." Below is Jon's introduction and the opening stanzas of "Tasmerelda."

"I consider Tasmerelda my best fantasy poem. It is a classic fairy tale about a beautiful princess kept prisoner in her castle by an Evil Magician who casts a spell on Tasmerelda and her entire kingdom — all pawns in this play of Evil against Good. A knight tries to rescue her, but fails, overcome by the powers of the Evil Magician. The poem ends by asking if this was all but legend, or was it based on reality? And if it really did happen — will Tasmerelda ever be rescued from her fate?"

En Tigeray, es Tasmerelda
yearning err the Hooded Elder
and the Knight who rides in white
sighs Tasmerelda through the night

As tapestries sway back and forth
the midnight breeze comes blowing forth
and White Knight stands near hooded horror
calling eerie through her parlor

To Tasmerelda, where she be
she sighs and moans to be set free
and White Knight thrusts with sharpened blade
the errie sounds at last are stayed

Tis Tasmerelda at last
set free?

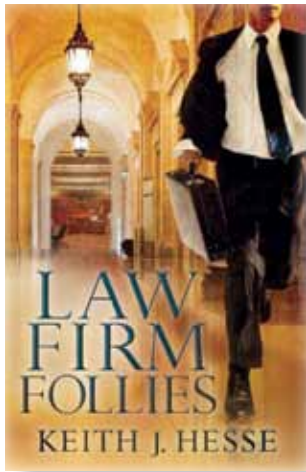


Jon H. Gutmacher, Esq.

Jon H. Gutmacher, Esq., John H. Gutmacher, P.A., has been a member of the OCBA since 1962.

© 2011 by Jon Gutmacher

You can read more of Jon's poetry at
www.FantasyPoetrybyJonGutmacher.com.



Keith J. Hesse, Carlton Fields, P.A., has written the novel, *Law Firm Follies*, which recounts the exploits of a young Orlando attorney handling three remarkable cases. He told *The Briefs* the genesis of the novel:

"The novel was actually begun at Harper Hospital in Detroit, Michigan in 1991. My wife, Mary, was there undergoing a harrowing bone marrow transplant. Preparatory to the actual procedure was a chemotherapy regimen designed to literally wipe out her existing immune system. The powerful chemical concoction left her weak and asleep much of the time. One afternoon, as my wife hovered in the uncertain area between life and death, I pulled out a yellow legal pad and began writing. And writing. And writing some more.

I had written before, including in college for the *Independent Florida Alligator* at UF ("largest circulation because it's free"), but this was different. One part stress release, one part therapy and one part creativity, the writing continued for months as my wife went through the transplant and began recovery. Pages and then legal pads filled with characters, descriptions, chronologies, scenes and plots.

Over the ensuing years work continued. This included numerous re-writes and editing as well as a very close look back at the mid-1980s, the

time period of the novel. The book was finished in 1999. For a variety of reasons, however, it was thereafter shelved (or, more precisely, boxed).

Several years later, as a board member of the Orlando Shakespeare Theater, I was asked to develop a script for a mock trial based on a Shakespeare play. With the help of others, I did so. The ensuing mock trial was a success. This experience rejuvenated my interest in publishing *Law Firm Follies*. With the help of some very talented friends, the book made it to print in July 2011.

The Orlando Shakespeare Theater's mock trial event has continued on an annual basis (this year playing off the production of *Romeo and Juliet*). And, through the wonders of medicine, a brother's donation of bone marrow, and the grace of God, my wife survived the transplant and is still very happily with us. Sometimes stories do have a happy ending."

Law Firm Follies is available at www.lulu.com.

Keith J. Hesse, Esq., an attorney with Carlton Fields, P.A., has been a member of the OCBA since 1978.



Keith J. Hesse, Esq.

Alyson Innes, Cole, Scott & Kissane, P.A., starred in a one-woman production for the Orlando Fringe Festival in May 2010. The play, *Tropical Depression* by Kimberly Patterson, is about a woman who has just been dumped by her boyfriend, is panicked about money and is struggling with the recent death of her father. She thinks that spending the summer in Florida, house-sitting for her grandparents, will be a tranquil vacation — but the universe has other plans. It's tropical storm season, and a hurricane is heading her way!

Since starring in the show, Alyson has joined the Orlando Fringe board of directors. The Orlando Fringe is thirteen days of plays, music, and visual art. It's "Creativity Creating Community." You can find out more about this unique performance experience by visiting the Fringe Festival's website at <http://orlandofringe.org>.

In addition to her theatrical and non-profit activities, Alyson's hobby is photography.

Alyson M. Innes, Esq., an attorney with Cole, Scott & Kissane, P.A., has been a member of the OCBA since 2003.



Alyson Innes as Jenny DeJarnette in *Tropical Depression*



The arts

Lawrence H. Kolin, Lawrence H. Kolin, P.A., has been painting his whole life and is enthusiastic about the arts. Fortunately, he managed to merge his interests with his profession.

Lawrence graduated from Winter Park High School, where he was a member of the National Art Honor Society, and earned his B.A. from Trinity College, having studied at its famed Rome campus. He went on to earn a certificate in film from NYU before attending University of Miami School of Law, where he was executive editor of the *Entertainment & Sports Law Review*, which published on the arts.

Lawrence is now a full-time certified circuit court mediator who resolves tort and business disputes. During his legal career, he was able to represent visual artists, including the late Robert Rauschenberg, in intellectual property matters.

Lawrence continues to paint and collaborates with local artists, such as Beverlee Ahlin of the Maitland Art

Center. His paintings were recently exhibited at the Orlando Museum of Art's First Thursday. He says his latest use of watercolor on Arches paper and Yupo demonstrates his fondness for both the bold abstract and traditional oriental brush strokes. Lawrence enjoys an improvisational style, which shows in his paint colors, perspective and composition.

Lawrence gives his time and talents to many non-profit organizations and has most recently joined the Board of Directors for Casa Feliz, which promotes historic preservation, architecture and art.

Lawrence H. Kolin, Esq., Lawrence H. Kolin, P.A., has been a member of the OCBA since 1987.



Lawrence H. Kolin, Esq.



Don't Be Koi

the arts



Scott R. McMillen, Esq.

Scott McMillen, McMillen Law Firm, P.A., is a former president of the Orange County Bar and is currently on The Florida Bar Board of Governors representing the Ninth Circuit. Scott claims he initially wanted to take up painting, but he once had a teacher who said he was so bad it was a miracle he could draw a breath. He began sculpting two years ago, when he took his first course in clay sculpting at Crealde School of Art in Winter Park. While he says he would love to quit his day job and sculpt full time, he is mindful of the artist's bumper sticker – "My other car is a bicycle too." When asked to describe how he feels about his own sculpture projects he jokes about how many visitors to an art gallery it takes to screw in a light bulb. The answer is two – one to change the bulb and a second one to say, "My four year old could have done that."

Scott R. McMillen, Esq., McMillen Law Firm, P.A., has been a member of the OCBA since 1997.



Top: Trial Lawyer
Bottom: Max



Self Portrait

The arts

David C. Willis, Rumberger, Kirk & Caldwell, P.A., is a native Floridian who grew up enjoying water sports and dreaming of scuba diving. It was not until after law school that the opportunity arose to become certified in scuba diving. Shortly thereafter, he met his wife, Judi, and they began traveling to the Bahamas and Caribbean islands in search of new scuba diving adventures. As a way of capturing their adventures and sharing with others, David began underwater photography. His first efforts were on their honeymoon in 1989. Since then, David and Judi have continued their scuba diving with yearly trips.

In June of 2011, David and Judi, along with friends from the Orlando Reef Divers dive club, travelled to Fiji. There, they boarded a boat and journeyed to the outer islands of Fiji. They spent a week diving, only touching dry land once to visit a native Fijian village. Fiji

has some of the most prolific and colorful soft corals in the world as well as one of the most diverse fish populations. As beautiful as the Fijian Islands are above the water, they are many times more beautiful under water.

David finances his diving and photography habits through the practice of law. He is Florida Bar Board Certified in both Business Litigation and Construction Law. Ironically, both his profession and hobby involve swimming with sharks.

David C. Willis, Esq., an attorney with Rumberger, Kirk & Caldwell, P.A., has been a member of the OCBA since 1993.



David C. Willis, Esq.



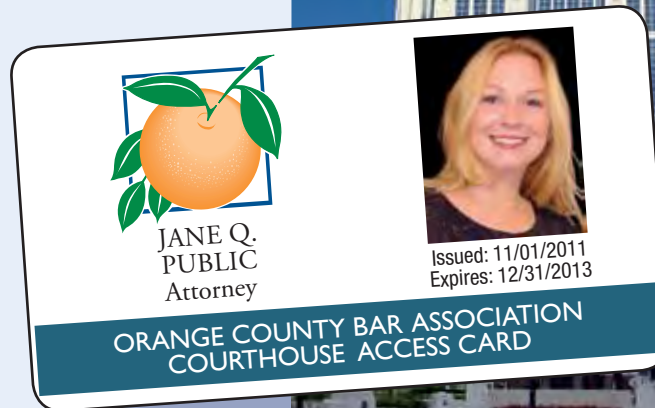
Order Your Orange County Courthouse Access Card Today

New 2012–2013 Card

Need to renew an existing card? Download an application from our website, send it in and we will use your existing photo. No need to come by – we will mail you your new card, *or*

First time card? Send in the application from our website, a copy of your driver's license and a .jpg photo, and we will mail you your card.

Please contact Karen Fast, Membership Manager, at 407-422-4551 ext. 225 or Karenf@ocbanet.org.



*Good only for the Orange County Courthouse • For attorneys and legal support staff • Good through December 2013
\$75 • Purchasing card is optional for courthouse entry • OCBA membership is not required*

Every Attorney / Firm should have their own APP.

TUNED IN APPS



**all 4 platforms
ONLY \$595**

+MONTHLY FEE INCLUDES UPDATES

WHEN A CLIENT NEEDS YOU, WHOSE APP IS ON THEIR SMARTPHONE? <
LET THEM KNOW YOUR FIELDS OF EXPERTISE & VERDICT HISTORY <
GIVE BIOS ON ALL YOUR FIRM'S ATTORNEYS & SPECIALITIES <
HAVE FORMS AVAILABLE TO QUICKLY FILL OUT AND SEND TO YOU <
INCORPORATES ALL SOCIAL MEDIA FOR OPTIMUM MARKETING <
ANNOUNCE PROMOTIONS THROUGH PUSH NOTIFICATIONS <
GPS DIRECT TO YOUR DOORSTEP(S) <
TOTALLY UPDATABLE IN REAL TIME <
MULTIPLE LOCATIONS NO PROBLEM <
MAKE VALUABLE INFORMATION AVAILABLE INFORMING CLIENTS OF THEIR RIGHTS <

**YOUR
LAW FIRM**

**CALL OR SIGNUP ONLINE
FOR YOUR FREE DEMO!**

TUNEDINAPPS.com
800.483.0389

CORPORATE HEADQUARTERS

100 LAKESHORE DRIVE STE. 104 | ALTAMONTE SPRINGS, FL. 32714

**DON'T BE
THE LAST.
APPS ARE
HERE TO
STAY!**

Sleek, functional APPS for all smartphones/tablets created for YOUR firm.

Photo Ops



Paralegal Section Holiday Outreach

The OCBA's Paralegal Section donated 290 pounds of food and raised \$100 for Second Harvest Food Bank at a holiday party sponsored by Westlaw. Pictured are Morgan Kannel, left, of Second Harvest Food Bank, and legal assistant Nancy Calhoun of Kane and Koltun.



Judge Bob LeBlanc, LaShawnda Jackson

YLS Holiday Party at Rumberger, Kirk & Caldwell, P.A.



Conti Moore
Alisia Adamson
Barbara Leach
Melanie Griffin

Downtown Orlando's Ideal Meeting Location



Price • Service • Technology

The OCBA is the perfect place for...

- Mediations & Arbitrations (neutral setting)
- Depositions
- Firm Retreats
- Employee Training Events
- Staff Luncheons
- Seminars
- Video Conferencing

Room	Full-day Rate	Half-day Rate	Capacity
Grand Cypress	\$340	\$170	up to 100
Palm	\$175	\$75	16
Magnolia	\$125	\$65	12
Gardenia	\$80	\$40	6
Azalea	\$80	\$40	6

New pricing makes the OCBA unbeatable for value, service and technology. State-of-the-art technology includes Skype, wireless Internet, Smart Boards, dedicated laptops and more. Our professional meeting coordinator is at your service to assist with everything from tech support to ordering food, arranging hotel accommodations and making dinner reservations.



ORANGE COUNTY BAR ASSOCIATION

880 North Orange Avenue // Orlando, FL 32801 // 407-422-4551 // orangecountybar.org

MEMBER BENEFIT: OCBA members receive 15% off our already low room rates. Technology Fee \$100/day, \$50/half-day

Call today to reserve your next meeting.

Contact 407-422-4551 or mariew@ocbanet.org



YLS on the move



Jacquelynne J. Regan,
Esq.

