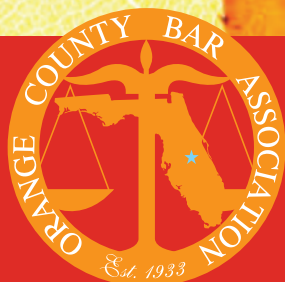


the Briefs

A Publication of the Orange County Bar Association



October 2011
Vol. 79 No. 10

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



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October 4

Temporary Custody of Minor Children Using Chapter 751 to Obtain Custody by a Family Member: The Advantages, Limits and Practical Issues

Speakers: William Davis, Attorney at Law
Catherine Tucker, Attorney at Law
CLE Applied for

October 18

Children's Developmental and Medical Issues and Services in Orange County (GAL topic)

Speaker: Ericka Garcia, Attorney at Law
CLE Applied for

November 1

Landlord Tenant Law Update

Speakers: Larri Thatcher, Attorney at Law
Michael Resnick, Attorney at Law
CLE Applied for

December 6

VAWA – Violence Against Women Act

Speaker: Charles Conroy, Attorney at Law
CLE Applied for

For OCBA members, the training is free. For non-OCBA members participating in the LAS *pro bono* program, the training is free. Pre-registration is required for the free lunch and requested for training (or subject to space availability if not pre-registered). For more information,

please email: ctucker@legalaidocba.org or
mcarbo@legalaidocba.org or merazmus@legalaidocba.org.

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For more information, please contact Cathy Tucker at
ctucker@legalaidocba.org;
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merazmus@legalaidocba.org.

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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.

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Cover photo: MorgueFile

ISSN 1947-3968



Thomas A. Zehnder

Mentoring – Our Duty as Professionals

As practitioners of our noble profession, we have many duties. Some are obvious. We all know, for example, that we have a duty to our clients to protect and to serve their interests. We know that we have a duty of candor to the court. And we know that we have a duty to uphold the rule of law. But I submit we have another equally important duty – the duty to mentor the next generation of professionals.

The Carnegie Foundation for the Advancement of Teaching has reported that while law schools teach our young people the analytical and advocacy skills designed to make them *think* like lawyers, they may not be adequately preparing students for how to *act* like lawyers. This “gap” in *true* legal education sometimes can result in a difficult transition from student to practitioner.

The potential pitfalls of the gap have perhaps never been greater. In today’s difficult economy, many young lawyers who once had jobs have lost them because of firm downsizing, and many law graduates who can’t find employment are striking out on their own. In some ways, this is an exciting development, as some of these upstart ventures may well become the leading law firms of tomorrow. But new lawyers out on their own can also sometimes make mistakes or missteps that could have been avoided if only those lawyers had guidance from their colleagues.

I recently read an article about the generation born after 1982. (*Man, that just made me feel really old!*) Known as “Millennials,” these young people are our new law school graduates. They have grown up in a totally different world than most of us and, in many ways, they are far more advanced than we are. Millennials represent a new breed of technology-based multi-taskers who thrive on the instant information-gathering power of the computer age. They all have typing and computer skills honed from the time they were children first learning to walk. In college and in law school, they all had laptops, and they all used them to search the Internet constantly for the latest breaking news. What an amazing group of young people with limitless potential.

But their generation, like all of us, has its challenges, too. According to the article, taken as a whole, Millennials’ primary, and perhaps *preferred*, form of communication is text messaging (not even e-mail, which is now passé). Face-to-face human interaction is no longer the standard; it’s been replaced by electronic texting pods and social media

websites. Simple things like looking someone in the eye when you are talking to them, or they to you, is fast becoming the exception, not the rule.

(Leigh and I were recently visited by our wonderful nieces, who are college students. We were all in our living room, each niece with her iPhone wildly texting away – including with each other – instead of talking. It was quite funny but, I must confess, a little sad.)

The trend toward technology-based human interaction, while fascinating, is somewhat troubling, especially when it comes to our profession. The Millennials article pointed out that many employers have become concerned about their new lawyers’ reliance on technology to communicate rather than having a face-to-face meeting, and about how often they give their attention first to their PDAs instead of to the matters at hand during a staff or client meeting. The article described how some managing partners are even concerned their new associates may be missing out on learning the subtleties of human interaction, like reading body language or facial expressions.

Whether these concerns turn out to be justified remains to be seen. There is certainly no reason to conclude that Millennials won’t make great lawyers. But the importance of mentoring to help ensure that young lawyers reach their full potential cannot be overstated. I have been very fortunate in my practice to have great mentors who have helped guide me. I still have much to learn (after all, we call this profession of ours *practicing law* for a reason, right?). Thankfully, my mentors still teach me every day. But many, especially younger lawyers out on their own, will not have that advantage. It is our duty to reach out to them, to help them, and to guide them. We must help them learn not only how to think like lawyers, but how to act like *professionals* who conduct themselves at all times with civility, with honesty, and with integrity.

(What a wonderful development, by the way, that our Florida Supreme Court recently amended the Oath of Attorney to include the words: “To opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications.”)

It has been my experience that truly practicing with professionalism often requires in-person in-

continued page 8



Suellen Fagin-Allen, JD, LMHC

Over-commitment, Stress and Professionalism: What to Do to Achieve Better Work-Life Balance

A timely issue. In the last month I have been asked to speak to three bar organizations on the subject of work-life balance. As a recovering overachiever, I have thought a great deal about the subject and have worked hard to overcome both the Imposter Syndrome and the Superachiever Syndrome. For those who are unfamiliar, sufferers of these so-called “syndromes” constantly feel “fake” and unqualified for the work they are doing and continuously push themselves to do more because they equate being busy with self-worth. They say they worry about what others think of them, but the real issue is about why they feel so bad about themselves.

For some, the self-judgment of “good enough” remains elusive throughout the working life, which leads, not surprisingly, to high stress, chronically low self-esteem, poor work performance, and low life satisfaction. I have yet to find perfect work-life balance. Fortunately, though, it is possible to recover from both the Imposter Syndrome and the Superachiever Syndrome through awareness, hard work, and patience with yourself.

The story of Lawyer X. A fellow lawyer has given me permission to share this true story with you. Lawyer X is intelligent, competent, and usually very reliable. However, X recently committed to a speaking engagement for a professional organization despite already being under a fair amount of stress from personal, family, work-related, and volunteer activities. Unaware of the personal toll the stress was taking, X calendared the event incorrectly and procrastinated on researching the relevant issues. At the appointed time, the event happened – but without X present. In learning of the mistake after the fact, X was embarrassed and remorseful – and with good reason – but X learned a valuable life lesson, realizing that the problem could have been avoided had awareness of the pressures from existing commitments been greater and the obligation not been undertaken in the first place. X resolved to be more mindful of the messages the body sends when under stress, eliminating or reducing unnecessary commitments, and learning to reevaluate priorities. With effort, X’s life is slowly getting back in balance.

Getting back on track. Perhaps you can see some of yourself in X or can recall a time when you over-committed and what happened. Fortunately, most of us don’t have to veer very far off

course before we realize the need to get back on track. Avoiding over-commitment and moving towards work-life balance is difficult, especially for those just starting out and trying to grow a practice. It can be done, however, once we understand why we take on more than we can handle and develop strategies to help us decide what we reasonably can, want to, and should undertake.

People often over-commit because they:

- Are enthusiastic about a variety of interesting projects and possibilities
- Underestimate the amount of time and effort a project will involve
- Overestimate their ability to multitask (hint: research in neuroscience suggests that our brains were **not** intended for multitasking!)
- Feel guilty about saying “no”
- Are continually driven forward by deficit thinking (e.g., “I’m not good enough,” or “I haven’t done enough yet”), or magical thinking (“Once I accomplish X, I will feel good about myself”)
- Are accomplishment-driven and define themselves in terms of meeting goals, rather than being in the process
- Believe no one will do as good a job as they will do
- Feel as though they have something to prove to the world
- Have difficulty prioritizing their commitments because they have not evaluated how meeting these obligations will help fulfill their life purpose

To help clarify your priorities, avoid over-commitment, and enhance work-life balance, try these steps:

- Write mission and vision statements for your life. What are you here for? What do you want to be remembered for at the end of your career by the people who matter?
- Decide what you value, then ask yourself whether and how what you are about to take on advances those values.
- Establish a hierarchy by which to rank your existing and planned commitments. Categories

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OCBA Luncheon Thursday, October 27, 2011



Scott G. Hawkins

Scott G. Hawkins **President of The Florida Bar, 2011-2012**

Scott G. Hawkins, president of The Florida Bar, is vice-chair of Jones, Foster, Johnston & Stubbs, P.A., in West Palm Beach and is Florida Bar Board Certified in Business Litigation. His clients include technology companies and major landowners. He is former president of the Palm Beach County Bar Association, and is admitted to the United States Supreme Court and all federal and state courts in Florida. An active alumnus at the University of Florida, Mr. Hawkins has held the positions of president of the International Alumni Association, president of the College of Law Alumni Council, member of the board of trustees of the College of Law, and board member of the University of Florida Foundation. Additionally, he is vice-chair of the Palm Beach Atlantic University Board of Trustees.

He is listed as a Corporate Counsel Super Lawyer by *Law & Politics Magazine*, one of the Top Lawyers in South Florida by the "South Florida Legal Guide," one of *Florida Trend* magazine's Legal Elite, and has been given the distinction of Bet-the-Company Litigator by *The Best Lawyers in America*.

Mr. Hawkins graduated with an honors B.S.B.A. and received his J.D. from the University of Florida. As a Rotary International Foundation Scholar, he received an M.B.A. from the University of Edinburgh, Scotland.

Mr. Hawkins and his wife live in Palm Beach Gardens. Their daughter, who is a graduate of the Sotheby's Institute of Art in London, lives and works in Denver.

The Ballroom at Church Street

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

225 S. Garland Avenue • Orlando, FL 32801

Co-hosted by the Legal Aid Society

Please RSVP to reservations@ocbanet.org
by Friday, October 21, 2011.

Main Entrance: Garland Avenue between
Church Street and South Street

To ensure a proper luncheon count, RSVPs and CANCELLATIONS are requested no later than Friday, October 21, 2011. 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!

White House Hispanic Policy Conference

The White House held a Hispanic Policy Conference at the Barry University Dwayne O. Andreas School of Law in Orlando on September 9-10 to connect senior administration officials from a wide array of policy areas with Hispanic leaders, small business owners, and local officials to discuss issues critical to the Hispanic community, the state of Florida, and the nation. More than 300 people attended the two-day conference, which was the first of a series that will take place across the country in the coming weeks and months.