According to Chinese astrology, the year 2012 is the Year of the Water Dragon. This year is expected to bring virtue, harmony, wealth and longevity. It is also the year of great reward for hard work and new business ventures. This is the year to buckle down and get to work on that business idea that's been rattling around in your head, all while maintaining a clear focus on what's important outside of work, too.

But first, a reflection on what's been going on with YLS for the past few months!

The YLS ended 2011 on a high note with its **Annual YLS Holiday Party!** This end-of-year bash was hosted at the law firm of **Rumberger, Kirk & Caldwell, P.A.** by YLS president, **LaShawnda Jackson**. The party was well-attended by young lawyers, members of the judiciary and their significant others, who came together to enjoy lively music, libations and delicious food while celebrating the season with friends and colleagues. Many thanks to LaShawnda, **Melanie Griffin** and **Lauren Carmody** for their efforts in planning this festive event!

The YLS is off and running with its programs for 2012! Thanks to our many wonderful members and friends, the **YLS Holidays in January WineDown** was once again a great success! For the third year in a row, members of the Young Lawyers Sections of the Orange County Bar Association, Central Florida Association for Women Lawyers and the Hispanic Bar Association of Central Florida joined forces to "raise dough" at Urban Flats - Downtown for the Boys & Girls Clubs of Central Florida Downtown Branch, the Oncology Unit of Arnold Palmer Hospital and United Cerebral Palsy. Members paid \$20 for unlimited wine, beer and appetizers, and all proceeds were used to provide educational tools, gifts and necessities for the children of these non-profit organizations who did not receive anything during the traditional holiday season. A big thank you to **Meghan Kane, Natalia Scott, Kimberly Lopez, Bill Tonelli** and **Charity Johnson**, the committee members, and especially to **Urban Flats - Downtown**, for organizing this special event.

The **YLS Evening with the Judiciary** is coming up on **February 29, 2012**, at the Winter Park Civic Center! Attendees at this year's "Escape to the Islands"-themed event will be treated to delicious taste-of-the-islands food, tropical drinks and more. This is a great opportunity for attorneys and judges to socialize in a friendly and relaxed atmosphere. Tickets are \$35 for private attorneys, \$30 for solos, government attorneys and students, and \$35 for guests of any attorneys, judges or students. Please **RSVP by February 24, 2012**, to **Karen Persis** at [\[law.com\]\(mailto:kpersis@therosenthal-law.com\). Hurry, because your ticket price will go up to \\$40 if your RSVP is late! Checks should be made payable to the OCBA but delivered to the attention of Karen Persis at The Rosenthal Law Firm, 4798 New Broad Street, Suite 310, Orlando, FL 32814. For additional questions, please contact Karen.](mailto:kpersis@therosenthal-</p>
</div>
<div data-bbox=)

The YLS is looking forward to participating in the **Relay for Life** once again in 2012. The YLS is currently putting together another team to participate in Relay for Life of the University of Central Florida, which will take place on **Friday, April 13, 2012**, beginning at 6:00 p.m. at UCF Memory Mall. Sign up now and join the YLS in the fight against cancer! If you are interested in signing up or volunteering for this charitable event, please contact **Irene Pons** at irene@407orlandolawyer.com.

The next **Brown Bag Lunch with Judge John Marshall Kest** is scheduled for **Thursday, February 9, 2012**. This month, Judge Kest's topic is *Trial Brief Preparation*. The program provides 1.5 hours of CLE credit. The topic for March's Brown Bag Lunch, which will be held on **Thursday, March 1**, is *Working with Judicial Assistants*. Lunch meetings are from 12:00 p.m. to 1:15 p.m. and are held at the Orange County Courthouse, 23rd Floor Conference Room (unless otherwise noted). Bring your lunch, and be sure to tell security that you are attending Judge Kest's lecture. Although registration is not required, please call Judge Kest's judicial assistant, Diane, at 407-836-0443 or email at ctjadi1@ocnjcc.org to let her know that you will be attending so that materials can be prepared.

The **YLS February Luncheon** is moving for the month of February! The luncheon will take place on **Wednesday, February 15, 2012**, at 11:45 a.m. at the **University Club** in downtown Orlando. Please email your RSVP to yls.ocba@gmail.com. The cost is \$20 if you RSVP before February 13, 2012, or \$22 at the door; \$12 for law students, government attorneys, solo practitioners and judges. Mark your calendars for the **YLS March Luncheon** on **March 21, 2012**, at 11:45 a.m., which will also take place at the **University Club**. RSVP's for March's luncheon are due by March 19, 2012.

If you want to find out more about the YLS and its committees and events, please call me at 407-418-6438 or email me at reganj@lowndes-law.com. If you are not receiving the YLS email blasts, send an email to me or yls.ocba@gmail.com to sign up!

Jacquelynne J. Regan, Esq., is an attorney with Lowndes, Drosdick, Doster, Kantor, & Reed, P.A. She has been a member of the OCBA since 2007.

KANE & ASSOCIATES CERTIFIED PUBLIC ACCOUNTANTS

BUSINESS VALUATIONS FORENSIC ACCOUNTING

✱ Divorce ✱ Business Damages ✱ Litigation Support
✱ Shareholder Disputes ✱ Expert Testimony

www.kane-cpa.com

670 W. Fairbanks Avenue, Winter Park

(407) 644-6066

REAL ESTATE Receivership Services & Consulting

CHARLES J. MITCHELL, JR.
MBA, CPM, CCIM

407-872-0209
cmitchell@fcpg.com



- **STABILIZING** Property Operations and Ensuring Tenant Retention
- Development & Implementation of the Property **STRATEGIC PLAN**
- **OVERSIGHT** and Direction of on-site Property Management Team
- **EVALUATION** and Creation of **MARKETING** & Leasing Strategies
- Devising and Implementing an Optimal **EXIT STRATEGY**



4,500 SF CLASS 'A' OFFICE FOR LEASE

DOWNTOWN ORLANDO

326 N. Magnolia Avenue

Brand New 1st Floor Space
w/ Building Signage

One block from Orange
County Courthouse

fcpg.com/326Magnolia



EXECUTIVE OFFICE SUITES FOR LEASE

DOWNTOWN ORLANDO

320 N. Magnolia Avenue

One block from Orange
County Courthouse

Ideal for small
Attorney's practice

fcpg.com/Taylor



FIRST CAPITAL
Property Group, Inc.

www.FCPG.com

1516 E. Hillcrest St. ■ Suite 210 ■ Orlando, FL 32803

■ Phone | 407.872.0209 ■ Fax | 407.426.8542 ■

Licensed Real Estate Brokers & Managers. This offering subject to errors, omissions, prior sale or lease or withdrawal without notice.

OVER 27 YEARS OF EXPERIENCE IN COMMERCIAL REAL ESTATE ACTIVITIES IN CENTRAL FLORIDA



- Commercial Litigation
- Bankruptcy
- Marital Dissolutions
- Estate & Gifting
- Expert Witness Testimony

Forensic Accounting & Business Valuation

Providing forensic accounting and business valuation services to Orlando, Central Florida and Tampa since 2000. Qualified experts in Orange and Seminole counties.
Orlando: 407.217.6900 Tampa: 813.936.0313



**STAHL
CONSULTING
GROUP, P.A.**

121 S. Orange Avenue
Suite 1500
Orlando, 32801

www.stahlconsulting.com

CPA

ABV[™]

Accredited in Business Valuation

CPA

CFF[™]

Certified in Financial Forensics

Expertise. Integrity. Excellence.



CPA

CVA

Certified Valuation Analyst

CFE

Certified Fraud Examiner

CFF

Certified Financial Forensics



ACCOUNTING SERVICES

- • *Business Valuations*
- • *Forensic Accounting*
- • *Litigation Support*
- • *Expert Witness Testimony*
- • *Audit & Tax Services*

Experienced in shareholder disputes, divorce, fraud damages, bankruptcy, estate and gift tax valuations

www.orlando-accounting.com

NEWMAN & ASSOCIATES. P.A.

CERTIFIED PUBLIC ACCOUNTANTS

707 E. Colonial Drive
Orlando, FL 32803

Tel 407.228.0700 Fax 407.228.7576
email: info@orlando-accounting.com



Cole Scott & Kissane, P.A.
Is proud to welcome to the firm
OCBA President-Elect Kristyne Kennedy.
Kristyne joins the Orlando office
with a specialty in
Employment Defense Litigation.

Get the **LEGAL SERVICE** you deserve!

**Publish your legal notices
with the Gulf Coast Business Review.**

- **Coverage in 8 Counties:** Sarasota, Manatee, Lee, Collier, Hillsborough, Pasco, Pinellas and Orange
- Low, Competitive Flat Rates
- Superior Customer Service
- Online Verification
- Electronic Invoicing and E-filing Capabilities
- Qualified Legal Status

Call 941-906-9386 or email legal@review.net today!

**BAR MEMBER SPECIAL
LIMITED-TIME OFFER:**
Complimentary 13-week
trial subscription available.

Bar members only. Call
877.231.8834 or email
subscriptions@review.net
today and mention
special code QO11LBA.



**GULF COAST
Business Review**

www.review.net

OCBA Preferred Vendors

The Orange County Bar Association is pleased to provide you with a list of 2011 Preferred Vendors — a variety of businesses that have provided Central Floridians with time-tested, quality products and services, and are supporters of the Orange County Bar Association. We encourage you to take advantage of the products and services offered by these establishments. Many businesses on the list offer special promotions or discounts to help you continue to grow your practice and be successful both in the legal field and in the community.

Advertising

The Baker Press, Inc. *Finest quality printing since 1968*

Dave Thompson • 3606 Silver Star Rd., Orlando, FL 32808 • 407-290-5800 x219

FindLaw, a Thomson Reuters business *Websites and online marketing strategies*
To reach your local consultant, call 866-44-FINDLAW

Living Magazines Inc./Vail Living Agency *Innovative print & advertising design*
Catherine Hébert • P.O. Box 3905, Avon, CO 81620 • 970-331-6491

Banking

M & I Bank, a part of BMO Financial Group *Strength and stability in banking*

Monica Christopher • 501 E. Kentucky Blvd., #900, Tampa, FL 33602 • 813-204-1962

Catering

Arthur's Catering, Inc. *Your event is as important to us as it is to you! Call us today.*

Mark A. Leggett • 860 Sunshine Ln., Altamonte Springs, FL 32714 • 407-331-1993

Legal Support Services

AAllen Bryant & Associates, Inc. *Service of Process and a leading provider of litigation support for over 25 years.*

P.O. Box 3828, Orlando, FL 32802 • 407-872-0560 • info@aallen.com

LegalOne Partners, Inc. *Paralegal firm outsourcing services to attorneys in most areas of law on an as-needed basis.*

1004 Delridge Ave., Orlando, FL 32804 • 407-601-3966 • info@thinklegalone.com

All Good Reporters, LLC *Centrally located, All Good Reporters' nationally certified real-time reporters "Capture Every Word."*

Rita G. Meyer • P.O. Box 536084, Orlando, FL 32853 • 800-208-6291 rgm@AllGoodReporters.com

Access Investigative Services, Inc. *Civil & Criminal Investigations, Process Service*

Peter Cerone • 6239 Edgewater Dr., Ste. D-13, Orlando, FL 32810 • 407-447-6053

Boehm & Boehm Forensic Media Consulting *Certified Comprehensive Litigation Support Solutions*
Florian Boehm • 5036 Dr. Phillips Blvd., Ste. 155, Orlando, FL 32819 • 407-405-8483

Riesdorph Reporting Group, Inc. *We are a full-service court reporting firm committed to excellence and professionalism.*

Alex Guillermetty • 150 N. Orange Ave., Ste. 418, Orlando, FL 32801 • 407-282-4067

Central Florida Reporters, Inc. *Full-Service Court Reporting Firm*

Susan England • 105 E. Robinson St., Ste. 503, Orlando, FL 32801 • 407-422-5753

In Charge Education Foundation *Online, Telephonic and Face to Face. Pre-filing Credit Counseling and Pre-discharge Debtor Education*

Beth Mason • 5750 Major Blvd., Ste. 310, Orlando, FL 32819 • 407-532-5759

Orange Reporting *Florida's Choice for Litigation Support*

Christa Walton • 1416 E. Robinson St., Orlando, FL 32801 • 407-898-4200

ProServe USA *Service of Process/Skip Traces*

Rob Bamberg • 501 N. Magnolia Ave., Orlando, FL 32801 • 407-872-0707

Trial Consulting Services *Trial Presentation, Research, Graphics, Video*

Rich O'Brien • 150 N. Orange Ave., Ste. 418, Orlando, FL 32801 • 407-367-4975

Westlaw, a Thomson Reuters business *Westlaw, Legal Products and Services*

Barie Feuer • 407-749-9355 Charles Kiester • 321-356-5350

First Choice Reporting Services *We set the standard for professionalism, reliability, affordability, and technology to the court reporting industry in Florida and nationwide.*

Kirsty Schouweiler • 121 S. Orange Ave., Suite 800, Orlando, FL 32801 • 407-830-9044

Miscellaneous

Marsh U.S. Consumer, a service of Seabury & Smith, Inc. *Professional Liability, Medical & Health Insurance*

Sharon Ecker • 3560 Lenox Rd., Ste. 2400, Atlanta, GA 30326 • 800-365-7335 Ext. 6435

Office Equipment/Services

DEX imaging *Copiers, Printers, Scanners & Document Management*

Sylvi Winnick • 6728 Edgewater Commerce Pkwy., Orlando, FL 32810 • 407-294-4116 ext. 1220

Professional Services

JURIS Imaging & Graphics *Providing Litigation Support Solutions to Law Firms throughout Central Florida. OCBA members receive 15% off by mentioning Vendor Marketplace Online.*

Carlos Vivanco • 100 E. Pine St., Ste. 606, Orlando, FL 32801 • 407-425-4244

MasterPay USA, LLC *Members receive 15 % discount on customized payroll processing services and our "Perfect Payroll Promise."*

Debbie Sonntag • 8879 W. Colonial Dr., # 154, Ocoee, FL 34761 • 407-374-1666

LeGrand Media Group, Inc. *Servicing Florida for over 18 years — providing professional quality Videography, Photography and Graphic Design.*

Lisa LeGrand • 9401 American Eagle Way, Ste. 200, Orlando, FL 32837 • 407-852-0788

The business listed herein (the "Vendors") are not affiliated with the Orange County Bar Association (OCBA) and shall not under any circumstances be deemed to have any authority to act on behalf of the OCBA. The OCBA does not make, and expressly disclaims, any warranty, representation, responsibility, or guarantee as to (a) the quality or suitability of the Vendors, their products, or services, and (b) the duration or validity of any discount or other promotion offered by any of the Vendors.



Coleman Watson, Esq.

Echoes of the Lone Dissenter: Copyright Registration as a Claim Processing Rule

Freelance writers, artists and other copyright owners too often make the mistake of placing more value on marking their original works of authorship with the © symbol rather than on registering those works with the U.S. Copyright Office. Works fixed in a tangible medium of expression are legally protected upon creation under the current Copyright Act. Placing the © symbol on works followed by the name of the owner merely gives notice of ownership and precludes a defense of innocent infringement.¹ Copyright registration, on the other hand, is far more valuable. If it is made before infringement of an unpublished work or within three months after first publication, a copyright owner may recover statutory fees and attorneys' fees in addition to actual damages.² But, as discussed herein, as of the United States Supreme Court's ruling in *Reed Elsevier, Inc. v. Muchnick*, registration is no longer a jurisdictional requirement for maintaining a suit for infringement.³

Statutory conditions purporting to require a party to take some procedural action before filing a lawsuit are not always jurisdictional prerequisites to suit. "Jurisdiction is a word of too many meanings."⁴ It often improperly includes claim-processing rules: those rules that "seek to promote the orderly progress of litigation by requiring the parties to take certain procedural steps at certain specified times."⁵ There is perhaps no better example of the practical difference between a claim-processing rule and a jurisdictional limitation to suit than 17 U.S.C. § 411(a), the copyright registration requirement to maintain infringement actions, because the mere presence of the word "jurisdiction" in § 411(a) has frequently been the impetus foreclosing copyright infringement suits in Florida federal courts.⁶ In *Reed Elsevier, Inc. v. Muchnick*,⁷ the Supreme Court squarely resolved the issue of whether the presence of an unregistered copyrighted work deprives a federal court of subject matter jurisdiction over a copyright infringement claim. The Supreme Court answered the question in the negative.

Muchnick largely resulted from the foresight of Circuit Judge John Walker, and the lone dissent he authored in *In re Literary Works in Electronic Databases Copyright Litigation*.⁸ The *Literary Works* plaintiffs consisted of individual authors, trade associations representing authors, and freelance writers. Some of the freelance writers involved in the class action claim possessed

unregistered copyrights.⁹ The defendants were companies that published electronic content. The plaintiffs contracted with the defendants to produce written works for publication in print media on a freelance basis.¹⁰ The contracts neither transferred copyrights to the defendants nor licensed the plaintiffs' works for electronic reproduction.¹¹ The defendants, however, electronically reproduced the works as original electronic content and further licensed the works to electronic database services.¹² The plaintiffs then filed a class action suit contending that the unauthorized electronic reproduction of their written works constituted copyright infringement.¹³

Ultimately, the parties engaged in a settlement agreement, but the Second Circuit *sua sponte* raised the issue of whether the Southern District of New York had the authority to entertain the class action suit at all due to the presence of unregistered copyrights by some class members. The Second Circuit held that the Southern District lacked jurisdiction. The decision extended the jurisdictional requirements to institute copyright infringement claims specifically to the class action context and effectively deprived freelance writers having unregistered copyrights of redress for infringing acts occurring before registration.¹⁴ The Second Circuit based its holding on § 411(a), which provides:

Except for an action brought for a violation of the rights of the author under section 106A(a), and subject to the provisions of subsection (b), no action for infringement of the copyright in any United States work shall be instituted until preregistration or registration of the copyright claim has been made in accordance with this title. In any case, however, where the deposit, application, and fee required for registration have been delivered to the Copyright Office in proper form and registration has been refused, the applicant is entitled to institute an action for infringement if notice thereof, with a copy of the complaint, is served on the Register of Copyrights. The Register may, at his or her option, become a party to the action with respect to the issue of registrability of the copyright claim by entering an appearance within sixty days after such service,

continued page 38

but the Register's failure to become a party shall not deprive the court of jurisdiction to determine that issue. 17 U.S.C. § 411(a).

The majority reasoned that although district courts derive jurisdiction over copyright infringement claims under 28 U.S.C. §§ 1331 and 1338, Congress can choose to supplement jurisdictional prerequisites, and did so through § 411(a).¹⁵ The majority further held that to allow jurisdictionally deficient class action copyright infringement claims would run afoul of 28 U.S.C. § 2072(b) and "enlarge [a] substantive right" granted by the federal rules.¹⁶

In dissent, Judge Walker posited that § 411(a) should not be viewed as a jurisdictional bar but rather a claim-processing rule having no effect on a district court's subject matter jurisdiction.¹⁷ In his view, the registration requirement merely served as an enforcement mechanism rather than a rights-creating statute because "registration is not essential to the existence of a copyright claim..."¹⁸ By vacating the Southern District's order and mandating that § 411(a) is jurisdictional, the majority improperly included registration as an element essential to the finding of copyright infringement, and transformed the claim-processing rule into a jurisdictional bar.

In enacting the Copyright Act of 1976, Congress expressly recognized that a valid cause of action for copyright infringement can exist absent registration, but the copyright owner cannot *enforce* his rights without registration.¹⁹ The Copyright Act defines infringement as the "violat[ion] of any of the exclusive rights of the copyright owner as provided by sections 106 through 122..."²⁰ Thus, all requirements essential to the existence of an infringement claim are located within these sections. Nowhere between §§ 106–122 does the Copyright Act require registration as a condition precedent to an infringement claim. As such, a plaintiff on a copyright infringement claim need only prove ownership of the copyright at issue and copying by the defendant, either through direct or indirect evidence.²¹ In fact, copyright registration is entirely permissive.²²

Notwithstanding the foregoing, longstanding precedent and quick reference to the word "jurisdiction" in § 411(a) left little room for debate as to whether the copyright registration requirement was truly jurisdictional.²³ This result is not surprising considering that registration is typically not central to a copyright infringement ac-

tion and therefore has received little, if any, analysis.²⁴ A cursory review of § 411(a), however, demonstrates that copyright registration cannot be jurisdictional in nature because, on its face, it permits a registration applicant to institute an action for infringement "[i]n any case, ...where... registration [has] been delivered to the Copyright Office in proper form and registration has been refused...." In other words, § 411(a) would effectively violate the well-settled rule that subject matter jurisdiction cannot be waived²⁵ because it technically permits a registration applicant to maintain an infringement action founded on an unregistered copyright.

U.S. adherence to the Berne Convention also added to the confusion among the circuits as to whether the registration requirement was jurisdictional. For example, the Berne Convention required that member nations grant rights to works originating in other member nations not "subject to any formality."²⁶ Prior to the implementation of the Berne Convention, U.S. law required notice – the © symbol – to be placed upon the work in order to trigger copyright protection.²⁷ While Congress could have chosen to keep formalities such as the notice requirement, as to U.S. citizens when it adhered to the Berne Convention, it declined to do so because it would have resulted in "politically injudicious treatment favoring foreign nationals over its own citizens."²⁸ Congress, however, chose to maintain the registration requirement as to U.S. citizens to institute copyright infringement claims, which seemed to suggest that the registration was jurisdictional.²⁹

Judge Walker's dissent and *Muchnick* underscore the importance of carefully distinguishing between true jurisdictional bars and claim-processing rules that may be waived, especially considering Florida plaintiffs who have been foreclosed from pursuing copyright infringement actions based on underlying unregistered copyrights.³⁰ *Muchnick* noted that the copyright registration requirement was not located in a jurisdiction-granting provision and that § 411(a) itself admits of congressionally authorized exceptions to jurisdiction.³¹ The Court also reviewed the legislative history of this section, noting that the word "jurisdiction" was added in 1976 "to clarify that a federal court can determine 'the issue of registrability of the copyright claim' even if the Register does not appear in the infringement suit."³² Further, *Muchnick* reaffirmed *Arbaugh v. Y & H Corp.*,³³ which described the general approach for

distinguishing claim-processing rules from jurisdictional limitations:

If the Legislature clearly states that a threshold limitation on a statute's scope shall count as jurisdictional, then courts and litigants will be duly instructed and will not be left to wrestle with the issue. But when Congress does not rank a statutory limitation on coverage as jurisdictional, courts should treat the restriction as nonjurisdictional in character.³⁴

Thus, the Court determined that Congress's use of the word "jurisdiction" in § 411(a) was not a clear statement of its intent to make registration a jurisdictional hurdle to an infringement lawsuit.³⁵ The Court declined to decide "whether § 411(a)'s registration requirement is a mandatory precondition to suit that . . . district courts may or should enforce *sua sponte* by dismissing copyright infringement claims involving unregistered works,"³⁶ but in light of this decision, Florida federal courts have been more hesitant to dismiss claims for infringement of unregistered copyrights.³⁷

As the manuscript is finished or the brush paints the last stroke, the next step to securing protection for your intellectual property should be copyright registration. The procedure is refreshingly simple, yet the benefits are immense.³⁸ If, however, you should find yourself at the crossroads of litigation concerning an unregistered copyright, give heed to the notion that "jurisdiction" is no longer just a catch-all word used to classify all conditions relative to a copyright infringement suit.

Coleman W. Watson, Esq., is an attorney with Baker Hostetler LLP. He has been a member of the OCBA since 2011.

¹⁵ 17 U.S.C. § 401(d) (2006).

¹⁶ 17 U.S.C. § 412 (2006).

¹⁷ 130 S. Ct. 1237 (2010).

¹⁸ *U.S. v. Vanness*, 85 F.3d 661, 693 n.2 (D.C. Cir. 1996).

¹⁹ *Henderson ex rel. Henderson v. Shinseki*, 131 S. Ct. 1197, 1203 (2011).

²⁰ See, e.g., *Stuart Weitzman, LLC v. Microcomputer Resources, Inc.*, 542 F.3d 859, 863 (11th Cir. 2008) ("the case law is clear that only those copyright holders that at least apply to register their copyrights may invoke the subject matter jurisdiction of the federal courts in an infringement suit"); *Montgomery v. Noga*, 168 F.3d 1282, 1288 (11th Cir. 1999) (background statement of "basic principles of copyright law" notes that "[t]he registration requirement is a jurisdictional prerequisite to an infringement suit"); *M.G.B. Homes, Inc. v. Ameron Homes, Inc.*, 903 F.2d 1486, 1488 (11th Cir. 1990) ("jurisdictional prerequisite"); *Simplexgrinnell, L.P. v. Ghiran*, No. 2:07-cv-456-FtM-29DNE, 2007 WL 2480352, at *2 (M.D. Fla. Aug. 29, 2007) ("The Eleventh Circuit has held that registration is necessary for a federal court to have subject matter jurisdiction.");

continued page 49



Heather Pinder Rodriguez, Esq.

Corporate Legal Diversity Pipeline

Thanks to the Central Florida Chapter of the Association of Corporate Counsel (ACC) and the law firm of Holland & Knight, the Corporate Legal Diversity Pipeline program, a national partnership between Street Law and the ACC, has come to the Orange County Bar center!

The program partners corporate lawyers and other legal professionals with nearby high school students in order to teach the basics of civil law and encourage them to consider careers in the legal profession.

Over the past few months, several ACC members and attorneys/paralegals from Holland & Knight, under the leadership of OCBA member, Heather Pinder Rodriguez, and ACC member, Terry Johnson, teamed up to present workshops to an AVID class at Olympia High School. The experience culminated in a full-day Street Law conference, led by Leslie Candes, at the Orange County Bar center. During the workshops, teams covered the basics of contract law and workplace

sexual harassment, while giving students a taste of what a legal career is all about. In one workshop, the students pretended that they were representing NFL player (former Olympia High alum and current Tennessee Titans running back Chris Johnson) in contract negotiations.