The meetings in Orlando provided an opportunity for participants to interact with White House and Cabinet agency officials on important issues ranging from jobs and the economy, to education and health care, to fix-

ing the broken immigration system so that it meets our nation's 21st century economic and security needs.

"It was a privilege to host this summit, which provided a robust discussion between key policymakers and the community on the issues facing Hispanics and the entire nation," said Leticia Diaz, Dean of the Barry University School of Law. "It also was in line with our school's mission, commitment to social justice, and efforts to develop our students' awareness of the social, economic, political, and moral forces that shape the development of laws and the world around us."

Submitted by Alan Hancock, Media Relations and Marketing Manager, Barry University School of Law.



OCBA members Leticia M. Diaz, Dean of the Barry University School of Law (fourth from left), and Eric DuBois, President of the Barry Law School Alumni Chapter (third from left), with students at the White House Hispanic Policy Conference



Dean Leticia M. Diaz

Participating Administration Officials:

Francisco Sanchez, Under Secretary for International Trade, U.S. Department of Commerce

John Trasviña, Assistant Secretary for Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development

Teresa Niño, Director, Office of Public Engagement, Centers for Medicare and Medicaid Services

Lisa Pino, Deputy Administrator of the Supplemental Nutrition Assistance Program, U.S. Department of Agriculture

Esther Olavarria, Deputy Assistant Secretary for Policy, U.S. Department of Homeland Security

Stephanie Valencia, Deputy Director, White House Office of Public Engagement

Juan Sepúlveda, Executive Director, White House Initiative on Educational Excellence for Hispanics

José Rico, Deputy Director, White House Initiative on Educational Excellence for Hispanics

Jorge P. Silva-Puras, Regional Administrator, U.S. Small Business Administration

Shyam Reddy, Regional Administrator, U.S. General Services Administration

Juan Torres, Assistant Area Director, Florida Occupational Safety and Health Administration

Karen Stone, Assistant Area Director, Florida Occupational Safety and Health Administration

Editors' Note



February is the month of passion – so we've decided to take a look at the "arts" in hearts!

What's your passion? Do you play a musical instrument, sing with a group, or compose music? Have you acted in a play recently, or produced a film or script? Are you a fine or graphic artist? Are you a dancer or choreographer? If you're a photographer, has your work been published? Maybe you're a poet or novelist. Perhaps you're a culinary artist. Send us a couple of paragraphs about your participation in an artistic endeavor – along with photos and captions!

If your heart belongs to the law, send your ideas for substantive articles that explore the intersection of arts and the law or legal profession.

We're looking forward to bringing you an exciting **February 2012** issue, so contact us as soon as possible – but no later than November 1 – for publication consideration.

Allison McMillen, Co-editor
Suzanne Meehle, Co-editor
Nick Dancaescu, Associate Editor
Diana Serrano, Associate Editor

Peggy Storch, Communications Manager
peggy.s@ocbanet.org

(Article submission deadline for February 2012 issue: December 15, 2011)



CLE CREDITS ANYONE?



The Trial Lawyers Section of the Florida Bar is looking for attorneys to act as scoring jurors for the Chester Bedell Memorial Mock Trial Competition benefiting Florida Law Schools.

The Chester Bedell Memorial Mock Trial Competition is a long-standing program designed to assist in training law students to become better trial lawyers. Federal, Circuit and County Court Judges will preside over each session. Volunteers will serve on a panel of practicing attorneys who will score that round and provide feedback to the participants. Participating attorneys will receive CLE credits from the Florida Bar.

On behalf of the Trial Lawyers Section, your participation would be greatly appreciated.

When: Wednesday, January 25th – morning (8:00 am - 12:30 pm); or
Wednesday, January 25th – afternoon (2:00 pm - 6:30 pm); or
Thursday, January 26th – morning (8:00 am - 12:30 pm).

Where: The JW Marriott Grande Lakes, 4040 Central Florida Parkway, Orlando, 32837 in conjunction with the 2nd Annual Trial Lawyers Summit.

Sign up: Please call or e-mail Kimberly Maxson at (407) 571-2152 or kmaxson@anblaw.com to advise her of your availability to participate in one or more sessions.

President's Message

continued from page 3

teraction. Practicing law, like any other business, is based in part on relationships with others. Success can depend on having a strong relationship with your client – one that is founded on trust and confidence. It also certainly helps to have a good relationship with your opponent – one that, at the very least, is based on courtesy and mutual respect. In my experience, these relationships are best forged during face-to-face, or at least telephonic, interactions, not by e-mail or text message.

Fortunately, there are mentoring programs in place to help law school graduates learn how to become true professionals who develop lasting relationships with others. Georgia actually has a mandatory program, and Ohio's, while voluntary, is nationally renowned for its positive impact on its young professionals.

Although Florida has yet to adopt a formal mentoring program, I'm very proud to say

that the OCBA has taken up the charge. Founded by OCBA/YLS member **Kristopher J. Kest**, the OCBA's YLS-Law School Mentoring Program (www.ylsmentoring.org) is designed to provide young lawyers the guidance that they need and that they deserve. In only its second year, the YLS-Law School Mentoring Program now has over 120 mentors and mentees! A unique part of our program is the requirement that mentors and mentees complete and commit to a written mentoring plan that insists on *in-person* communication and contact, such as: attending OCBA or YLS luncheons or social events; attending client meetings, courtroom proceedings, depositions, and mediations; and meeting to discuss law office management and career issues. I'm also proud that our mentoring plan requires mentors and mentees to discuss professionalism, ethics, and the importance of *pro bono* service.

I thank Kristopher and his committee for their leadership and vision in developing the OCBA's YLS-Law School Mentoring Program. And I thank our members who are participating in the program, both as mentors and mentees. The practice of law has many challenges, especially in today's modern world. Together, through mentoring, we can make a difference and ensure that practicing with professionalism continues for generations to come.

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

Professionalism Committee

continued from page 4

could include Mandatory, Necessary, Highly Advisable, Desirable, Interesting, and Fun (hint – some fun is essential for balance!). It's good to have a mix from all categories, but when push comes to shove and you have run out of steam, go from top to bottom and defer what is deemed *unessential*.

- Realize you are not indispensable. Someone else with a similar skill set – and perhaps more time – can probably do as good a job as you can do.
- Back out gracefully as soon as you realize you have overcommitted. You will save face and can be more easily replaced.
- If you are consistently demanding too much of yourself, find out what core beliefs are driving you. Consider counseling to get to the root of the problem, help develop a more realistic self-appraisal, and establish more effective skills to cope with feelings of self-doubt.

Life lessons. It's often said that life teaches us lessons and that what we do not learn the first time around will come to us again and again until we "get it." My friend, "X", has encountered the over-commitment lesson before, but keeps working at ensuring that in the future, the problem does not recur.

You, too, can learn to recognize your true priorities, set reasonable expectations for yourself, and keep what you do in line with what you say you value. In turn, your stress level will become more manageable, you will feel more balanced, and your conduct will be more professional.

Suellen Fagin-Allen is an estate planning and mental health lawyer and a National Board Certified Licensed Mental Health Counselor with a private practice in Orlando. She has been a member of the OCBA since 2010.

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The Honorable Faye Allen

A Look at The George C. Young First Central Florida American Inn of Court

The First Central Florida American Inn of Court was chartered in 1990 and renamed The George C. Young First Central Florida American Inn of Court after Retired Federal Judge George C. Young. Judge Young embodied the principles of Thomas Jefferson, who believed that “judges should always be men of learning and experience in the laws, of exemplary morals, great patience, calmness, coolness and attention; their minds should not be distracted with jarring interests; they should not be dependent upon any man or body of men.”

The Inn recently began its 2011-2013 term under the direction of President Gary S. Salzman. Mr. Salzman, a shareholder with Gray Robinson, P.A. and member of the OCBA Executive Council, practices litigation, mediation, and arbitration. He is an active participant in the legal community and ranks highly in recognition of his accomplishments among his peers. In regard to the Inn’s great membership and programs, Mr. Salzman has remarked that we can “experience the advantages of networking, mentoring, and professional camaraderie, as well as receive CLE credit.”

The American Inns of Court consists of a unique group of legal bar organizations across the nation. Membership designations for the George C. Young Inn include Benchers, who are judges; Masters, who are experienced lawyers and law professors; Barristers, who are lawyers with some experience but who do not meet the minimum requirements for Masters; Associates, who are lawyers who do not meet the minimum requirement for Barristers; and Pupils, who are law students.

The purpose of each Inn is to improve the skills, professionalism, and ethics of the bench and bar. The George C. Young American Inn is one of the largest Inns of Court in the nation and consists of a number of distinguished federal and state judges, lawyers, and law students from both Barry and FAMU law schools. Inn members gather for a dinner meeting once each month for fellowship with other members and guests and participate in valuable programs presented by pupillage groups who present and discuss issues related to ethics, skills, and professionalism. The mode of group presentations can be varied, but they are all energetic and dynamic. Some recent presentations

have ranged from skits or vignettes prepared by group members to a lecture from distinguished guest speaker, Retired Professor Charles W. Ehhardt. Each pupillage group consists of Benchers, Masters, Barristers, Associates, and Pupils.

The George C. Young American Inn of Court is also very active in programs within the community. The Inn recently instituted a mentoring program under immediate past president Judge John Jordan. This initiative pairs more experienced members of the Inn with less experienced attorneys and law students. Also, members of the Inn participate in an anti-bullying campaign at Howard Middle School. We have co-hosted education programs in annual joint Inn meetings with the Seminole, Brevard, or Family Inns of Court, and we will hold our first-ever family and friends picnic on October 23, 2011, at Big Sand Lake in Orlando, Florida.

The Inn also presents two annual awards to deserving recipients. The Honorable James G. Glazebrook Award is given to an outstanding current or former Inn member (including lawyers and judges), whose combination of service to the Inn and professionalism and integrity in practice display a course of excellence. The Arnold “Arnie” W. Wilkerson Award honors an individual (excluding lawyers and judges) who works in the judicial system and displays the highest standards of character, integrity, and ongoing dedication to the judicial system.

Members of the George C. Young First Central Florida American Inn of Court enjoy the privileges of fellowship and camaraderie with other legal professionals in an inviting environment that focuses on legal excellence. For more information visit the Inn of Court website at <http://www.innsofcourt.org/inns/firstcentralflinn/>.

The Honorable Faye Allen, a County Judge in Orlando, Florida, serves as a Board Member and on the Reporting Committee of The George C. Young First Central Florida American Inn of Court.

The Orange County Bar Association's Professionalism, Criminal Law,
and Judicial Relations Committees Present:

LESSONS IN ETHICS AND PROFESSIONALISM FROM THE CASEY ANTHONY TRIAL

Thursday, October 27, 2011

1:30 p.m. – 4:15 p.m.

The Ballroom at Church Street

225 S. Garland Ave., Orlando, Florida 32801

Reception to follow • Cash bar, light hors d'oeuvres

Continuing Legal Education Credits: 3.0 Ethics (pending approval by The Florida Bar)

MASTER OF CEREMONIES:

Tad A. Yates, *Law Offices of Tad A. Yates, P.A.*

PANELISTS:

Jeffrey L. Ashton, *Former Assistant State Attorney, Prosecuting Attorney*

Linda Drane Burdick, *Assistant State Attorney, Prosecuting Attorney*

Frank George, *Assistant State Attorney, Prosecuting Attorney*

J. Cheney Mason, *J. Cheney Mason, P.A., Defense Attorney*

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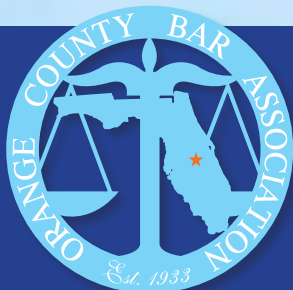
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OCBA members will have priority registration through Monday, October 17, 2011. Fee: \$50

Registration will be open to non-members, pending space availability. Fee: \$100

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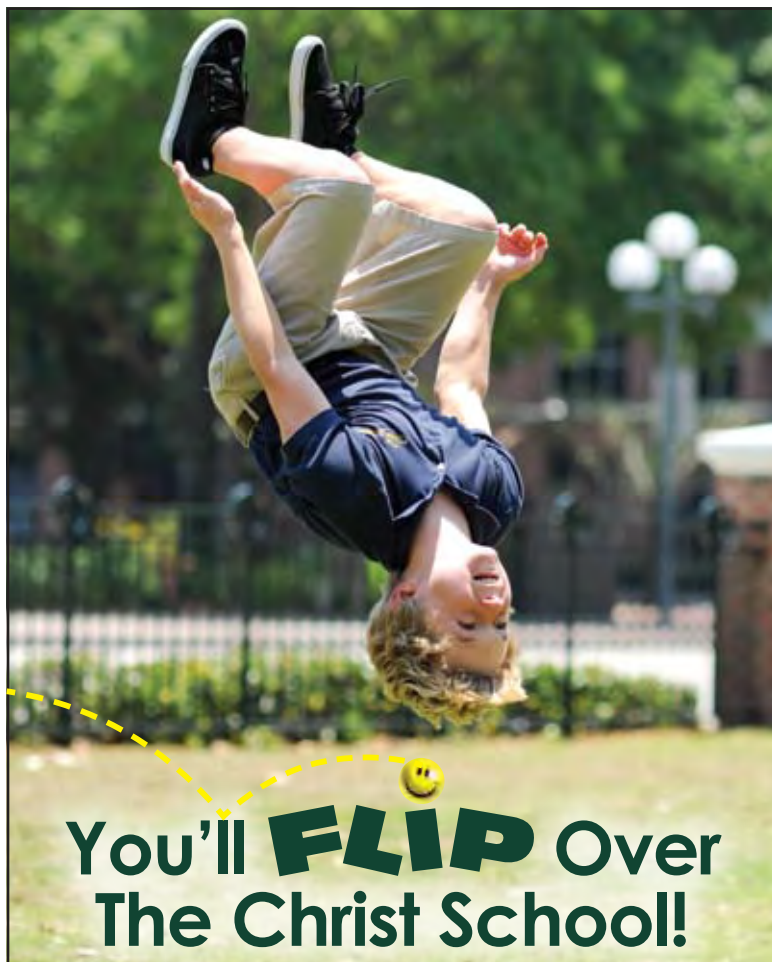


For registration to be valid, all registrants are required to submit payment with registration form.

Please use the registration form below, or see the OCBA website at www.orangecountybar.org

For additional information, please contact Marie West, Seminars/Events Manager, at mariew@ocbanet.org or 407-422-4551, ext. 233.

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Michael R. D'Lugo

Preservation of Error for Appeal

One of the banes of an appellate lawyer's existence is the scenario in which a trial judge has made a decision that is contrary to a well-established principle of law, but the trial lawyer against whom the decision has been made failed to raise an appropriate objection at the time. Sometimes a trial lawyer will make the tactical decision not to raise an objection so as not to appear obstructionist in front of a jury. But frequently, the lack of an objection is an oversight due to a failure to appreciate either the error itself, or the need to raise an appropriate objection at the time in order to preserve the issue for later appellate review.

The Appellate Practice Committee of the Orange County Bar Association will be producing a series of articles in the coming issues of *The Briefs* to provide the Orange County legal community with a refresher course on the importance of preserving error for appeal. Future articles will address specific topics such as pre-trial error, jury selection, opening statement, closing argument, admission of evidence, jury instructions, verdict forms, and juror misconduct. This first article will present a general overview of the importance of preservation of error for appeal for a Florida practitioner.

The most basic principle to bear in mind is that—with the very limited exception of fundamental error, which will be addressed below—when a trial judge makes a mistake (yes, it can happen), a timely and appropriate objection is required as a condition precedent to an appellate court considering whether that error constitutes a legitimate basis for reversal. Appellate courts will generally not consider an issue that is raised for the first time on appeal, because “the trial court can hardly be held in error for a ruling which it did not make.” *Coffman v. Kelly*, 256 So. 2d 79 (Fla. 1st DCA 1972). Allowing the losing party to raise matters for the first time on appeal “renders a mockery of the ‘finality’ concept in our system of justice” and substantially increases costs and judicial labor. *Dade County School Board v. Radio Station WQBA*, 731 So. 2d 638 (Fla. 1999). As the Fifth District Court of Appeal once noted, requiring timely correction of errors precludes a litigant from proceeding on a “heads I win; tails you lose,” basis. *Walt Disney World Company v. Althouse*, 427 So. 2d 1135 (Fla. 5th DCA 1983).

The lone exception to the general rule requiring a timely and appropriate objection as a condition precedent to appellate review is the doctrine of

fundamental error. Trial counsel should be very wary of relying on the concept of fundamental error as a basis to secure appellate review of an issue. The doctrine of fundamental error is subject to an extraordinarily high standard, and Florida's appellate courts are gradually moving away from the doctrine altogether.

Fundamental error is reversible even though it was not properly preserved because it is so egregious and pervasive and so affects the fairness of the proceedings that no objection is required. Fundamental error “goes to the foundation of the case or goes to the merits of the cause of action.” *Sanford v. Rubin*, 237 So. 2d 134 (Fla. 1970). Fundamental error occurs when the error is incapable of being corrected, no matter what the trial court or the opposing attorney says or does, resulting in a judgment that is fatally flawed. *Wagner v. Nottingham Association*, 464 So. 2d 166 (Fla. 3d DCA), *review denied*, 475 So. 2d 696 (Fla. 1985). Fundamental error reaches down into the validity of the trial itself to such an extent that the verdict could not have been reached without the assistance of the error. *Urbain v. State*, 714 So. 2d 411 (Fla. 1998).

Because this article and the series of articles to follow are premised on the importance of preserving error for appellate review, they will not dwell on the concept of fundamental error. The trial practitioner should be aware of the existence of this concept, but should not expect that the doctrine will be the white knight that salvages a case when a timely objection is not properly raised.

In order to preserve an issue for appellate review, several requirements must be met. The failure to raise a contemporaneous objection amounts to a waiver of the issue, so timeliness is essential. *Arena Parking, Inc. v. Lon Worth Crow Insurance Agency*, 768 So. 2d 1107 (Fla. 3d DCA 2000), *review denied*, 789 So. 2d 346 (Fla. 2001). The second requirement is that an objection must be specific enough to inform the trial court of the alleged error. *Schultz v. Schickedanz*, 884 So. 2d 422 (Fla. 4th DCA 2004). Even if there is a change in the law while a case is pending, the specific legal argument or ground must have been presented to the lower court in order to preserve the issue before appeal. *Tillman v. State*, 471 So. 2d 32 (Fla. 1985). The third requirement is that there must be a ruling by the trial court. In the absence of a ruling, there can be no appellate review because there is nothing to correct.

Finally, for an objection to be properly preserved for appellate review, it must appear in the record. There are numerous examples of appellate decisions affirming trial courts' rulings on the basis that there is no adequate transcript of the proceeding, so the appellate court is unable to perform its review function. In the absence of a transcript, the appellate court will assume either that no proper objection was made, or that the factual findings made by the trial court are correct and constitute competent substantial evidence to support the decision made. *Sibley v. Sibley*, 815 So. 2d 673 (Fla. 3d DCA), *review denied*, 833 So. 2d 774 (Fla. 2002); *Scotty's, Inc. v. Olivieri*, 713 So. 2d 1020 (Fla. 5th DCA 1998).

It is the appellant's responsibility to create the record on appeal that will form the basis of the appellate court's review. See Fla. R. App. P. 9.200(e). This is an important responsibility, because the decisions made regarding what goes into the record on appeal will dictate what the appellate court has available to it to consider when determining whether harmful error has occurred.

The appellant has ten days from the filing of the notice of appeal in which to submit directions to the clerk and a designation to the court reporter. See Fla. R. App. P. 9.200. These documents will instruct the clerk and the court reporter on what elements will be included in the record on appeal. See *id.* The appellee has ten additional days in which to direct or designate additional portions to add to the record. *Id.* The clerk and court reporter should have completed their tasks within fifty days of the filing of the notice of appeal. See Fla. R. App. P. 9.110(e), 9.200(b)(2).

With that said, the record on appeal can contain only material that was presented to the lower tribunal; an appellate court will not review evidence or testimony that was not considered at the trial court level. This is because appellate courts exist to perform a review function, overseeing what the trial court has done and rendering a decision as to whether the trial court's actions were correct or erroneous. The appellate court is not the venue for the presentation of new evidence, so make sure that everything that you intend to rely on at the appellate level has been submitted to the trial court.