At the conference, the teams built on the classroom sessions, participated in a panel discussion with Jae Im, Associate Counsel with Wyndham Resorts, Albert Tellechea, litigation partner at Holland & Knight, and Ruth Witherspoon, Associate Dean at Barry Law School, and ended the day with a career fair where students had an opportunity to meet with lawyers, paralegals, legal educators from FAMU and other legal professionals from a number of different disciplines. There was a surprise visit from County Judge Faye Allen, which thrilled both volunteers and students.

The students and their teacher, Tracy Ebert, welcomed the program and demonstrated overwhelming enthusiasm for learning about legal topics and careers.

"We did not just take my students on a field trip today, but we changed lives. My students had a phenomenal time and many of them now might have a career path that they didn't have before this experience. This was a true case of what can happen when business and education mix," said Ebert.

Heather Pinder Rodriguez, Esq., is an attorney with Holland & Knight. She has been a member of the OCBA since 1999.



Olympia High School students in contract negotiation workshop with ACC member Tom Jones, Holland & Knight attorney Alvin Benton, and Deborah Foster, Senior Program Director of Street Law, Inc.



Ruth Witherspoon, Barry Law's Associate Dean for Academic Affairs; Teri Johnson, former General Counsel of MoneyGram International; Albert Tellechea and Leslie Candes, Holland & Knight; Tom Jones, ACC member; Heather Pinder Rodriguez, Holland & Knight



The Honorable John M. Kest

Top Trial Tips for Paralegals to Assist Their Attorneys, the Court and the Jury or How Your Paralegal Can Save the Day and the Case – Part 4

Part 4 concludes the series, "Top Trial Tips for Paralegals to Assist Their Attorneys, the Court and the Jury or How Your Paralegal Can Save the Day and the Case," which appeared in the October 2011, November 2011 and January 2012 issues of The Briefs.

Trial Observations:

The paralegal is uniquely positioned to observe the judge, jury, clerk, court deputy, exhibit and demonstrative aid placement and other items existing in the courtroom. Lead counsel should be advised of any suggestive or detracting action that occurs in the courtroom from any source. Most attorneys are too occupied during a trial to scan the courtroom and make the necessary observations about what is going on in the trial setting.

The paralegal can develop a wealth of information from simply observing the jurors, their note-taking propensities, their body language and their attentiveness (or lack of attentiveness) to each witness. Based on the observations conveyed to the attorney, she/he may decide to refocus the present testimony, shorten the testimony or modify his/her presentation of evidence.

Paralegals should also be looking at and listening to questions asked by jurors. Jurors' questions in civil cases have been permitted since 2008. *See* § 40.50(3), Fla. Stat.; Fla. R. Civ. P. 1.452. The jurors' questions can provide attorneys some insight into what a jury is thinking or, more importantly, what they are missing that they believe is necessary. The questions are made part of the court file, and the paralegal should look at the paper handed to the court and not simply listen to the questions that are read.

Videos, Simulations, Projections and other Demonstrative Usage:

Video depositions, live video feed testimony, PowerPoint presentations and other graphic and video/graphic aids are routinely presented during the course of a trial. What used to be a rare exception is now a common trial event. When A/V companies are not hired, paralegals seem to be delegated the responsibilities to organize, edit, obtain the equipment and actually present the presentation at the trial. The paralegal must be *certain* the appropriate arrangements are made, the equipment is available and workable, and the format is compatible for the material to be shown. If objections are to be made or have been made, the presentation may need to be edited on short notice to conform to court rulings.

The attorney and the paralegal must make a threshold decision as to whether it is appropriate to use the paralegal for this role. If the paralegal is used in this role, he/she will not be able to fulfill his/her other responsibilities during the trial. Judges generally will not delay a proceeding simply because one side or the other is unfamiliar with a video player or cannot get its video to play.

PowerPoint, like other demonstrative aids, appears in many cases to be prepared by the paralegals, and many times it is the paralegal that will operate the computer. The paralegal needs to remember that courts generally will require that the PowerPoint be disclosed to opposing counsel prior to its use. It may also be required that a hard copy be filed with the clerk in the court file. *See Thompson v. Wal-Mart Stores, Inc.*, 60 So. 3d 440 (Fla. 3d DCA 2011).

Jury Instructions:

With the advent of the "new" jury instructions authorized by the Supreme Court on March 10, 2010, and the recommendations contained in the opinion, significant changes have occurred with regard to the administration of the jury instructions. For whatever reason, attorneys routinely fail to properly prepare the initial jury instructions for the court. The result is that the court will use either its own instructions or the instructions that were properly submitted by opposing counsel. Paralegals could provide a great service to their attorneys and their cases if the paralegal would either draft the instructions or confirm that the ones drafted by the attorney are complete, in the proper format, are proper as initial and late final instructions, and have been timely filed with the court.

For example, many judges will give a full set of instructions on almost all issues after voir dire but prior to opening statements. In fact, jury instruction 202.1 contemplates early administration of the instructions. The instructions also contemplate that the immediate next instruction after 202.1 should be 401.2, which is a summary of claims. Yet most attorneys fail to submit this instruction with the initial set. Paralegals should be familiar with the new instructions and the committee notes, and the instructions on how to use the new format and the reworded instructions.

A proposed set of instructions should be submitted in hard copy and electronically to the court well before the start of the trial. The court will need time to compare the instructions and

modify them so they are appropriate for the jury during early instructions. Also keep in mind that closing instructions are now usually given just before closing argument and a copy is provided to each juror. The paralegal should be prepared for the attorney to request that these be either enlarged or projected onto a screen along with the verdict form.

Post-trial Motions and Preservation:

Post-verdict is either a happy time or a sad one depending on the verdict and the party. In either event, many things are forgotten or overlooked in the emotion of the moment, and it is the paralegal that must come to the rescue. Certain motions must be made or renewed to preserve appellate issues. Transcripts of proceedings may need to be ordered to prepare timely post-trial motions. Issues of set-offs and reductions need to be timely made and scheduled for hearings.

Paralegals provide an important and critical adjunct to trial preparation and presentation that is sorely lacking in many cases. Attorneys, and their clients, most certainly benefit from the efforts and expertise of a good paralegal. Yet in the practice of law, the use of paralegals is still relatively new and the manners in which they can be used, novel. In the end, the paralegal may have to instruct the trial attorney in how the paralegal can be most effectively used in preparing and trying a case.

This concludes the four-part series, "Top Trial Tips for Paralegals to Assist Their Attorney, the Court and the Jury *or* How Your Paralegal Can Save the Day and the Case."

The Honorable John M. Kest, Ninth Judicial Circuit Court, has been a member of the OCBA since 1979. Prepared by Judge Kest, June 2011.

OCBA Display &

Classified Ads:

Contact Michael

407-422-4551 ext. 225

williamr@ocbanet.org

Let us
help you
GROW
your legal
practice!



We offer you support services, including:

- Forensic Investigations for Fraud and Theft
- Litigation Support and Testifying
- Serving as a Personal Representative
- Serving as a Trustee (former U.S. Chapter 7 Trustee)
- Preparation of Fiduciary Accountings
- Tax Planning and Return Preparation
- IRS Audits, Liens and Work Outs

JEROME P. MCCAULEY, CPA, PA
Call us: 407-869-0052 ■ (cell) 407-788-5585
Fltaxpert@aol.com www.fltaxpert.com



Car Dealer Fraud?

CONTACT JIM SEARS

407-896-9068

jim@jimsearslaw.com • www.jimsearslaw.com

30+ years experience with car dealer issues including fraud, deceptive trade practices, no title, odometer rollback, altered VIN, breach of contract, liens not paid, bona fide purchaser for value, breach of warranty, surety bond, indemnity, title certificates, motor vehicle dealer licenses, "chopped" vehicles, failure to disclose prior collision damage, civil theft, stolen vehicles, rebuilt and for hire vehicles, deceptive advertising, repossession/conversion, bad checks or drafts, consignment and punitive damages.

37 years experience practicing law • Rated A/V Preeminent • Listed in Top Lawyers in the September, 2011 issue of *Orlando Home and Leisure Magazine*
• 16 years Certified Circuit Civil Mediator

VALUATION & LITIGATION SERVICES

BUSINESS VALUATIONS

LITIGATION SUPPORT

FORENSIC ACCOUNTING

ADAM T. MAGILL, MBA, AVA, CBA

801 MAGNOLIA AVE, STE 304, ORLANDO, FL 32803

407-233-4180 | 407-233-4182 Fax

HARVEY M. ALPER, ATTORNEY

announces he is now a
Qualified Parenting Coordinator

Mr. Alper Continues To Offer
ADR Services as a Qualified
Arbitrator, and Certified Circuit,
Family & Appellate Mediator

516 Douglas Avenue, Suite 1106,
Altamonte Springs
407-869-0900



Let the Orange County Bar Association Help Build Your Practice!

Lawyer Referral and Information Service

The Lawyer Referral and Information Service is an excellent resource that will help you expand your client base and increase your income. In 2010, our LRIS program received more than 50,000 calls for the 280+ attorneys belonging to the program. Our LRIS Manager refers clients to you based on your practice area and the clients' specific need. **It's a win-win situation!**



For LRIS application forms and additional information, go to www.orangecountybar.org, or call our LRIS Manager at 407-422-4551, ext. 281.

OCBA Citizens Dispute Settlement and Family Law Mediation Program

Are you looking for a rewarding way to satisfy your *pro bono* requirement?

Join a fantastic team of attorney/mediators in the CDS/Family Law Settlement Program who are helping Orange and Osceola County citizens resolve disputes, such as:



- :: Alimony
- :: Animal Nuisance
- :: Child Custody
- :: Child Support
- :: Disorderly Conduct
- :: Harassment
- :: Landlord/Tenant
- :: Neighborhood Disputes
- :: Property Damage
- :: Property Settlements
- :: Shared Parental Responsibility
- :: Visitation Problems

We are looking for qualified attorneys who wish to meet their *pro bono* requirements by providing much-needed mediation services. For more information about this award-winning program, please contact the OCBA Citizens Dispute Settlement/Family Law Mediation Program Manager at 407-422-4551, ext. 224.

February Luncheon Piñero

continued from page 5

ment they more than made up for in work ethic, drive for excellence and passion for their children's education. His parents set the example, and though they passed away early in his life, their legacy lives on through Jaime. His father, Ricardo, died when he was 12. His mother, Maria Teresa, died in Jaime's arms when he was 23, just before college graduation. These were defining moments in his life, a life dedicated to achievement, excellence, leadership and education.

Jaime has a Bachelor's degree in electrical engineering from City College of New York (CCNY), a Master's degree from NYU Poly and continued his development by completing the Crummer Management Certificate Program at Rollins College. His passion for excellence and education is being passed on to his two sons, Justin, 23, a junior at the University of Central Florida, and Julian, 18, a senior at Olympia High School. Jaime is married to Irma, his wife of 23 years.

Nominations Being Accepted: Arnie Wilkerson Memorial Court Service Award

The First Central Florida American Inn of Court is currently accepting nominations for the **2012 Arnie Wilkerson Memorial Court Service Award**. This award honors individuals (excluding lawyers and judges) working in the judicial system who display the highest standards of character, integrity, and ongoing dedication to the judicial system. Past recipients have been long-term models of excellence in their work within the judicial system and have also been extremely active in some dimension of community service outside of the judicial system.

The winner of this award will receive a plaque and \$500, and will have his/her name added to a plaque hanging outside the Roger Barker Memorial Courtroom on the 23rd Floor of the Orange County Courthouse.

The due date for nominations is **March 30, 2012**. If you are interested in submitting a nomination, please contact Roger Handberg at handberg@mindspring.com to obtain a nomination form.



OCBA Career Center

Find your path!

Go to the new OCBA Career Center on our website.

Post your job! Look for employees!

It's easy, effective, and open to everyone!

www.orangecountybar.org

Member discounts available!

Questions? Please contact Karen Fast at 407-422-4551 ext. 225 or karenf@ocbanet.org

Is your firm vulnerable?

Protechnica's vulnerability assessment identifies people, property and resources that are at risk of harm or loss. We focus on operational procedures, access controls, networks, operating systems, databases, web applications, desktop software and users to identify threats, determine their risk and construct a remediation program to mitigate these risks.

**Call us today and schedule your
Vulnerability Assessment Consultation**

(866) 981-5553 Ext. 202



PROTECHNICA
PROFESSIONAL TECHNOLOGY SUPPORT

Contact@Protechnica.net

www.Protechnica.net

Recommended IT
Provider of



Don't forget to VOTE
see page 7



Mark Powers



Shawn McNalis

Reduce Stress by Selecting Clients Wisely: Clean Up Your Caseload – Part 1

“I’ve got to get out,” Bill, a commercial litigation attorney, says in a shaky voice. “If I can’t figure out a way to sell my practice, I’ll close the doors and walk away. I’m not kidding – I can’t take it much longer.”

On the edge of a nervous breakdown, this attorney needs a way out of what has become an unbearable situation. He feels ground down by the unrelenting demands of his practice. Now in his mid-fifties, this attorney has a little money set aside and not surprisingly, he wants out.