There is an escape valve available to practitioners who fail to have a court reporter present at a hearing or a trial. Rule 9.200(b)(4) of the Florida Rules of Appellate Procedure provides that if no report of the proceedings was made, or if a transcript is unavailable, an appellant may prepare a statement of

continued page 26

Professionalism Award Nominations Sought

Outstanding Professionalism Deserves to be Recognized

The Orange County Bar Association is one of the most active in the country, and its members are shining examples of professionalism. It is always a pleasant but difficult task to identify who is among the "best of the best" when it comes to professionalism in our legal community. Each year, the OCBA Professionalism Committee and the Orange County Bar Association recognize extraordinary professionalism demonstrated by our more experienced or senior lawyers, more recently admitted lawyers, and judges by presenting awards named to honor those great professionals who are no longer with us, yet who still guide us: William Trickel, Jr. (attorneys practicing 15 years or more); Lawrence G. Mathews, Jr. (attorneys practicing less than 15 years); and Judge James G. Glazebrook (judiciary).

The recipients of these awards are announced and honored during an OCBA luncheon. Each award winner then shares his or her remarks during a bar luncheon, annual dinner meeting, or Young Lawyers Section meeting so that our members can learn more about their views, tips, and observations on how to practice with professionalism. Additionally, each of the award winners is asked to write an article for the *The Briefs*, so that all can benefit from their collective wisdom and practical examples.

Members of the Orange County Bar Association are asked to submit nominations for these awards by using the appropriate form(s), which can be found on the OCBA's website. You may submit supplemental information if you feel that it is appropriate. Please send your completed nomination form to Executive Director Brant Bitner at the OCBA by mail, fax, or email. Nominations will be open until Friday, December 9, 2011.

For more information, please call the OCBA office at 407-422-4551.



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Roger B. Handberg

New Florida Criminal Laws in 2011

This article will summarize four of the several laws that were passed during the most recent legislative session that may be of interest to criminal practitioners.

1. Pill Mill Bill. One of most closely watched issues in the 2011 legislative session involved pill mills. The bill that was passed by the Legislature and signed by the Governor makes several changes to Florida law. The following is an overview of four of those changes.

First, physicians are now prohibited, subject to certain exceptions, from dispensing any Schedule II or III controlled substance. Second, the Department of Health was directed to declare a public health emergency regarding controlled substance prescription drugs on July 1, 2011 (which it did). By July 3, 2011, the Department of Health was required to identify any dispensing practitioner who purchased, on average, more than 2,000 unit dosages of Schedule II and III controlled substances a month over the prior six months and to specify which of those practitioners posed the greatest risk to public health. The Florida Department of Law Enforcement is required to quarantine the inventory of Schedule II and III controlled substances for any practitioner determined to pose the greatest public health risk. Third, the time by which a pharmacy and dispensing practitioner must submit information to the Prescription Drug Monitoring Program database has been reduced from 15 days to 7 days. Fourth, new criminal penalties have been added and existing ones have been modified. For instance, it is now a first degree misdemeanor for a pharmacist or other pharmacy employee to fail to report to law enforcement, within 24 hours, any individual who obtained or attempted to obtain a controlled substance through fraudulent methods or representations. Theft of controlled substances is now a third degree felony, and failure to report such a theft is a first or second degree misdemeanor, depending on the controlled substance that is stolen. Burglary with intent to steal a controlled substance is now a second degree felony, and it is third degree felony to obtain, or provide, a medically unnecessary controlled substance by fraud, misrepresentation, or other deception.

2. Sexting by Minors. Over the past several years, individuals have faced potential child pornography charges for what is commonly referred to as "sexting." In 2007, an 18-year-old Florida man was sentenced to four years of probation and required to register as a sex offender for sending a nude photograph of his then 16-year-old girlfriend to her

friends and family after an argument. In Pennsylvania, a district attorney gave 17 students involved in distributing "provocative" photographs of themselves, or possessing those photographs on their cell phones, the option of either being prosecuted for a child pornography violation or participating in an afterschool program and probation. As noted by a Florida House Staff Analysis, "state legislatures have considered making laws that downgrade the charges for sexting from felonies to misdemeanors."

Starting on October 1, 2011, Florida will have a specific statute that defines the offense of "sexting" as committed by minors and that provides for penalties for minors who violate the statute. Under the new statute, minors are prohibited from (a) distributing or transmitting to another minor a photograph or video of another person which depicts nudity and is harmful to minors, or (b) possessing such a photograph or video received from another minor. The new statute provides a safe harbor from prosecution for a minor who did not solicit the photograph or video, who took reasonable steps to report the photograph or video to their legal guardian or school official, and who did not transmit or distribute the photograph or video. The first violation of the statute is a noncriminal violation, punishable by eight hours of community service or a \$60 fine. Additional violations are punishable as misdemeanors. Adults are not eligible for the reduced penalties provided for in the new statute and are still subject to prosecution pursuant to Florida's child pornography laws.

3. Open Display of Firearms in Self-Defense.

An individual who has a concealed firearms permit is now allowed to "briefly and openly display the firearm to the ordinary sight of another person, unless the firearm is intentionally displayed in an angry or threatening manner, not in necessary self-defense." Previously, it was unlawful for any person, including an individual with a concealed firearms permit, to openly carry a firearm.

4. Expansion of Eligibility for Treatment-based Drug Court Programs.

Prior to the 2011 legislative session, a court could permit individuals to participate in a post-adjudicatory drug court program if they were a nonviolent felony offender, were amenable to substance abuse treatment, and had 52 sentencing points or fewer. Individuals who had violated their probation or community control solely due to a failed or suspect drug test were also allowed to participate in the program.

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OCBA Past President &
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Richard S. Dellinger



The Honorable Faye Allen

Why Justice Teaching is Good for the Profession

"[W]henever the people are well informed, they can be trusted with their own government, that, whenever things get so far wrong as to attract their notice, they may be relied on to get them right." —Thomas Jefferson

The key to a representative democracy is informed participation by those who have a stake in the democracy. As long as the stakeholders participate in the debate, there is an avenue for their voices to be heard and for their interests to be addressed. If individuals are not informed of and do not participate in civic processes, they may lose faith in a system that does not properly represent them.

A well-rounded civics education, complemented by Justice Teaching, is necessary for the under-represented to become empowered and have their voices heard. In the Justice Teaching program, student-citizens learn from lawyers and judges who instruct and share ideas in the classroom setting. Students learn that our representative democracy has been designed to consider the interests, ideas, and concerns of all citizens when decisions that affect us all are being made. They learn that decisions are not and should not be based upon the interests only of those who have money to hire lobbyists or purchase access and influence. Students also learn that their responsibility is to participate in activities that promote a responsive and inclusive system of government. Justice Teaching helps students understand that they are included when they read about issues of public interest, understand the ideas and policies promoted by local, state, and national leaders and legislators, know how the judicial system works, and make their voices heard by voting, writing letters to the editors' of their newspapers, talking to the candidates, and more.

Lawyers and judges who volunteer for Justice Teaching, and programs like it, have a wonderful opportunity to educate others and transform lives. Justice Teaching helps to instill confidence in our court system and in the lawyers and judges who operate within it. Justice Teaching volunteers

have an opportunity to share information about public resources, such as the Legal Aid Society, for those who cannot afford or do not have access to counsel and those who enter the court system trying to represent themselves before a judiciary that is overloaded with cases, understaffed, and underfunded.

Individuals who have become disillusioned by the legal system might remember things that they learned from a lawyer or judge who came to their classroom and taught them about our democracy and how it works. Perhaps they will remember that they have rights and that lawyers and judges work to protect those rights.

The Justice Teaching Program is a statewide program that places lawyers and judges as teachers within classrooms throughout Florida. The program was started by Florida Supreme Court Justice R. Frederick Lewis and is successful because of those legal professionals who volunteer their time to share their knowledge. Many judges and lawyers in the Ninth Judicial Circuit are already volunteers in the Justice Teaching program. Training is required prior to volunteering as a part of this program. The time commitment is minimal, yet the rewards are great.

The Orange County Bar Foundation supports Justice Teaching and requests that all of you volunteer. Judge Faye Allen serves as the Justice Teaching liaison for the Ninth Judicial Circuit. For more information please see the Justice Teaching website at www.justiceteaching.org, or contact Judge Faye Allen at JusticeTeaching@ocnjcc.org.

Richard S. Dellinger, 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.

The Honorable Faye Allen is a County Judge in Orlando. She serves as the Justice Teaching Liaison for the Ninth Judicial Circuit. Judge Allen has been a member of the OCBA since 2003.



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LEGAL AID SOCIETY of the OCBA

The 4th Annual Breakfast of Champions

WEDNESDAY, NOVEMBER 9, 2011

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REGISTRATION: 7:30 A.M.

PROGRAM: 8:00 A.M. TO 9:00 A.M.

Save the Date

The primary purpose of the Legal Aid Society is to provide quality legal services for the low-income residents, the working poor, children, and disadvantaged groups with special legal needs in Orange County Florida, and to assist in providing legal aid services to similarly situated residents of neighboring counties through an effective and fiscally sound program through the combined efforts of staff and pro bono attorneys.

Please consider making a donation in the following amounts:

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If you would like to serve as a Table Captain or sponsor the event, please contact Donna Haynes, Director of Development, at dhaynes@legalaidocba.org.

As always, thank you for your continued work on behalf of our mission to ensure that equal access to justice is a reality for all, not just for those who can afford it.

The Breakfast of Champions team includes members of the Legal Aid Society Board of Trustees and the Legal Aid Society Development Committee, including Chris Pantano, Ana Tangel-Rodriguez, Glenn Adams, Wynne McFarlin, Arti Hirani, and Art Stresling.

To reach – and continue meeting – its service goals, the Legal Aid Society has undertaken a campaign to inform the community that the Legal Aid Society is *the* top-notch poverty law firm in Central Florida and worthy of community support. Soon you will see a series of television commercials funded by The Florida Bar Foundation and produced by Gary Yordon of Governance, Inc., that will lay the groundwork for educating the community about what Legal Aid is and what it does. Our purpose is to make sure that those of us who “have” – whether as individuals, community leaders, government agencies, small or mid-size business owners, or corporate decision makers – consider the Legal Aid Society a worthy beneficiary of financial support. Our media campaign will reach a diverse audience, and all are encouraged to donate. We need *your* help to do that!

Please volunteer to be a Table Captain for the upcoming Breakfast of Champions. Invite ten professionals to join you at your table. Encourage them to *really* listen to the stories of individuals and families whose lives have been touched, even transformed, by the work of the Legal Aid Society. Let your guests know that they will be asked to make an individual or corporate contribution.