His is an extreme example, but it is safe to say that the number of attorneys who feel seriously stressed is reaching near epidemic proportions. In fact, according to a study done by Johns Hopkins, fifty-one percent of attorneys experience stress at rates significantly higher than the “normal” population.¹

Is it natural that attorneys across the board are afflicted with such anxiety? Or is there something about the make-up of attorneys that predisposes them to higher rates of stress?

Perhaps there is. Another John Hopkins study of all types of graduate school programs done in 1990 came to the conclusion that graduate students who are optimists outperform pessimists by a wide margin, with one exception: students in law school.²

Pessimism is rewarded in law school and is further reinforced when an attorney goes into practice.

This is not news to many of you who have observed this phenomenon in either yourself or your peers. Pessimists anticipate the worst, which is a valuable trait when working with troubled clients. Those who anticipate the worst tend to plan for it and are better prepared than those attorneys who expect a rosy outcome. Pessimists aren’t quick to believe everything they are told and maintain a certain amount of skepticism – again very valuable when questioning a witness or listening to their own clients. Success favors the pessimist in the legal profession.

Unfortunately, the traits that make a good attorney don’t always make a good businessperson. Attorneys who are not buoyed by the natural sense of optimism that supports and sustains most other professionals live in constant fear that their practice may not survive. Driven by this sense of impending doom, and underscored by the lack of true business training attorneys receive, they tend to make poor business decisions. Among

the worst is their failure to effectively screen new clients. Unfortunately, practicing “threshold law” (working with anyone who crosses your threshold) often feels like the right thing to do but invariably leads to further distress because of the many problematic (non-paying and uncooperative) clients who get in the door.

What does this mean to you? If you were to apply Pareto’s Principle, also known as the 80/20 Rule, to your client base, you would probably discover that 80% of your income comes from 20% of your clients. Hidden in your client list, this 20% are the smallest but most significant segment of your client base because they generate the largest share of your revenues but take up only 20% to 40% of your time. This is worth repeating: Your best clients, that top 20% whom we’ll call your A- and B-level clients, take up only 20% to 40% of your time yet are responsible for 80% of your revenues.

The remaining 80% of your clients take up a great deal of time and generate only 20% of your income. Why? These are the problematic clients who will agree to pay you but, after taking up a great deal of your time, often neglect to do so. Their poor payment habits are significant because not being paid not only adds to the stress you feel, it further reinforces your pessimism and subsequent disillusionment with the practice of law.

Take a look at the following checklist of symptoms signaling an overload of problematic clients. If you check off even one of these symptoms, it’s time to reengineer your new client screening process because the effects of practicing threshold law have already disrupted your practice and will only get worse.

Symptoms of a Practice with Many C- and D-Level Clients

- ☐ High outstanding receivables – doing quite a bit of work that you or your team will not be paid for
- ☐ Clients who leave prematurely or often threaten to seek the services of another attorney
- ☐ Clients who often fail to show for scheduled appointments
- ☐ Clients who often fail to bring requested documents or to follow directions
- ☐ Staff who feel abused by clients who misdirect their anger and scream at them

- ☐ Experiencing a constant sense of crisis and tension that is attributable to specific clients and/or specific opposing counsel
- ☐ Staff and attorneys who dread going to work and dealing with certain clients
- ☐ Staff and attorneys who often feel they can't meet the high expectations of some clients
- ☐ Staff and attorneys who never hear "thank you" or any acknowledgement for their efforts – even when major victories occur for certain clients

If you check off more than one of these symptoms, it's time to take control of the situation you may have unwittingly created by not screening for clients who will pay you, cooperate with you and appreciate your efforts. You owe it to yourself, your team and your firm's bottom line to raise your standards. Start now by being more selective in choosing who you will work with, and in part 2 of this article we will discuss the steps you can take to systematically clean up your caseload.

Mark Powers, President of Atticus, Inc., and **Shawn McNalis** co-authored *How Good Attorneys Become Great Rainmakers and Time Management for Attorneys*, and are featured marketing writers for *Lawyers, USA* and a number of other publications. To learn more about the work that Atticus (www.atticusonline.com) does with attorneys or the Atticus Rainmakers™ (www.atticusrainmakers.com) program, please visit or call 352-383-0490 or 888-644-0022.

¹Raymond P. Ward, Depression, *The Lawyers' Epidemic: How You Can Recognize the Signs*, The Legal Underground, 2003.

²Richard G. Uday, *That Frayed Rope*, Utah State Bar Journal, August/September 2003.

HONEYWELL MEDIATION

& Other Alternative Dispute Resolution Services

Care to know how to improve your success in mediation?

Like all attorneys and judges, mediators also compare notes and have ideas on what works and what doesn't. At your convenience, read my ongoing **Educational Blog** at my website: www.honeywellmediation.com to gain some free Mediator's insight from the privacy of your computer.

Visit my website: **www.honeywellmediation.com** to find who I am, my **online schedule**, my **educational blog**, and what I offer you and your client who may be seeking success without trial. My unique credentials and experience can be a useful and valuable added resource in finding resolution to your client's dispute.

- Certified Circuit Civil Mediator • Certified Appellate Mediator
- Certified Federal Court Mediator • Board Certified Trial Lawyer

Call **Honeywell Mediation /Mediation, Inc:**

Winter Park: **407-647-5155**

Orlando-Central Florida:

407-294-7000

Statewide-National: **800-741-7000**

Neutral, convenient conference facilities on Lee Road in Winter Park.



Available anywhere in Central Florida without travel charge. **DAN H. HONEYWELL**

KING REPORTING & VIDEO CONFERENCE CENTER

MEDIATION SUITES: Experienced mediators understand the importance of environmental influences on meetings, and our conference rooms help to set a calm, relaxed tone for negotiations. We offer the right amenities to help the process run smoothly. Private Parking.

- Support Services: WIFI, computer, printing, copying, faxing, and help reducing your settlement to writing.
- Starting at \$25 per room



VIDEOCONFERENCING: Save time and money! Domestic and worldwide HD video conferencing conveniently located at our Viera offices. We will schedule all connections for you.

DEPOSITIONS & DISCOVERY: Neutral, independent, impartial professionals. Our reporters include Registered Professional Reporters, Certified Real Time Reporters and Legal Videographers. Our reputation for timeliness, quality and follow through is exceptional. Deposition rooms are included.

BEAUTIFULLY APPOINTED CONFERENCE ROOMS AT THREE CONVENIENT LOCATIONS

- 14 Suntree Place, Suite 101, Viera/Melbourne, FL
- 26 Nelson Avenue, Melbourne, FL
- 5095 S. Washington Avenue, Suite 102, Titusville, FL

FOR SCHEDULING ANY OF OUR SERVICES AND FACILITIES:

Call **800-892-1742 OR 321-242-8080 OR FAX 321-242-3178**

E-mail schedule.desk@kingreporting.com

Online at www.kingreporting.com

Inaugural "Aspects of ADR" Seminar a Success

The OCBA's ADR, Insurance Law and Technology committees recently presented a major seminar on a wide range of topics under the ADR umbrella. Speakers and panelists in the areas of mediation, negotiation and advocacy within ADR, as well as in the use of new technology, engaged the audience of fifty mediators, arbitrators and litigation practitioners in spirited conversation.

The seminar was organized and moderated by ADR Committee chair, Lawrence Kolin. Panelists Todd Smith and Bob Dietz presented information on the use of technology in making effective, persuasive ADR presentations. Practitioners from plaintiff and defense backgrounds gave tips for the use of PowerPoint and Prezi in effectively advocating for clients through presentation techniques.

David Luff, Caryn Diamond and Leslie Moore jointly presented information about understanding the perspective of insurers at mediation, explaining that

plaintiffs often attend mediation without the benefit of ever having experienced the process, while insurers are generally veterans. Discussion followed about the differences in attitudes of those who frequently attend settlement conferences and those who do not and the possible impediments and expectations for the process. Panelists and attendees discussed the practical application of newly amended Rule of Civil Procedure 1.720, pertaining to appearances at mediation.

In-house professional liability insurance counsel, Nancy Stuparich, spoke on scenarios of potential attorney malpractice arising from mediation. Her presentation was followed by a special keynote address on mediation ethics given by Jay Cohen, who encouraged decision-makers and counsel not to let problems fester and advocated for mediators to "do the hard things, not the easy things" in facilitating a settlement.

In the final segment of the seminar,

RMFMP program director, Kim Homer, along with Liz McCausland and Phil Bonus, provided insight on the current progress of residential foreclosure mediation in Orange County.

The next ADR committee meetings are scheduled for February 7 and March 6 (see calendar).

Aspects of ADR (5.0 CLE) is available on DVD from the OCBA. Contact: Marie West at mariewest@ocbanet.org.

For information about this and other ADR Committee activities, please contact Lawrence Kolin, Lawrence H. Kolin, P.A., OCBA's ADR Committee chair, at lkolin@live.com.



Professionalism Committee Career & Professionalism Week

A sincere thank you goes to those who participated in the mock hearing, "Good Attorneys Gone Bad, and Back Again," at Barry University School of Law on October 27, 2011, during the OCBA Professionalism Committee's Career & Professionalism Week.

Representing the OCBA Professionalism Committee (or by proxy) were U.S. District Judge Gregory A. Presnell, and attorneys Carrie Ann Wozniak and Jamie Blucher. Attorneys Dennis J. Wall and James W. Markel provided entertaining perspectives as well as practical information. Similar to the mock hearing conducted in the spring semester at FAMU, the attorneys first gave a mock hearing, breaking many rules and procedures and ignoring most courtesies. The attorneys then participated in another mock hearing that was conducted in a most professional manner. Discussion and Q&A followed.

Students from the UCF Legal Studies Program and Valencia Paralegal Studies Program joined the Barry Law students. All audience members were appreciative of the insight the program afforded them and the opportunity to view a "proceeding" with a federal judge.

For information about this and other Professionalism Committee activities, please contact Jim Edwards, Zimmerman, Kiser & Sutcliffe, P.A., OCBA's Professionalism Committee chair, at JimEdwards@zkslawfirm.com.



The OCBA is pleased to offer these copying services at the Orange County Courthouse.

Copies can be made conveniently and easily using coins, \$1 and \$5 bills, or credit and debit cards: Visa, MasterCard, and Discover. A four-copy minimum is required for credit or debit card transactions.

Credit Card and Coin Changer - Resource Room on 3rd Floor

Thanks for your support of the OCBA!



DEX imaging
Copiers, Printers, Scanners & Document Management

New Associates

Heather Kitts Dodge – Law Offices of Lynn B. Aust, P.L.

Joseph Engle – The Johnson Law Firm

Jessica H. Hoch – Holland & Knight

New Partner

Stacy J. Ford – Pohl & Short, P.A.

Board Certification

Joshua Brown – Rumberger, Kirk & Caldwell - Board Certified in Intellectual Property

Speaking Engagements

Usher L. Brown, a shareholder with Brown, Garganese, Weiss & D'Agresta, P.A., recently spoke at the Litigation Counsel of America's Renaissance Symposium IV on December 2, 2011, at the Harvard Club in New York. Mr. Brown gave his presentation to Fellows of the LCA, a trial lawyer honorary society that represents less than one-half of one percent of American lawyers. Mr. Brown is a Fellow of the Litigation Counsel of America.

George F. Indest III and **Christopher E. Brown**, The Health Law Firm, recently conducted a seminar at Florida Hospital East, Orlando, for the hospital's residents and medical students about employee contracts.

A. Brian Phillips, of A. Brian Phillips, P.A., **The Hon. John Antoon, II**, and attorneys from South Florida and Washington, D.C., conducted a panel discussion at the University of Florida for the students and faculty in the L.L.M. in Taxation program, titled, *It's Dangerous to be Right when the Government is Wrong*. The panel addressed issues stemming from, among other things, the prosecution of KPMG and other professionals.

A. Brian Phillips, of A. Brian Phillips, P.A., presented *Liens and Levies as Part of the Tax Collection Process* at the Florida Institute on Federal Taxation conference hosted by the Florida Institute of CPAs. Mr. Phillips discussed the collection process, including assessments, the institution of and compliance issues related to liens and levies, and the steps which must be taken to defend the taxpayer. Mr. Phillips is a former U.S. Justice Department Trial Attorney and Federal Prosecutor.

The Honorable Gregory A. Presnell and attorneys **Dennis J. Wall**, **James W. Markel**, **Carrie Ann Wozniak** of Akerman Senterfitt, and **Jamie Blucher** of Zimmerman, Kiser & Sutcliffe, P.A., presented *Good Attorneys Gone Bad, and Back Again* on October 27, 2011, at the Barry University School of Law. The mock trial program was part of the committee's Career & Professionalism Week. Students from the UCF Legal Studies and Valencia Paralegal Studies programs also attended.

Dennis Wall of Winter Springs and Orlando co-presented a West Legal Education webinar entitled *Disasters in Insurance: The Sequel*, in November 2011 and spoke at the American Conference Institute's 22nd National Advanced Forum on Bad Faith Litigation in December 2011 on the topic: *Avoiding Bad Faith While Litigating Questionable Coverage*. He also presented the workshop: *Florida Bad Faith Litigation: Recent Trends and Cases*.