If you are unable to be a Table Captain, reach out to your friends and colleagues, and ask them to sponsor this event. The sponsorship levels are listed above, and sponsors will be recognized in *The Briefs* magazine, at the Breakfast of Champions, and on the Legal Aid website. Maybe more important, attendees will be recognized among their peers as champions of what is good and right in our society.

We ask attorneys who are unable to attend the event to consider making a personal donation equivalent to at least two hours of their current hourly rate. Donations will help Legal Aid continue to save homes, protect those who have been abused, and prevent the destruction of families. To make your contribution, go to the Legal Aid Society’s homepage at www.legalaidocba.org, scroll down to last paragraph and click the word “public,” which will take you to the contribution page. Scroll down and select “2011 Breakfast of Champions” to make a donation.

For more information, please contact Donna Haynes, Development Manager, at 407-841-8310, ext. 3150, or dhaynes@legalaidocba.org.

Saving Extra Special Kids

Transitioning out of foster care is tough on most foster children. It is even more difficult for Johnny, who, at 17, is ready to “age out.” That is because Johnny has an intellectual disability and faces challenges other foster children do not encounter.

Providing Johnny with stability during his time in foster care was challenging because he was often characterized as having “behavior issues.” As a result, he bounced around as caretakers decided they could not handle his “rebellious” behavior. The foster care system eventually realized that Johnny had an intellectual disability that prevented him from understanding how to act in age-appropriate ways and take care of himself the way another child might. Ultimately, the Legal Aid Society was successful in securing services for him from the Agency for Persons with Disabilities (APD).

Although APD proved to be a good starting point, Johnny needed more services than APD could offer. Like all children, he needed a stable home and school environment that would allow him to feel safe and succeed. The Legal Aid Society’s Guardian ad Litem (GAL) program worked to secure an appropriate placement for him, for as long as he needs it, even if he decides to stay there well after aging out of foster care. It is a home in which trained personnel know how to meet Johnny’s particular needs.

The new home also meant a new school. By ensuring he received the necessary testing, Johnny was placed in the correct special education program, where he receives appropriate services. As a result, he has received the Student of the Week award three times since last fall.

In addition to his scholastic achievements, Johnny also wanted to participate in extracurricular activities. He especially enjoys playing sports and badly wanted to join the YMCA like other youth in his home. Joining the YMCA would provide him with another set of friends and an appropriate outlet for his frustrations, as well as improve his physical and mental health. A local law firm that sponsors GAL kids at Christmas helped Johnny’s wishes come true. One Christmas morning, Johnny opened his present and not only found the gym clothes he needed, but also found a one-year membership to the YMCA. According to the group home staff, Johnny has never been happier than he is now, now that he belongs to the YMCA. Our supporters in the legal community understand how important it is for children like Johnny to have the opportunity simply to be kids.

In 2009, Legal Aid added a dedicated attorney position to properly advocate for developmentally disabled children in dependency cases. Through the Equal Justice Works (EJW) program, and sponsored by The Florida Bar Foundation and Greenberg Traurig, Ericka Garcia joined the GAL team as a Fellow. During her two-year fellowship, Ericka helped many GAL children who have developmental disabilities such as autism, Down syndrome, spina bifida, cerebral palsy, intellectual disabilities, and Prader-Willi syndrome. As a Fellow, Ericka investigated the issues unique to this population and began handling increasingly complex cases in order to de-

velop the expertise needed to create a plan that would systemically address the issues these youth face. She also supported Legal Aid’s *pro bono* GALs by providing advice to or directly assisting them with the developmental disability aspects of their GAL cases.

The EJW fellowship ended in late August. Over the course of two years, Ericka worked with more than 130 children who were either in foster care or with relatives. She continues to provide guidance and assistance for children who were reunited with their parents. In addition, she has secured public benefits from Social Security and applied for APD services on their behalf. If services are denied, Ericka is available to handle any appeals stemming from Medicaid or APD.

APD provides an array of services for people with developmental disabilities. Although there are approximately 20,000 individuals on the waiting list, it is imperative that children with developmental disabilities get on the list so that if a crisis situation occurs, they can begin receiving services immediately. On the legislative front, Legal Aid successfully changed language in the Administrative Rule dealing with how the waiting list criteria are determined so that foster youth continue to receive priority.

Even though her fellowship has ended, Ericka is continuing her work as the GAL Developmental Disabilities Attorney through the generous support of the Dr. Phillips Foundation. Dr. Phillips Charities awarded the Legal Aid Society a grant for the “Saving Extra Special Kids” project, which started in September. Ericka is focusing on systemic advocacy so that all children in the dependency system are identified and, if needed, will receive targeted therapeutic or medical services or services that are provided through the school system. She is specifically focusing on identifying children who should be evaluated, ensuring the evaluations are completed in a timely fashion, making sure the specialized services are implemented, and tracking the children’s progress. Setting systems in place is essential in order to prevent children from falling through the cracks.

Johnny didn’t fall through the cracks. His future looks bright: He has a stable home and is receiving services from APD, making progress in school, volunteering through his group home, and interacting with others at the YMCA. Despite all the odds stacked against him, Johnny is making it in his world.

If you would like assistance from Ericka, please contact the Guardian ad Litem Program at 407-841-8310 x 3176.

Submitted by the Legal Aid Society.



Ericka S. Garcia

Katharine H. Ballingrud

The Ever-changing Offer of Judgment Requirements

In a recent decision, the Fifth District Court of Appeal held that a litigant may not make a valid offer of judgment directed to claims for both monetary and non-monetary relief.

The decision, *Winter Park Imports v. JM Family Enterprises*, 66 So. 3d 336 (5th DCA 2011), effectively prevents a litigant from obtaining an award of attorney's fees pursuant to an offer of judgment if the opposing party has brought causes of action pursuant to a statute which permits both a judgment for damages and equitable relief such as an injunction. The decision is a trap for the unwary litigator who serves an otherwise valid offer of judgment meeting all the requirements of the statute, Fla. Stat. § 768.79, and the rule, Fla. R. Civ. P. 1.442.

In *Winter Park Imports*, the plaintiff brought an action against the defendants pursuant to the Florida Motor Vehicle Dealer Act, §§ 320.60-70, which permits claims for damages and for injunctive relief. The plaintiff's claims for damages pursuant to § 320.697 and injunctive relief pursuant to § 320.695 were stated in separate counts.

During the course of the litigation, the defendants served what they believed were valid offers of judgment. They offered the plaintiff money in return for dismissal of all claims. The plaintiff rejected the offers. After the trial court granted summary judgment in favor of the defendants, the defendants filed motions for attorneys' fees based on the rejection of the offers of judgment. The trial court denied the motions for attorneys' fees, and the Fifth District affirmed.

The appellate court noted that in order to determine whether a party should be entitled to attorneys' fees, the court must compare the monetary amount offered against the monetary judgment ultimately obtained in order to determine whether the party has successfully "beaten" an offer so as to be entitled to an award of fees. An award of attorneys' fees pursuant to § 768.79 is a sanction against the rejecting party for refusal to accept what is presumed to be a reasonable offer. In this litigation, the plaintiff obtained no relief on either the damage or the injunction claims. Nevertheless, the court held that § 768.79 on its face only applies to "civil actions for damages" and thus cannot apply to any non-monetary claims.

The court analyzed § 768.79 and determined that it does not authorize a party to serve an offer of judgment when it is directed to a claim for which both monetary and injunctive remedies are being

sought. It noted that a party may not avail itself of the statute where a claim is seeking non-monetary relief only. Furthermore, compliance with Rule 1.442 does not in and of itself create a right to an award of fees. The right to fees exists solely if § 768.79 applies and it only applies to claims seeking money damages.

The *Winter Park Imports* court relied on the Fourth District Court of Appeal's decision in *Palm Beach Polo Holdings, Inc. v. Equestrian Club Estates Property Owners Association*, 22 So. 3d 140 (Fla. 4th DCA 2009). That court reviewed a complaint containing two independent claims which "could be characterized only as an action for both damages and nonmonetary, declaratory relief." *Id.* at 143. "Strict construction of the statute leads to the conclusion that when an action seeks non-monetary relief, such as a pure declaration of rights or injunctive relief, then the fact that it also seeks damages does not bring it within the offer of judgment statute." *Id.* at 144.

Based on the *Winter Park Imports* decision, parties who have made offers of judgment or demands for settlement in pending cases based on claims which seek both money judgments and non-monetary relief may want to consider whether the offers are valid. Unless the case is set for trial within 45 days, the offers can be revised and reserved. Fla. R. Civ. P. 1.442(a).

The court in *Winter Park Imports* left the door open to consider whether such an offer or demand directed only to the monetary claims without the requirement of dismissal of the injunction claims would be valid. However, in practice, few litigants would want to make such an offer. An offer to resolve only the claims for damages merely allows the opposing party to accept the offer and then use the money to fund the continued litigation of the equitable claims. Thus, the practical effect of the *Winter Park Imports* decision may be to prohibit offers of judgment in cases in which the opposing party has brought claims pursuant to a statute which permits both forms of relief.

The court however did not consider whether monetary and equitable claims which do not stem from a single statute – such as a complaint which contains both a common law claim for breach of contract along with a claim seeking an injunction to enforce a covenant not to compete pursuant to § 542.335 – would result in the same outcome. However, there is nothing in the court's analysis

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August 24, 2011

Ms. Mary Anne De Petrillo
Attorney at Law
Executive Director
Legal Aid Society of the Orange County Bar Association, Inc.
100 East Robinson Street
Orlando, Florida 32801

Dear Ms. De Petrillo:

I inform you with great pleasure that the Legal Aid Society of the Orange County Bar Association has been chosen from a jury of peers as the recipient of the first annual St. Martin de Porres Award. St. Martin de Porres, a patron saint of social justice, devoted his life to the corporal works of mercy through the care of the sick and injured to the selfless service of others. The St. Martin de Porres Award is given to an organization which demonstrates a "profound love that comes from pure faith and humility of spirit." This award does not distinguish profession and is offered in recognition of an organization's work to:

- *promotes understanding and respect*
- *extends friendship to all*
- *works and prays for peace*
- *enhances daily living through education, prayer, fellowship, and example*
- *reaches out and embraces all cultures within [the] local community*

The St. Martin de Porres Award will be presented following the celebration of the Red Mass on Thursday, November 3 in St. James Cathedral in downtown Orlando. The Liturgy will begin at 5:30 p.m. I hope you and other members of the Legal Aid Society of the Orange County Bar Association will join me on November 3.