Upcoming Events

Feb. 29 – *Evening with the Judiciary*. 5:30 p.m.-8:30 p.m. Winter Park Civic Center. See ad in this issue of *The Briefs* for details!

Upcoming Seminars

Feb. 9 – *Trial Briefs*. Brown Bag Lunch with Judge John M. Kest. 12:00 p.m.-1:15 p.m. Orange County Courthouse, 23rd Floor Judicial Conference Room. CLE: 1.5. Free. Please feel free to bring your lunch, and tell security that you will be attending the Brown Bag Lunch. Contact: Diane Iacone at 407-836-0443 or ctjadi1@ocnjcc.org.

Feb. 17 – *Get to Know Judge Heather Higbee*. Family Law Committee. 12:00 p.m. Orange County Courthouse, 23rd Floor Judicial Conference Room. Contact: mariew@ocbanet.org.

Feb. 21 – *Preservation of Error and Seeing the Forest for the Trees*. Solo & Small Firm Committee. 12:00 p.m.-1:00 p.m. OCBA Center. Speaker: Jamie Billotte Moses. Contact: mariew@ocbanet.org.

Feb. 24 – *Federal Prosecution: When Local Prosecution Ends & Federal Prosecution Begins*. Criminal Law Committee. 12:00 p.m.-1:00 p.m. CLE: 1.0 approved. Contact: mariew@ocbanet.org.

Feb. 28 – *GAL 101*. Legal Aid Society Lunchtime Training. 12:00 p.m.-1:30 p.m. Comerica Bank, 111 N. Magnolia Ave., Ste. 1000, Orlando, FL 32801. CLE pending. Speaker: Bethanie Barber. Contact: ctucker@legalaidocba.org; mcarbo@legalaidocba.org.

Feb. 29 – Labor and Employment Committee Seminar. For details, contact: Lauren Robertson at 407-647-891.

Mar. 1 – *Working with JAs*. Brown Bag Lunch with Judge John M. Kest. 12:00 p.m.-1:15 p.m. Orange County Courthouse, 23rd Floor Judicial Conference Room. CLE: 1.5. Free. Please feel free to bring your lunch, and tell security that you will be attending the Brown Bag Lunch. Contact: Diane Iacone at 407-836-0443 or ctjadi1@ocnjcc.org.

Mar. 13 – *Down and Out in Orange County: Government Benefits for the Needy*. Legal Aid Society Lunchtime Training. 12:00 p.m.-1:30 p.m. Comerica Bank, 111 N. Magnolia Ave., Ste. 1000, Orlando, FL 32801. CLE pending. Speaker: Edward Dimayuga. Contact: ctucker@legalaidocba.org; mcarbo@legalaidocba.org.

Mar. 16 – *The Divorce Process as it Relates to Real Estate Trends*. Family Law Committee. 12:00 p.m. OCBA Center. Contact: mariew@ocbanet.org.

Mar. 27 – *Using Community Resources and Case Plan Services to Improve GAL Attorney Advocacy*. Legal Aid Society Lunchtime Training. 12:00 p.m.-1:30 p.m. Comerica Bank, 111 N. Magnolia Ave., Ste. 1000, Orlando, FL 32801. CLE pending. Speaker: Sally McArthur. Contact: ctucker@legalaidocba.org; mcarbo@legalaidocba.org.

Other News

The Florida Bar – The Florida Bar will have one lawyer vacancy on each of the 26 Judicial Nominating Commissions (JNCs) this coming year. Three lawyers can be nominated for each vacancy. The OCBA and specialty bars are encouraged to submit nominations. Appointees will serve a four-year term commencing July 1, 2012. All applicants must be engaged in the practice of law and a resident of the territorial jurisdiction of the respective JNC to which they are applying. The application is available on The Florida Bar website: www.floridabar.org. Submission deadline: February 22, 2012.

The University of Central Florida – The UCF Mock Trial Team will host the American Mock Trial Association's Orlando Regional Mock Trial Tournament February 18-19, 2012. Judges are needed for the tournament, which consists of four rounds, two occurring on Saturday, February 18, and two on Sunday, February 19. Each round takes approximately three hours to complete; an orientation session will be held. CLE will be awarded. Refreshments will be served. For more information and a registration form, please contact Margarita M. Koblasz, Faculty Advisor, Mock Trial Team at UCF, at 407-461-0744 or mkoblasz@mail.ucf.edu.

A n n o u n c e m e n t s

New Members

Regular

Alena V. BAKER

Public Defender's Office
435 N. Orange Ave.
Orlando, Florida 32801

Michael D. BARBER

2502 Woods Edge Cir.
Orlando, FL 32817
407-766-2881

Athena J. BLACK

Kaufman, Englett & Lynd, LLC
111 N. Magnolia Ave., Ste. 1600
Orlando, FL 32801
407-513-1900

Jeremy R. BLOOR

Wright, Fulford, Moorhead
505 Maitland Ave., Ste. 1000
Altamonte Springs, FL 32701
407-425-0234

Vanessa L. BRAELEY

Braeley and Rygh, P.A.
121 S. Orange Ave., Ste. 1500
Orlando, FL 32801
407-377-6675

Colby A. BURT

Kaufman, Englett & Lynd, LLC
111 N. Magnolia Ave.
Orlando, FL 32801
407-513-1900

Cristina P. CAMBO

Masten Lyerly Peterson & Denbo, LLC
189 S. Orange Ave., Ste. 1450
Orlando, FL 32801-2361
407-455-5135

Alicia A. DAVIS

State Attorney's Office
415 N. Orange Ave.
Orlando, FL 32801
407-601-2009

Michael L. DEAR

Railey, Harding and Allen, P.A.
15 N. Eola Dr.
Orlando, FL 32801
407-648-9119

Heather K. DODGE

Law Office of Lynn B. Aust, P.L.
1220 E. Livingston St.
Orlando, FL 32803-5402
407-447-5399

Karen K. ESTRY

Law Office of Harvey M. Alper, Esq.
516 Douglas Ave., Ste. 1106
Altamonte Springs, FL 32714
407-869-0900

Susan W. FOX

Fox & Loquasto
122 E. Colonial Dr., Ste. 100
Orlando, FL 32801
407-802-2858

Leah M. GLISSON

State Attorney's Office
415 Orange Ave.
Orlando, FL 32801
407-836-1676

Wayne C. GOLDING, SR.

The Golding Law Group, PLC
1310 W. Colonial Dr., #34
Orlando, FL 32818
407-574-8691

Michael A. HILL

Michael A. Hill, P.A.
6722 Faun Ridge Dr.
Melbourne, FL 32940
321-421-6979

Geoff HIRSHBERG

1311 Benevolent St.
Maitland, FL 32751
660-287-4557

Jessica H. HOCH

Holland & Knight
200 S. Orange Ave., Ste. 2600
Orlando, FL 32801
407-244-1173

Steven KAHANA

Killgore, Pearlman, Stamp, Ornstein & Squires, P.A.
2 S. Orange Ave., 5th Fl.
Orlando, FL 32801
407-425-1020

Lisa A. KELLEY

1355 Priory Cir.
Winter Garden, FL 34787
407-443-4061

David M. KOBERLEIN

David Koberlein P.A.
61 Seminola Blvd.
Casselberry, FL 32707-3045
407-810-7270

Troy J. LAMBERT

Alter & Barbaro, P.A.
1234 E. Concord St.
Orlando, FL 32803
407-897-0880

Adam J. MARTIN

The Cardama Law Group, P.A.
925 W. Central Blvd.
Orlando, FL 32805
407-704-8932

Dana Y. MOORE

The Law Office of Dana Y. Moore
3041 Cypress Gardens Rd.
Winter Haven, FL 33884
863-324-3500

Barton W. MORRISON

1811 Lake Francis Dr.
Apopka, FL 32712
352-222-8562

Melissa L. NEWMONS

Public Defender's Office
425 N. Orange Ave., Ste. 400
Orlando, FL 32801
407-836-9832

Mishaal K. PATEL

Mishaal Patel, Esq.
8618 Oldbridge Ln.
Orlando, Florida 32819

Alicia S. PEREZ

State Attorney's Office
415 N. Orange Ave.
Orlando, Florida 32801
407-836-1377

Kenneth R. PUGLIESE

The Law Office of Paul Courtright, P.A.
465 Maitland Ave.
Altamonte Springs, FL 32701
407-650-9111

Courtney D. RICHARDSON-JONES

State Attorney's Office
415 N. Orange Ave.
Orlando, FL 32801
407-836-2414

Patrick R. RUTTINGER

Cole, Scott & Kissane, P.A.
1900 Summitt Tower Blvd., Ste. 750
Orlando, FL 32810
321-972-0013

Richard A. SCHWARTZ

Richard A. Schwartz, Attorney at Law
101 S. Palmetto Ave.
Daytona Beach, FL 32114
386-253-6811

Dorothy D. SMITH

State Attorney's Office
415 N. Orange Ave.
Orlando, FL 32801

Charles E. STOECKER

419 Courtlea Creek Dr.
Winter Garden, FL 34787
517-376-2520

Rebekah S. TAYLOR

State Attorney's Office
415 N. Orange Ave.
Orlando, FL 32801
407-836-1375

Wilbert R. VANCOL

McEwan, Martinez & Dukes, P.A.
108 E. Central Blvd.
Orlando, FL 32801
407-423-8571

Jeffrey S. WEINER

Jeffrey S. Weiner, P.A.
Two Datan Center, Ste. 1910
9130 S. Dadeland Blvd.
Miami, FL 33156
305-670-9919

Associates

Bengt C. NYMAN

Vista Mediation, LLC
147 Blue Beard Dr.
N. Fort Myers, FL 33917
239-410-8001

Louis G. PAYOR

Precision Holdings of Brevard, Inc.
2395 S. Washington Ave.
Ste. 5
Titusville, FL 32780
321-225-3500

Julianne M. SULLIVAN

P.O. Box 188
Lady Lake, FL 32158

Affiliates

Heather K. BRANGWIN
Legal Aid Society of the OCBA
100 E. Robinson St.
Orlando, FL 32801
407-841-8310

Marcus A. CASTILLO
Haas & Castillo, P.A.
19321-C U.S. 19 N., Ste. 401
Clearwater, Florida 33764
727-535-4544

Michelle COYLE
Broussard & Cullen, P.A.
445 W. Colonial Dr.
Orlando, FL 32804
407-649-8717

Michelle GERENA
Broussard & Cullen, P.A.
445 W. Colonial Dr.
Orlando, FL 32804
407-649-8717

Ashley S. HEILMAN
Legal Aid Society of the OCBA
100 E. Robinson St.
Orlando, FL 32801
407-841-8310

Jennifer C. LULI
Legal Aid Society of the OCBA
100 E. Robinson St.
Orlando, FL 32801
407-841-8310

Alan S. LUNIN
*Alternative Dispute Resolution
Center of Central Florida*
37 N. Orange Ave., Ste. 500
Orlando, FL 32801-2459
321-251-6013

Patricia MOSHER
Broussard & Cullen, P.A.
445 W. Colonial Dr.
Orlando, FL 32804
407-649-8717

Diana WALLACE
Broussard & Cullen, P.A.
445 W. Colonial Dr.
Orlando, FL 32804
407-649-8717

Law Students

Luis E. CARLO
Eck, Collins, and Richardson, P.L.
924 W. Colonial Dr.
Orlando, FL 32804
407-373-7477

Elena I. CROSBY
Florida Hospital
2400 Bedford Rd.
Orlando, FL 32803
407-303-9597

Edward J. FORE
959 Fairway Dr.
Winter Park, FL 32789
407-421-2075

Cory C. GARONE
6430 Metrowest Blvd., #505
Orlando, FL 32835
321-305-9585

Randall B. ROSALES
668 N. Orange Ave., Apt. 2303
Orlando, FL 32801
469-585-3603

Ian P. SAUNDERS
1440 Lake Shadow Cir.
Unit 8208
Maitland, FL 32751
321-282-9624

Sharlene C. STANFORD
P.O. Box 585952
Orlando, FL 32858

Intellectual Property Law Committee: Lone Dissenter continued from page 38

Home Design Services, Inc. v. Green Horne Corp., No. 6:03CV425-ORL-22DAB, 2003 WL 21544165, at *2 (M.D. Fla. May 30, 2003) ("In the absence of a Certificate of Registration this Court lacks subject matter jurisdiction."); *John Alden Homes, Inc. v. Kangas*, 142 F. Supp. 2d 1338, 1340 (M.D. Fla. 2001) ("jurisdictional prerequisite").

⁷ ___ U.S. ___, 130 S.Ct. 1237 (2010).

⁸509 F.3d 116, 118 (2d Cir. 2007).

⁹*Literary Works*, 509 F.3d at 118–19.

¹⁰*Id.*

¹¹*Id.*

¹²*Id.*

¹³*Id.*

¹⁴*Id.* While statutory damages and attorneys' fees were unavailable to the unregistered copyright owners, they were not precluded from recovering actual damages. See 17 U.S.C. § 412. Actual damages, however, are difficult to determine and require plaintiffs to prove "with reasonable probability the existence of a causal connection between defendant's infringement and loss of anticipated revenue." 3 MELVILLE B. NIMMER & DAVID NIMMER, NIMMER ON COPYRIGHT § 14.02[A][1] (Neil P. Myers ed., Matthew Bender Publications 2008) (1963) [hereinafter "Nimmer"].