I look forward to presenting this distinguished award to you.

Sincerely yours in Christ,

Most Reverend John Noonan
Bishop of Orlando

cc: Thomas Equels
Brian Bennett

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Phone 407-246-4815 • Fax 407-246-4817 • jnoonan@orlandodiocese.org • www.orlandodiocese.org



Kimberly A. Homer

The OCBA Foreclosure Mediation Program Celebrates its One-year Anniversary – What We’ve Learned

When I was approached about writing an article for *The Briefs* to bring members up to date on the Residential Mortgage Foreclosure Mediation (RMFM) program as we marked our first anniversary, I thought I’d simply say, “Whew, we made it!” In late May 2010, when I was hired as program director, I knew that creating a completely new program – one that the bar had been asked to undertake by Ninth Judicial Circuit Chief Judge Belvin Perry, Jr. – was a formidable project, but I didn’t know exactly how complex it would be until I began examining the Administrative Order (No. 2010-11-02) that laid the legal foundation upon which the program would operate. Within a few days, I knew that putting together the operational infrastructure would take time. I had six weeks to make the July 2, 2010 start date. Yes, it was daunting!

This first year has been a wild ride. The RMFM staff, which now consists of four paralegals and three legal support professionals, and I have experienced multiple challenges as well as many successes. From the date of our first mediation – which is the date by which we are marking our anniversary – I have become increasingly pleased with the changes we’ve implemented that have brought us to a record-setting number of 109 scheduled mediations in September of this year. To many people, that may not seem like a lot, but to those of us who have been “working the program,” 109 is a phenomenal success, given the multi-layered process we undertake to bring homeowners and lenders to the table. The RMFM program staff contacts borrowers and lenders, explains the program’s benefits, guides homeowners through the program’s financial counseling component, manages document exchange between borrowers and lenders, and schedules mediations.

So, what have we learned during this first year?

We have learned to be very creative in our approach to getting homeowners’ attention. The challenge of reaching homeowners was apparent

right from the beginning. Homeowners often ignored RMFM staff calls and mailings even though we displayed the OCBA logo prominently on mailings and emphasized that the RMFM program was court-approved. Despite mailing homeowners three successive letters, people who eventually responded often told us that they ignored the first couple of letters. In an effort to stand out from the barrage of junk mail, we started sending Priority Mail envelopes to non-responsive homeowners. We also implemented more aggressive skip-tracing methods via various resources to track homeowners and let them know about their options with the program. Our system-wide improvements have resulted in dramatic increases in borrower response rates during the course of the program’s first year.

We have learned that listening to the needs of and connecting with the program’s various constituents is critical to our success. We worked to streamline our communication with the plaintiff firms that represent lenders. We developed

personal business relationships that allowed us to facilitate document exchange, share appropriate information about the parties, and schedule mediations efficiently and in a timely manner.

We have learned that teamwork has made the program stronger and more successful. Working with program managers and voluntary bars serving as program managers from throughout Florida has offered us opportunities to discuss common problems and share ideas, possible solutions, and resources. Within a few months of the program’s start up, the OCBA’s RMFM program hosted summits and collaborated with other program managers to implement improved practices statewide.

We have learned about ways to more effectively reach members of the community. Spreading the word was a challenge! In early 2011, the RMFM pumped up its education outreach efforts. The program staff and I have spoken at numerous public events and participated in training mediators and foreclosure counselors. The OCBA’s RMFM



Nick Shannin, Frank Bedell, Kim Homer, RMFM program director, Tom Zehnder, with RMFM staff

team has distributed brochures, flyers, and posters extensively, particularly targeting community centers, senior centers, faith-based organizations, libraries, the courthouse, and expos and other public venues.

We have learned from our participant surveys that 90% of those who participate in our foreclosure mediation program think that mediation is a good way to resolve foreclosure cases. We often see our mediation table as the starting point to resolving a case. Mediation may not always be the site of a final settlement, but we hear over and over again that the parties are still working to resolve the case.

We have learned that even though some homeowners may not reach the resolution they want in mediation, they feel empowered early in the process by having completed the financial component and having an in-depth view of their financial situation and the options available to them. Every



Nick Shannin, Tom Zehnder, Kim Homer

day we talk to homeowners who enter the RMFM program frustrated (or sometimes hopeless) who appreciate our attention to detail and the professionalism and respect we show them.

We have learned that even in this day of technological short cuts, a surprising number of homeowners hand deliver their financial documents for mediation to the OCBA, rather than emailing or faxing them. Homeowners in our RMFM program appreciate that they can speak with someone face-to-face and call and talk directly to a trained professional without climbing a “phone tree” first. By the time homeowners get to us, they are usually exasperated and often need some handholding to get all the way through the process to the mediation session.

We have learned that the vast majority of homeowners in the RMFM program are *pro se* and navigate their foreclosure without assistance of counsel. We consider this

fact in every phase of our program, working to make sure our materials are easy to understand and written in several languages, and making extra efforts to inform qualified homeowners of their option to participate.

We have learned that since we are not a party to the case, we have to work a little harder to find out what is going on with the cases. For example, we don’t always know when new defense counsel appears on a case; it can be at any time, and it is most often during our borrower contact time period, when the case is already moving through our pipeline toward mediation. To address this challenge, we systematically scan the clerk’s office website to look for defense attorneys before our contact time expires, and we directly contact defense attorneys to see whether their client wishes to participate.

We have learned that good mediators are worth their weight in gold because they are familiar with foreclosure law, the courts, and the very technical requirements under our governing administrative order. We have watched as our mediators handled sticky and emotionally charged situations with grace and skill, calming frayed nerves and minimizing tension between the parties.

Some things we did not need to learn!

We knew that the court and courthouse personnel were – and will continue to be – tremendously supportive by providing staff offices and mediation space, among many other things.

We knew that the Clerk of Court’s office was – and will continue to be – a valuable

resource for providing us statistics. We rely heavily upon their public access website and the property tax appraiser’s website for much of the information we need in order to reach the members of our community who are facing foreclosure.

We knew that the City of Orlando championed our community education outreach efforts and did – and will continue to – open many doors by providing points of contact and community resources.

We knew that the OCBA was – and will continue to be – a great organiza-

tion and one with which the RMFM program is proud to be associated. The leaders and members of the OCBA have been an invaluable resource for the RMFM, giving us advice and assistance in every step of implementing and operating this complex and ever-changing program.

All that said, we don’t plan to slow down. We’ll keep making personal telephone calls so homeowners can speak with a real, live person, we’ll continue our community outreach efforts, and we’ll always be seeking ways to improve our program.

Kimberly A. Homer, RMFM program director, is an attorney licensed to practice in Florida, Alabama, and Georgia. She has been a member of the OCBA since 2010.



Parenting Coordination



Speakers:

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- Rosemary Fansher, M.A.
- The Honorable Alice Blackwell

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Appellate Practice Committee
continued from page 15

the evidence or proceedings “from the best available means, including the appellant’s recollection.” The proposed statement is served on the appellee, who has ten days from the date of service in which to object to the proposal. *Id.* The statement and any objections to it are then submitted to the lower tribunal for settlement and approval. *Id.* Once settled and approved by the trial court, the statement is to be included by the clerk of the lower tribunal in the record on appeal. *Id.* Although not ideal, this rule of appellate procedure allows for the creation of a record on appeal when none otherwise exists. However, as with fundamental error, a practitioner certainly should not rely on this fallback position, as it is always the better practice to have a court reporter present in order to transcribe all proceedings to create the record on appeal.

One issue that continually presents itself to the appellate practitioner—and which is a constant source of confusion and irritation—is the reluctance of court reporters to transcribe trial proceedings when a videotape or audiotape is played for the jury. Always have the court reporter transcribe the proceedings as if the testimony were being elicited live at trial. The failure to do so, combined with the failure to submit a transcript of the videotaped or audiotaped proceedings, could result in the rejection of an issue on appeal based upon the failure of the party to present an adequate record to support the issue raised. *Castaneda v. Redlands Christian Migrant Association, Inc.*, 884 So. 2d 1087 (Fla. 4th DCA 2004).

Being aware of the general requirements for the preservation of error will help the trial practitioner to create an appropriate record that will allow the appellate court to perform

its review function. Raising timely and specific objections will also give the appellate practitioner all of the tools needed to present the issues on appeal in the best possible light, without concern that a particular issue has been waived. The failure to raise an appropriate objection at the trial court level can mean the difference between success and failure on your client’s behalf. Therefore, it is absolutely essential that the trial lawyer be aware of all of the elements necessary to preserve an issue for appellate review. The next articles in this series will address specific portions of the litigation process and what needs to be done in order to turn a trial court’s error into a successful appeal.

Michael R. D’Lugo is a partner with Wicker, Smith, O’Hara, McCoy & Ford, P.A. He has been a member of the OCBA since 1995.



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Sunny Lim Hillary

Let's see what some voluntary bar associations have been up to and have coming up!

CFAWL

On September 15, 2011, the Central Florida Association for Women Lawyers hosted its annual **New Members Reception** at the law firm of Dean Mead. Members and their guests mixed and mingled while meeting new CFAWL members. Thank you to **Suzanne Meehle** for spearheading such a successful event.

You don't want to miss CFAWL's next event, **Fall Into Fashion**, at Terrace 390 on Thursday, October 6, 2011, from 5:30 p.m. to 8:00 p.m. Co-chairs, **Kim Hosley** at khosley@seippflick.com, **Conti Moore** at cmoore@hawmlaw.com, and **Amanda Green** at amanda.green@cityoforlando.net, have organized a fun-filled night. The proceeds raised will benefit CFAWL's inaugural scholarship, which will be awarded to a 3L law school student in need, as well as A Place for Children, a free child care center at the Orange County Courthouse open to the public attending to business there, including jurors. Everyone is invited to this event, including non-CFAWL members and non-lawyers! For more information, please contact any of the co-chairs.

GOAABA

On September 13, 2011, members of Greater Orlando Asian American Bar Association and the Central Florida Gay & Lesbian Law Association (**CFGLLA**) and their guests enjoyed fast, fresh food from the "**Food Truck Cafe**" at the Law Offices of Bailey, Zoebel & Pilcher! Thank you to SunTrust Wealth Management for sponsoring this mixer, which was a memorable event for everyone!

Coming up soon, on November 4, 2011, at 6:00 p.m., everyone, including GOAABA non-members and non-lawyers, are invited to a

picnic and a movie at **Leu Gardens Date Night**. If it rains on November 4, then we will head for popcorn and a movie at **Winter Park's Popcorn Flicks** on November 10, 2011, at 7:00 p.m.! On December 3, 2011, at 8:00 a.m., GOAABA will be attending the annual **Winter Park Pancake Breakfast and Parade** – everyone is invited to bring their families and friends to this festive morning, where we will see Santa Claus come to town!

For more information on any of these events, please contact social chair **Donna Hung**, at donna@donnahunglaw.com.

HBACF

Made possible by a grant awarded to the Hispanic Bar Association of Central Florida by The Florida Bar Foundation's Voluntary Bar Association Community Service Grant Program, on July 7, 2011, the HBACF presented six students with a scholarship to attend Osceola County's summer enrichment program. The scholarships are part of a \$4,500 contribution that the HBACF has made to the **Osceola County Extended Day Program** to fund portions of its summer curriculum. Hispanic students comprise more than 50 percent of Osceola County's student population. The proceeds will fund field trips for the program's 3rd, 4th and 5th graders to the **Orange County Regional History Center**. During the field trips, students will take part in a mock trial in efforts to promote education about the justice system.

Stay tuned for more exciting HBACF events!

Sunny Lim Hillary, Hillary, P.A., has been a member of the OCBA since 2005.



HBACF Osceola County Summer Program



YLS on the move



Jacquelynne J. Regan

October is a month that traditionally blesses us with abundance. It is also a great time to think of how we can share our blessings with others, both as individuals and as attorneys. This month, Legal Aid and the YLS recognize three Young Lawyers who have been a blessing in the lives of others through their generous donation of time and service in the LAS *pro bono* program. In recognition of their outstanding efforts, Melody Lynch, Diego Madrigal, and Christie Mitchell have been nominated for the YLS Pro Bono Award.

Melody Lynch, a litigation associate at Lowndes, Drosdick, Doster, Kantor, & Reed, P.A., is commended for her outstanding efforts to help a runaway teen who recently became a mother. Melody provided consistent personal support to the teen, which included Melody's presence and assistance during childbirth.

Diego Madrigal, a personal injury attorney with Wooten, Kimbrough & Normand, P.A., is praised for his work as a Guardian ad Litem for two siblings, where his efforts were critical at the Termination of Parental Rights trial that was necessary for the best interest of the children.

Christie Mitchell, a solo practitioner, is commended for handling two garnishment cases, where she had the writ dissolved for people with tremendous need.

This month, we bring you a few words from these three individuals about their *pro bono* involvement.



Melody Lynch:

YLS: When and why did you decide to get involved with Legal Aid? How has your experience been?

Melody: *There was never a doubt in my mind that I would do pro bono work, in particular as a Guardian ad Litem.*

Every young lawyer (actually, every lawyer, period) should get involved with Legal Aid. You will gain valuable knowledge and perspective about our legal system and its successes and failures. Most of us went to law school to help make this world a better place, and one way to achieve that goal is by advocating for children in the dependency system.

YLS: What is one example of a *pro bono* project that has held special meaning for you?

Melody: *Since 2008, I have served as the GAL for a young woman who was separated from her biological mother at three months of age and who bounced around in the care of non-relatives until she came*

into the custody of the Department of Children and Families (DCF) at age 13. This only happened after this girl had been sexually abused by her caregiver for almost a year. Her story is heart-wrenching, and the effects of her childhood have left an indelible mark. In August, I assisted this young woman through the labor and delivery of a beautiful, healthy baby girl. Mom and baby are together and thriving, thanks to the incredible teamwork of DCF, One Hope United, and the GAL program. Despite her difficult life thus far, and her undoubtedly arduous path ahead, she is enjoying motherhood and wants to work hard to succeed in life – as a person and a mother.

YLS: Why is donating your skills as an attorney important to you?

Melody: *Words to live by – To whom much is given, much will be required. I am truly blessed and want to share my time, talent, and treasures with others, especially with children who have encountered very difficult situations in their young lives.*

Diego Madrigal:

YLS: When and why did you decide to get involved with Legal Aid? How has your experience been?

Diego: *I began to get involved with Legal Aid as soon as I joined the Orange County Bar Association because I thought it was a great way to give back to the community, to raise the perception of the profession, and to help those who have not been as lucky as I have in life. It has been an immensely rewarding experience.*

YLS: What is one example of a *pro bono* project that has held special meaning for you?

Diego: *It is difficult for me to select just one example, as every experience has had special meaning to me. Most of the things I've done have focused on children, and I have found it very rewarding to not only help these children in need, but also to show them that someone cares, and to provide them with hope for the future.*

YLS: Why is donating your skills as an attorney important to you?

Diego: *I think it is important because we, as attorneys, have been so fortunate in our lives to have been given the opportunity to achieve what we have. I believe that it is important to give back to our community, to those who have not been as fortunate and who may not have the same opportunities. Basically, whenever you have the chance to do something nice for someone, you should do it.*



Christie Mitchell:



YLS: When and why did you decide to get involved with Legal Aid? How has your experience been?

Christie: *I have been involved with Legal Aid since I first began law school – so, 2006.*

I became involved with the OCBA in 2009 when I graduated from law school and came home to Orlando. I decided that I should be involved with Legal Aid because I have always been inclined to help others when I can.

YLS: What is one example of a *pro bono* project that has held special meaning for you?

Christie: *Recently, through Legal Aid, I represented a mother of three young children. She had been unemployed for two years, received SSI benefits for her children, and had recently separated from her husband after a physical altercation, when a creditor froze her bank accounts in an attempt to seize them to satisfy a judgment. She went for nearly five weeks being forced to borrow money from friends and family until we were able to have the writ dissolved by the court. I don't know if the same result would have occurred had she been unrepresented. It took a maximum of two hours for my entire time on the case, and it tremendously helped this woman who had been struggling for so long.*

YLS: Why is donating your skills as an attorney important to you?



Christie: *I am the type of person that believes that we are all part of the community and we are all in this together. I believe people are blessed with different talents and skills and it is our obligation – to each other – to help out when we can. I have had so much good fortune in my life from people helping me or my family members that I need to give back. Plus it is an amazingly rewarding feeling to help someone that genuinely needs help and who, most likely, would not have been able to receive it had you not stepped up.*

And now let's take a look at what's been going on around the YLS!

On Thursday, August 4, several local firms participated in the **YLS's 2nd Annual Dodgeball Tournament** held at the First Presbyterian Church downtown. The **Main Law Firm** won the "golden wrench," the prize given to the top team. Special thanks to **ProServe USA** for their sponsorship, and congratulations on their 2nd place finish! **GrayRobinson** was the top co-ed team.

YLS's Second Annual Lawyers for Literacy Spelling Bee will be held on **October 20, 2011**, at the Hilton Double Tree Hotel in downtown Orlando. This event pits teams of spellers against each other (at least one attorney per two person team) in an old fashioned spelling bee tournament to raise money for the Adult Literacy League, an orga-

nization dedicated to eradicating illiteracy in our community. Last year's event was a smashing success. Our committee, led by Daryl Gottlieb and Davis Lewis, is hard at work recruiting teams and sponsors for the event. We need and want your help! Would



Rob Bamberg of ProServe USA, the event's sponsor, presents the 2011 Young Lawyers Section Dodgeball Tournament trophy to Jed Main of the Main Law Firm.

you consider fielding a team or becoming a sponsor? Please contact **Daryl Gottlieb** or **Davis Lewis** at dgottlieb@fisherlawfirm.com or dlewis@hightowerlaw.net before time runs out!

Join the YLS for its **4th Annual Gator Bus Trip** to Gainesville, Florida. This year's day trip is to the **Florida v. Vanderbilt** (Homecoming) game on **Saturday, November 5, 2011**, at Florida Field. If you or your firm/business are interested in sponsoring this event, please contact the event chair, **Bart Vickers**, at gatorbus-tripyls@gmail.com or 407-412-8511. We hope to see you on the bus!

Lots of mentors still are needed! The
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The YLS would like to thank the Orange County legal community for making the **Backpack Project** a huge success! The YLS partnered with CFAWL and A Gift for Teaching to provide students and teachers with backpacks, school supplies, books – and more than \$7,000 – to support this worthy cause! Members of YLS and CFAWL met at A Gift for Teaching to stuff backpacks, and project chairs dropped off the supplies at Rock Lake Elementary School.

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YLS on the move
continued from page 29

YLS-Law Student Mentoring Program is very short on mentors. Although almost 150 law students are seeking a mentor, we have less than 60 young lawyers signed up to be mentors. This is a great opportunity for YOU to give back and educate the next generation of attorneys! Visit www.ylsmentoring.org to apply and for more information.

The next **Brown Bag Lunch with Judge Kest** will be held on **October 13, 2011**, and is entitled "Mediations – The Basics." Assisting with the presentation will be two veteran board certified mediators, **Richard Wack** and **Lee Sasser**. Unless otherwise indicated, the Brown Bag Lunch will be held in the Judicial Conference Room on the 23rd floor. If you are interested in joining Judge Kest for this Brown Bag Lunch, please email Judge Kest's Judicial Assistant, Diane, at ctjadi1@ocnjcc.org. *Please note that this session will be the final Brown Bag Lunch this year. The series will begin again in January 2012.*

The YLS **October Luncheon** will take place on **October 27, 2011**, at 11:45 a.m. at the University Club. Please email your RSVP to admin@ocbayls.org. If you **RSVP at least 48 hours in advance**, the cost is \$20 for lawyers and \$12 for law students, government attorneys, solo attorneys, and judges. A late charge of \$2.00 is added for all late RSVP's. Please note that the next YLS Luncheon will be on Wednesday, November 16, 2011. There will be no luncheon in December.

To find out more about the YLS, its committees and events, please contact Jacquelynne Regan at 407-418-6438 or reganjj@lowndes-law.com. If you are not receiving the YLS email blasts, send an email to admin@ocbayls.org to sign up!

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

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The Honorable John M. Kest

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 1

Thirty years trying cases and nine years on the bench have made it apparent that a lawyer's ability to effectively and efficiently try a case is in great part contingent on his/her support – and especially the support of his/her paralegal. Great trial lawyers are bright, eloquent, and hard working – and have great paralegals. The correlation, at least as observed from the bench, is unmistakable. The problem is convincing average or good trial lawyers to properly utilize their paralegals to move them to the status of great.