¹⁵*Literary Works*, 509 F.3d at 118–19.

¹⁶*Id.* at 125.

¹⁷*Id.* at 130 (Walker, J., dissenting).

¹⁸*Id.* at 128 (Walker, J., dissenting).

¹⁹H.R. REP. NO. 94-1476 (1976).

²⁰17 U.S.C. § 501(a) (2006).

²¹See, e.g., *Boisson v. Banian, Ltd.*, 273 F.3d 262 (2d Cir. 2001); Nimmer, *supra* note 13, § 13.01.

²²17 U.S.C. § 408(a) (2006).

²³*Literary Works*, 509 F.3d at 121–22 (majority opinion).

²⁴See *Muchnick*, 130 S. Ct. at 1243–44.

²⁵See, e.g., *U.S. v. Cotton*, 535 U.S. 625, 630 (2002) ("[The] concept of subject-matter jurisdiction . . . involves a court's power to hear a case, [and] can never be forfeited or waived."); *Finley v. U.S.*, 490 U.S. 545, 559 (1989) ("A party . . . may voluntarily submit to . . . jurisdiction over his person, but he cannot create subject-matter jurisdiction by waiver.")

²⁶Berne Convention for the Protection of Literary and Artistic Works, Mar. 1, 1989, 102 Stat. 2853, 828 U.N.T.S. 221, art. 5 § 2.

²⁷See 2 Nimmer, *supra* note 13, § 7.02.

²⁸See 2 RALPH E. LERNER & JUDITH BRESLER, ART LAW: THE GUIDE FOR COLLECTORS, INVESTORS, DEALERS & ARTISTS 1114 (Practicing Law Institute 3d ed. 2005) (1989).

²⁹See *id.*

³⁰See *supra*, note 6.

³¹*Muchnick*, 130 S. Ct. at 1247.

³²*Id.* at 1245 (quoting 17 U.S.C. § 411(a)).

³³546 U.S. 500 (2006).

³⁴*Muchnick*, 130 S. Ct. at 1244 (quoting *Arbaugh*, 546 U.S. at 515–516).

³⁵*Id.* at 1245.

³⁶*Id.* at 1249.

³⁷See *Habersham Plantation Corp. v. Art & Frame Direct, Inc.*, No. 10–61532–CIV., 2011 WL 4064087, at *1 (S.D. Fla. Sept. 13, 2011) ("[G]iven the Supreme Court's decision in *Muchnick*, the fact that the claims regarding unregistered copyrights have been fully litigated and are ready for trial, and the suggestion that the Copyright Office will resolve this issue in the next few days, the Court will deny the motion at this time."). But see *Marc Anthony Builders, Inc. v. Javic Properties, LLC*, No. 8:11–CV–00432–EAK–AEP, 2011 WL 2709882, at *3 (M.D. Fla., 2011) (interpreting § 411(a) as mandatory, dismissing infringement claim, and holding "plaintiff must obtain a certificate of registration or a denial before bringing suit").

³⁸See United States Copyright Office, *eCO Online System*, <http://www.copyright.gov/ecol> (last visited Dec. 9, 2011).

Gillmore



FORENSIC ACCOUNTANT
407.716.4795 GillmoreAccounting.com

100%

Congratulations to Members of the OCBA's 100% Club

Allen & Murphy, P.A.
 Allen, Norton & Blue, P.A.
 Amy E. Goodblatt, P.A.
 Anderson & Ferrin, Attorneys at Law, P.A.
 Anthony-Smith Law, P.A.
 Banker Lopez Gassler P.A.
 Benitez Law Group, P.L.
 Billings, Morgan & Boatwright, LLC
 Bodiford Law Group
 Bonus McCabe Law Firm
 Bull and Associates, P.A.
 Burr & Forman LLP
 Calandrino Law Firm, P.A.
 Carr Law Firm, P.A.
 Carsten & Ladan, P.A.
 Chaires, Brooderson & Guerrero, P.L.
 Cohen Battisti, Attorneys at Law
 Colling Gilbert Wright & Carter, LLC
 DeCiccio & Johnson
 Dellecker Wilson King McKenna Ruffier & Sos, LLP
 Dempsey & Associates
 Dewitt Law Firm, P.A.
 Diaz Law
 Earle & Smith Trial Attorneys
 Englert, Leite & Martin, P.L.
 Faddis & Faddis, P.A.
 Fishback, Dominick, Bennett, Stepter, Ardman,
 Ahlers & Langley, LLP
 Fisher, Rushmer, Werrenrath, Dickson, Talley & Dunlap, P.A.
 Frank Family Law Practice
 Giles & Robinson, P.A.
 Gregory S. Martin & Associates, P.A.
 Grossman & Grossman, P.A.
 Harris, Harris, Bauerle & Sharma
 Higley & Szabo, P.A.
 Hilyard, Bogan & Palmer, P.A.
 Hornsby Law
 Innes Law Firm
 James H. Monroe, P.A.
 Jill S. Schwartz & Associates, P.A.
 King, Blackwell, Downs & Zehnder, P.A.
 Kirkconnell, Lindsey, Snure, & Ponall, P.A.
 Korshak & Associates, P.A.
 Kosto & Rotella, P.A.
 Law Office of Frank P. Remsen, P.A.
 Law Offices of Blair T. Jackson, P.A.
 Law Offices of Neal T. McShane, P.A.
 Law Offices of Walter F. Benanati Credit Attorney, P.A.
 Legal Aid Society of the OCBA
 Lewis & Crichton, Attorneys at Law

Lynn B. Aust, P.L.
 Marcus & Myers, P.A.
 Marshall, Dennehey, Warner, Coleman & Goggin, P.A.
 McElyea & Barnard, P.A.
 McMichen, Cinami & Demps
 McMillen Law Firm, P.A.
 Men's Divorce Law Firm
 Michael R. Walsh, P.A.
 Mooney Colvin, P.L.
 Murrah, Doyle and Wigle, P.A.
 N. Diane Holmes, P.A.
 Neduchal & MaGee, P.A.
 Ossinsky & Cathcart, P.A.
 Page, Eichenblatt, Bernbaum & Bennett, P.A.
 Provencher & Simmons, P.A.
 Ringer Henry Buckley & Seacord, P.A.
 Rumberger, Kirk & Caldwell, P.A.
 Sawyer & Sawyer, PA
 SeifertMiller, LLC
 Southern Trial Counsel, PLC
 Stovash, Case & Tingley, P.A.
 Swann, Hadley, Stump, Dietrich & Spears, P.A.
 Tangel-Rodriguez & Associates
 The Aikin Family Law Group
 The Brennan Law Firm
 The Carlyle Appellate Law Firm
 The Draves Law Firm, P.A.
 The Elder Law Center of Kirson & Fuller
 The Llabona Law Group
 The Law Office of Frank A. Hamner, P.A.
 The Law Offices of Terry L. Bledsoe, P.A.
 The Law Offices of Trevett and Bonham, P.L.
 The Marks Law Firm, P.A.
 The McMahon Law Group, P.A.
 The Morsch Law Group
 The Rosenthal Law Firm, P.A.
 The Skambis Law Firm
 Troutman, Williams, Irvin, Green, Helms, Polich & Hemphill P.A.
 Vose Law Firm, LLC
 Warner + Warner, P.L.
 Weiss, Grunor & Weiss
 West, Green & Associates, P.L.
 Wicker, Smith, O'Hara, McCoy & Ford, P.A.
 Wieland, Hilado & DeLattre, P.A.
 William G. Osborne, P.A.
 Winderweedle, Haines, Ward & Woodman, P.A.
 Wolff, Hill, McFarlin & Herron, P.A.
 Wooten, Kimbrough and Normand, P.A.
 Yergey and Yergey, P.A.
 Young DeLoach, PLLC

Is your firm part of the 100% Club? Firms with two or more attorneys and 100% membership in the OCBA can belong! If you believe your firm is eligible, please call the Membership Department at 407-422-4551, ext. 225.

CLUB

CLASSIFIED ADS

To reply to BRIEFS box number, address as follows:
Briefs Reply Box # _____
c/o Orange County Bar Association,
P.O. Box 530085 • Orlando, FL 32853-0085

EMPLOYMENT

SMALL ESTABLISHED SOUTH-WEST ORLANDO LAW FIRM seeks an associate attorney. Ideal candidate will possess a minimum of 3-5 years experience in handling commercial litigation and real estate litigation matters as well as some background in business and/or real estate transactions. Please email resume to admin@dscohenlaw.com

AV RATED ORLANDO LAW FIRM, seeks attorneys, one with one to three years experience and one with five plus years experience for its commercial litigation practice, employment law experience helpful but not required. Creative incentive based compensation arrangements available. Reply in confidence to denise@bognmunns.com or fax to 407-578-2128.

ZIMMERMAN, KISER & SUTCLIFFE, an AV- rated law firm located in Orlando, seeks to expand its Commercial Litigation practice. Successful candidates will have superior academic credentials and very strong writing skills. Interested attorneys with up to 2 years of experience, please send resumes confidentially to Personnel Director, PO Box 3000, Orlando, FL 32802 or by email to lbearden@zkslawfirm.com. Visit our website at www.zkslawfirm.com.

SPECIALTY DEFENSE FIRM handling first party property/liability coverage issues and complex contractual/tort litigation seeks attorneys for its Maitland office. Insurance defense experience preferred. Fax/Mail resume to: Office Manager (407) 647-9966, The Rock Law Group, P.A., 1760 Fennell St., Maitland, Florida 32751

LEGAL ASSISTANT-DOWNTOWN ORLANDO: The Carr Law Firm, P.A. seeks a full-time Commercial Litigation/Personal Injury Legal Assistant (non-smokers only). Excellent organizational ability and computer skills (Client Profiles is a must and JURIS is helpful). Needed to work with busy partners with duties involving: filing/indexing, composing correspondence, e-filing pleadings, organizing discovery and scheduling. Applicant must be organized, detail-oriented, energetic and able to work well under pressure. Non-smokers only. Send resume to: mcarr@carlawpa.com.

BOGIN, MUNNS & MUNNS seeks of counsel attorneys: keep your own practice; we provide office, equipment, furniture, and receptionist; some referral work available for healthcare, international, securities, elder, social security, disability and veterans law, and other practice areas, with fee sharing arrangement. Send reply in confidence to bmm@bognmunns.com.

AV RATED ORLANDO LAW FIRM seeks attorneys in all practice areas with 200K book of business. Great opportunity to join growing, existing law firm. Send reply in confidence to reply box 701.

BOGIN, MUNNS & MUNNS, an AV rated law firm, with ten offices in Orlando and Central Florida, seeks experienced real estate attorney for real estate practice, including residential closing. Creative compensation arrangements available with great opportunity for growth and advancement. Send resume in confidence by fax to 407-578-2128 or email to bmm@bognmunns.com.

ATTORNEYS WITH 3 + YEARS of mergers, acquisitions, sales and corporate transactional experience wanted for Orlando and new Villages Offices of Bogin, Munns & Munns. Great opportunity to join dynamic firm. Send resume in confidence to reply box 701.

ESTATE PLANNING/PROBATE ATTORNEYS with 3 + years experience wanted for Melbourne, Orlando and new Villages Offices of Bogin, Munns & Munns. Great opportunity to join dynamic firm. Send resume in confidence to reply box 701.

EXPERIENCED COMMERCIAL LITIGATION PARALEGAL NEEDED for very busy downtown Orlando law firm with growing commercial litigation practice. Foreclosure, construction litigation, and title claims litigation experience is a plus. Must be able to draft some pleadings and have a pro-active attitude toward work assignments. Great work environment and competitive salary and benefits. Must be a Florida Registered Paralegal. Send resume in confidence to jholt@southmilhausen.com or via facsimile to (407) 539-2679

ALVAREZ, SAMBOL & WINTHROP, P.A. A Full Service AV rated firm has immediate openings for Commercial Litigation and General Liability Practice Groups. Successful candidates will have five to ten years experience. Portable business is a plus. Please forward resume in confidence to, Firm Administrator, Alvarez, Sambol & Winthrop, P.A., P.O. Box 3511, Orlando, Florida 32802 or email to hfr@aswpa.com.

"AV" RATED CIVIL LITIGATION FIRM seeking litigation attorneys for our Winter Park office. Minimum 5 years litigation experience. Strong advocacy skills required. We offer competitive salary, plus comprehensive benefits package. Send resume to: Hiring Partner, O'Connor & O'Connor LLC, 111 N. Orange Avenue, Suite 850, Orlando, FL 32801, pschnepp@oconlaw.com.

SPECIALTY DEFENSE FIRM handling first party property/liability coverage issues and complex contractual/tort litigation seeks attorneys with 3-5 and 5-10 years litigation experience for its Maitland office. Insurance defense experience preferred. Fax/Mail resume to: Office Manager (407) 647-9966, The Rock Law Group, P.A., 1760 Fennell St., Maitland, Florida 32751

OFFICE SPACE SHARED

SHARE NEWLY RENOVATED OFFICE DOWNTOWN Class A Bldg. - Covered Parking - Conference Room - All Facilities Included. Please contact Eddie Reiss at 407-447-5884 or emholdings@aol.com.

ATTORNEY OFFICE SPACE TO SHARE in Orlando. Approx 180 sq ft. Furnished office with secretarial area(s), conference & kitchen. Utilities included. Located close to Downtown Orlando. Monthly rent negotiable. For info call Mabel Silva (407) 422-1400.

HUNTERS CREEK AREA OFFICE SPACE: Luxury office space for space sharing in the heart of Hunters Creek

for one attorney. Shared reception area, conference room, kitchen, copier, fax and Internet included. \$950 per month. Contact Cindy at 407-462-1100 or cduque@duquelaw.com.

DOWNTOWN OFFICE SPACE: Luxury office space for space sharing across from courthouse for one attorney and separate, adjoining space for one staff. Garage parking, shared reception area, receptionist, conference room, library, kitchen, copier, fax and Internet included. 407-425-4044

OFFICE SPACE FOR SALE/RENT/LEASE

NEED A MOVE IN READY OFFICE without the long term commitment? We have furnished offices fully equipped with phone, fax, internet and more for one low monthly fee. Move In Ready Orlando Office Space Plan Includes: • 24 Hour Access to Your Furnished Private Office • Receptionist To Greet and Direct Your Clients • Access to Meeting Rooms • Utilities, Maintenance and Janitorial Service • Telephone Services • High Speed Internet Access • Daily Mail Delivery to your mailbox • Kitchen Access: Includes Daily Coffee, refrigerator, microwave use • Flexible Short Term Agreements • No One Time Connect Fees and Low \$400 Office Deposit • Space includes a cubicle for an assistant Price per month \$595.00 Please contact Sarah. 407-228-3838

NEED A MOVE IN READY OFFICE without the long term commitment? We have furnished offices fully equipped with phone, fax, internet and more for one low monthly fee. Move In Ready Orlando Office Space Plan Includes: • Access to our beautiful Meeting Rooms • 24/7 Hour Access to Your Furnished Private Office • Friendly Receptionist To Greet and Direct Your Clients • Daily Mail Delivery to your mailbox • Utilities, Maintenance and Janitorial Service • Telephone Services • High Speed Internet Access • Flexible Short Term Agreements • Kitchen Access: Includes Daily Coffee, refrigerator, microwave use • No One Time Connect Fees and Low \$300 Office Deposit • Two windows in Office • Your Space also includes a cubicle for an assistant Price per month \$725.00 Please contact Sarah. 407-228-3838

PROFESSIONAL SPACE AVAILABLE FOR LEASE at 1604 S. Bumby Avenue, Orlando, Florida 32806. Office is 384 square ft., fully tiled and well lit. Access to adjacent conference room. Excellent location close to downtown. \$750.00/month, 407-898-8015

OFFICE BUILDING/SPACE: MAITLAND AVENUE - Completely renovated three story historic house (circa 1920). Hardwood floors, porches, large offices and conference room, ample parking, monument signage on Maitland Avenue, available immediately. Please contact John Finnigan at 407-478-3700 or email John@Finniganlaw.com.

DOWNTOWN OFFICE SPACE FOR LEASE: 1-2 offices, 1 secretary built in work area, conference room, reception area, kitchen area, ample parking. Call 407-849-7072.

LOCAL OPHTHALMOLOGIST LOOKING TO LEASE fully furnished,

move-in ready, luxury downtown condo. 2 bedroom, 2 bath, with parking space. Perfect for new law associate. Available August 1, 2011. \$2400 monthly, 7 month minimum. This condo is directly lakefront with floor to ceiling windows and amazing panoramic views from your 14th floor balcony of Lake Eola, Thornton Park, and Disney. The building features 24 hour security, concierge, with pool and spa, 2 fitness centers, conference rooms, and cyber café. Walk to restaurants, grocery, shopping and more. Great downtown location convenient to everything. Contact Anne, 407-595-5716

EXECUTIVE SUITES - Starting at \$325/mo. Utilities/janitorial included. Call 407-422-4958.

FOR LEASE - Thornton Park/Colonial Town. 1200 S.F. Free standing building. Oak floors, French doors. 2 private offices, conference room, reception. Eat-in kitchen/beak room/storage. On site parking. Wheelchair ramp. Call REALTOR/owner 407-894-4077 and see web site: www.robinsonstreetoffice.com.

FERNCREAK PROFESSIONAL CENTER - FIRST MONTH FREE upon signing one year lease. Office space available just minutes away from downtown Orlando. Free parking and signage on busy road. Receptionist, conference rooms, phone system, fax machine, copier, high speed DSL, scanner, and other services provided. Call (407) 898-4848.

LAW OFFICE AVAILABLE: private, second floor suite, approximately 1000 square feet overlooking Lake Ivanhoe. Available immediately. Ample parking; contact: david@yergeylaw.com; 407-843-0430 office; 407-247-8756 cell. David Yergey, Jr. is an OCBA member

OFFICE SPACE IN DOWNTOWN ORLANDO. Fully Furnished Office includes: Bi-lingual Receptionist, Phone Service, Internet, Conference Rooms & Free Parking. Virtual office packages also available. Please call Ada Santos at 407-447-1919 for Details. www.bizhubclub.com

FURNISHED SUITES - near downtown, free-standing bldg w/ dedicated parking, includes phone, Internet, utilities, conf room, lobby area and secretarial space. Monthly lease. \$1000 - Call Becki at 407-481-2888. www.BumbyOffices.com

PROFESSIONAL SERVICES

U.S. BUSINESS IMMIGRATION.AV RATED. EB-5 Foreign Investors; Regional Center Projects Financed. Edward Beshara; 407-571-6878 ebeshara@besharapa.com

RETIRED CIVIL TRIAL ATTORNEY seeks part time work on hourly basis. AV-Rated 407-862-6674

ATTORNEYS PHOTOS SPECIALS - Now is the time to Update your professional bio Photos. Our exclusive Digital Slimming and Digital Make-up makes your new photo the best ever 407-240-4954 Orlandophotographer.com/attorneys

OCBA Calendar

FEBRUARY - MARCH

Jaime Piñero

Chair, Hispanic Heritage Scholarship Fund of Metro Orlando
Co-hosted by the Hispanic Bar Association of Central Florida

Wednesday, February 22, 2012
11:30 a.m.

The Ballroom at Church Street
RSVP by Thursday, February 16, 2012
reservations@ocbanet.org

February

- 1 Business Law Committee**
12:00 p.m. • Bar Center
- 7 ADR Committee**
12:00 p.m. • Bar Center
- 8 Lawyers Literary Society**
12:00 p.m. • Bar Center
- Estate, Guardianship & Trust Committee*
12:00 p.m. • Bar Center
- Executive Council Meeting*
4:30 p.m. • Bar Center
- 9 Social Security Committee**
12:00 p.m. • Bar Center
- Brown Bag Lunch with Judge J. Kest*
Trial Briefs
12:00 p.m. • Orange County Courthouse
23rd Flr. Judicial Conference Rm.
- 10 Workers' Compensation Committee**
11:45 a.m. • Smokey Bones
- Paralegal Section*
12:00 p.m. • Bar Center
- 15 YLS Luncheon**
11:45 a.m. • University Club
- Elder Law Committee*
12:00 p.m. • Bar Center
- Appellate Law Committee*
12:00 p.m. • Bar Center
- 17 Leadership Law**
8:30 a.m. • Bar Center
- Family Law Committee Seminar*
Get to Know Judge Higbee
12:00 p.m. • Orange County Courthouse
23rd Flr. Conference Rm.
- 21 Professionalism Committee**
12:00 p.m. • Bar Center
- Solo & Small Firm Committee Seminar*
Preservation of Error and Seeing the Forest for the Trees
12:00 p.m. • Bar Center

- 22 OCBA Luncheon**
Jaime Piñero
Chair, Hispanic Heritage Scholarship Fund of Metro Orlando
Director of National Inside Sales
CenturyLink
11:30 a.m. • The Ballroom at Church St.
- 24 Bankruptcy Law Committee**
12:00 p.m. • Bar Center
- Criminal Law Committee Seminar*
Federal Prosecution: When Local Prosecution Ends & Federal Prosecution Begins
12:00 p.m. • Bar Center
- 28 Tax Law Committee**
12:00 p.m. • Bar Center
- LAS Lunchtime Training* (GAL Topic)
GAL 101
12:00 p.m. • Comerica Bank
- 29 Labor & Employment Committee Seminar**
Contact Lauren Robertson • 407-647-8911
- Tax Law Committee*
12:00 p.m. • Bar Center
- Evening with the Judiciary*
5:30 p.m. • Winter Park Civic Center

March

- 1 Brown Bag Lunch with Judge J. Kest**
Working with JAs
12:00 p.m. • Orange County Courthouse
23rd Flr. Judicial Conference Rm.
- 6 ADR Committee**
12:00 p.m. • Bar Center
- 7 Business Law Committee**
12:00 p.m. • Bar Center
- 8 Social Security Committee**
12:00 p.m. • Bar Center
- 9 Workers' Compensation Committee**
11:45 a.m. • Smokey Bones
- 13 Intellectual Property**
12:00 p.m. • Bar Center
- LAS Lunchtime Training*
Down and Out in Orange County: Government Benefits for the Needy
12:00 p.m. • Comerica Bank
- 14 Estate, Guardianship & Trust Committee**
12:00 p.m. • Bar Center
- Lawyers Literary Society*
12:00 p.m. • Bar Center
- Judicial Relations Committee*
12:15 p.m. • Orange County Courthouse
21st Flr. Conference Rm.
- Executive Council Meeting*
4:30 p.m. • Bar Center
- 15 Technology Committee**
12:00 p.m. • Bar Center
- 16 Family Law Committee Seminar**
The Divorce Process as it Relates to Real Estate Trends
12:00 p.m. • Bar Center
- Leadership Law*
8:30 a.m. • Bar Center
- 20 Professionalism Committee**
12:00 p.m. • Bar Center
- Solo & Small Firm Seminar*
12:00 p.m. • Bar Center
- 21 Elder Law Committee**
12:00 p.m. • Bar Center
- YLS Luncheon*
11:45 a.m. • University Club
- 27 Tax Law Committee**
12:00 p.m. • Bar Center
- LAS Lunchtime Training* (GAL Topic)
Using Community Resources and Case Plan Services to Improve GAL Attorney Advocacy
12:00 p.m. • Comerica Bank
- 28 Appellate Law Committee**
12:00 p.m. • Bar Center
- 29 OCBA Bar Luncheon**
William B. Trickle, Jr. Professionalism Award Recipient
11:30 a.m. • The Ballroom at Church St.
- 30 Bankruptcy Law Committee**
12:00 p.m. • Bar Center
- Criminal Law Committee*
12:00 p.m. • Bar Center

Please check the OCBA website calendar for updates on events and seminars.

Marcia K.
LIPPINCOTT
ATTORNEY AT LAW

Your
APPELLATE PARTNER

Trial Consultation

Civil Appeals

Extraordinary Writs



- ≈ FLORIDA TREND'S "LEGAL ELITE"
– SELECTED FOR 2011
Top 2% of Florida attorneys as chosen by their peers
- ≈ THOMPSON REUTERS "FLORIDA
SUPERLAWYERS" – RECOGNIZED FOR 2011
Top 5% of Florida attorneys by peer review &
independent evaluation
- ≈ FLORIDA BAR CERTIFIED *in*
APPELLATE PRACTICE *since* 1994
- ≈ AV RATED MARTINDALE HUBBELL
since 1988
- ≈ BAR REGISTER *of* PREEMINENT
LAWYERS *since* 2004
- ≈ 30+ YEARS *of* APPELLATE EXPERIENCE

www.appellatepartner.com

407-688-2700 *Local* | 855-407-2700 *Toll Free*

Marcia K. Lippincott P.A. | P.O. Box 953693 | Lake Mary, Florida 32795



880 North Orange Avenue
Orlando, Florida 32801

PRSRT STD
U.S. POSTAGE
PAID
ORLANDO FL
PERMIT 2530

WE UNDERSTAND that when you refer us a case, everything we do reflects back on you. In choosing the Didier Law Firm to partner with you on your complex catastrophic injury cases, you – and your clients – will receive the attention, respect and experience you deserve.

WE ARE a trial firm dedicated to litigating serious auto accident, trucking accident and product liability cases. The vast majority of our co-counseled cases involve a traumatic brain or spinal cord injury, and we are dedicated to using our knowledge, resources and experience to obtain the best possible results for those who put their trust in us.



YOUR PARTNER IN COMPLEX LITIGATION

DIDIER LAW FIRM, P.A.

PRODUCT SAFETY ATTORNEYS



LinkedIn



We're committed to Your Referral Business.

Orlando | 1203 N. Orange Avenue | Orlando, FL 32804
Tampa | 1922 East 4th Avenue | Tampa, FL 33605-5214

Call **888.895.3401** or visit **ProductSafetyAttorneys.com**