When working together, there must be a clear delineation between the duties and responsibilities of each of the legal team members. Clearly, a paralegal may not make legal decisions or provide legal advice. *Rules Regulating The Florida Bar* 4-5.3(a) & (b); 10-2.1(b). Concurrently, a trial lawyer should allow the paralegal to perform her or his function without interference or micro-managing the paralegal's duties. Each should have their defined duties and responsibilities, and each should respect those and have confidence that their team member will perform his or her duties. Without that distinction and trust, the assistance that a paralegal can provide is drastically minimized.

"Scouting" the Judge, Clerk Deputy, and Courtroom:

An understanding of how a particular judge and his or her staff operate a courtroom is critical to the successful presentation and flow of one's own trial. If the attorney trying the case has not tried a case before the judge, worked with the judge's clerk and deputies assigned, and is not familiar with the judge's procedure, it is imperative that the paralegal *that will be at trial* become familiar with that judicial division's practices and procedures.

Case Management Conference:

On complex or multiple-party cases, many judges will conduct a case management conference. The case management conference is held pursuant to *Fla. R. Civ. P.* 1.200(a), and an order will usually be issued by the court after the conference. Understanding and complying with the Order Setting Case Management Conference and the eventual Order on Case Management Conference and its deadlines and requirements therein is critical. If possible, the paralegal should attend the case management conference with the lead trial attorney. It is absolutely critical that a copy of the case management order be reviewed in detail and the

dates for completion of items be calendared by or on behalf of the paralegal. Failure to comply with a case management order could result in exclusion of exhibits, witnesses, or even theories of defenses and liabilities. Generally, a case management order will supplement and work with the pre-trial order, but where the Order on Case Management Conference is in conflict with the pre-trial order, the case management order would take priority.

In complicated cases in which there are multiple attorneys or even cases where past experience has shown opposing counsel has a history of failing to timely comply with discovery requests, it may be appropriate for the paralegal to suggest to the attorney that a case management conference be requested. The paralegal can even draft a proposed case management order and suggest that all trial counsel meet and confer in an attempt to agree on such an order.

Pre-Trial Matters:

Unfortunately, some attorneys consider pre-trials and pre-trial compliance as a minor inconvenience. Absent a case management order, the pre-trial order controls the preparation for the trial in the matter. The paralegal should be thoroughly familiar with the uniform pre-trial order, its time frames, requirements, and directives.¹ After all, it is an order, and failures to fully comply therewith subject both the parties and the attorneys to possible sanctions.

For example, the mandatory meeting of counsel to review and mark exhibits and demonstrative aids is often an afterthought or ignored completely. Depending on the judge, failure to fully comply could be catastrophic. The paralegal is the one who can arrange the meeting, prepare the exhibits, suggest the objections to opposing exhibits and note them, and make certain witness lists are accurate, complete, and timely submitted. Review of the opposing counsel's witness list may demonstrate witnesses who have not been deposed or whose names were previously unknown.

Mediation is a requirement prior to trial and should be completed prior to the pre-trial conference. Absent that, an order from the court should have been obtained to extend the time to comply. Mediation is an additional area in which the paralegal can play a key role in the preparation for and the presentation of the case.

Trial Briefs:

A trial brief should be prepared and filed in *every* trial – jury and non-jury. It should be provided to the court no later than three business days before trial. Cases cited should be attached, and the appropriate sections should be highlighted. Generally, a paralegal should be able to prepare a draft and review it with trial counsel. Failure to provide a “courtesy copy” directly to the court’s chambers may be tantamount to not filing a trial brief, as the judge will probably not know it was filed and will not have reviewed it. Of course, a timely copy must be provided to opposing counsel.

A suggestion to include with the trial brief would be a “trial checklist” for the court. The checklist should set forth not only the essential elements that the plaintiff must prove, but also the elements of any defenses that must be proven. The paralegal may be surprised to find that “checklist”

on the court’s bench during the trial as she or he uses it to keep track of what is being proven and what is not in anticipation of the motions for directed verdict.

This concludes Part 1 of a four-part series. Part 2 of this article will appear in the November 2011 issue of *The Briefs*.

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

¹*Uniform Order Setting Case For Trial; Pre-Trial Conference and Requiring Pretrial Matters To Be Completed* is the standard order utilized in the Ninth Judicial Circuit Civil Division. This five page order sets forth, among other things, mediation requirements, discovery cutoff dates, and designations of how exhibits will be handled and marked and requires a meeting of the attorneys, requires the drafting and filing of a “Joint Pretrial Statement,” addresses the handling of expert witnesses and the submission of trial briefs, and sets forth sanctions to be imposed for failure to comply.



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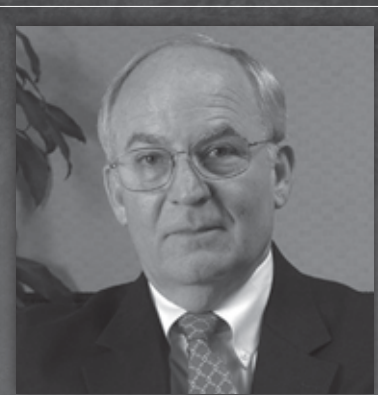
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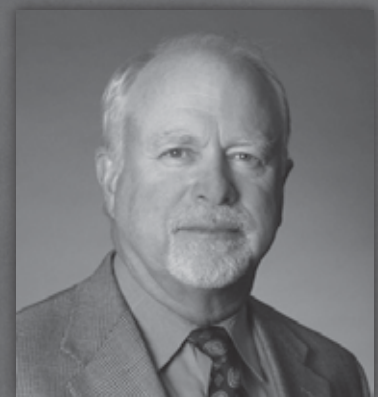
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Criminal Law Committee

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The Florida Legislature has now expanded availability of the program in three ways. First, offenders with previous violent felony convictions are now eligible if the offense for which they are being sentenced is a nonviolent felony. Second, the maximum number of sentence points has been increased to 60. Third, offenders who violate their probation or community control may participate, even if their violation is for something other than a positive drug test.

Roger B. Handberg is an Assistant United States Attorney with the Orlando office of the United States Attorney's Office. The views expressed in this article are solely his own and do not reflect any position, policy, or opinion of the United States Attorney's Office or the United States Department of Justice. He has been a member of the OCBA since 2003.

Judgment Requirements

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which would lead a litigant to believe that an offer of judgment directed to such claims would be valid.

Conversely, litigants who want to avoid the effects of such offers or demands may want to consider bringing claims pursuant to statutes which permit both damages and equitable relief, or they may want to consider amending their complaints to include claims for equitable relief, as long as they can plead such claims without running afoul of § 57.105.

Katherine H. Ballingrud, P.A., has been a member of the OCBA since 2011.

In August, Foley & Lardner hosted an event for ATHENAPowerlink, a mentoring program dedicated to helping women business owners fully realize their potential. OCBA member Christi Adams sits on the ATHENAPowerlink board.

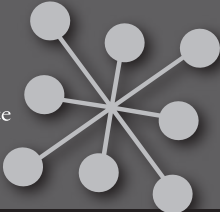


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Presentation Skills for Lawyers



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“Three Reasons” How to Become 3x More Persuasive

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For whatever reason, your brain is wired to pay more attention when provided with a list of *three* options. Your brain will be persuaded more easily when provided with a list of *three* arguments, and you're more likely to take action if you're given *three* reasons to do something.

For our brains, three is the magic number. Not two (“Too few!”) Not four (“Too many!”). No, *three* is the perfect number of options, arguments, or reasons to provide to the person you're trying to persuade.

Let's call it the Triad of Persuasion. If you can find a way to provide someone with three options, three arguments, or three reasons to justify their decision, you'll have a much better chance of persuading them than ever before.

One of the most effective ways to put the Triad of Persuasion to use is when you need to handle an objection from someone you're trying to persuade. It could be the judge you need to rule in your client's favor, the potential client you want to sign, or the senior partner whose permission you need to work on a career-changing project.

Regardless of whom you're trying to persuade, unless you've got the Force on your side (“These aren't the droids you're looking for”), you're probably going to encounter objections.

For example, let's take the scenario with your potential client. You've just started your new solo practice and have done such a great job of marketing yourself and improving your legal skills that now you're sitting face-to-face with a potential client who could potentially need your legal services for *years* to come. But then, just as you think you've got everything finalized and are ready to ask for the business, she raises an objection: “I'm not sure we should do this... After all, you're just a one-person operation.”

This might stump other attorneys, but not you. After all, since you're a professional, you've already anticipated this objection. As Dr. Alan Weiss, the author of *Million Dollar Consulting* says, there aren't *any* objections you haven't heard before. So if you're not prepared to respond to an objection, you're negligent.

But you're not negligent; that's why you have not one, not two, but *three* answers ready for this objection.

Begin by disarming the objection with a confident statement, such as, “That's *exactly* why you need me.”

That statement usually creates a pause or gets the client to ask, “What do you mean?” Either way, take this brief moment to gather your thoughts. Then launch into your Triad of Persuasion, outlining the benefits of hiring your single-person firm rather than a large, multi-national conglomerate: “First, you're going to get my complete attention and will be my number one priority. You're going to get a faster response because I can adapt quickly to respond to your needs. Second, you're going to be dealing with the principal attorney at all times, so your case will never be handed off to somebody else who doesn't know everything about the case. You're never going to walk into court and see some junior attorney who you've never met before. And finally, since I'm a one-person operation, my fees don't have to support a gigantic overhead or a large staff.”

(Obviously, if you work for a gigantic firm, you'd have three responses prepared for when the client objects and says, “I'm not sure we should do this... You're such a large firm, I'm afraid my case won't be a priority.”)

By preparing *three* responses to each objection, you become (literally) three times more persuasive. But actually, you'll become even more persuasive than that, because the Triad of Persuasion has a multiplier effect. By stacking the three reasons, you appear more confident and more prepared and, therefore, you also appear more reliable.

But don't limit your use of the Triad to those situations where you've prepared your responses to expected objections. You can also use the Triad when you're speaking off the cuff and need to demonstrate your conviction or your confidence.

Let's imagine a scenario where you're at a luncheon and the person next to you asks, “You're a lawyer, right? Do you think lawyers should advertise on TV?”

Again, start with confidence. “I'm glad you asked me that. There are three reasons why lawyers should/shouldn't advertise on TV. First because...”

When you make that statement, you may not know exactly what your three reasons are going

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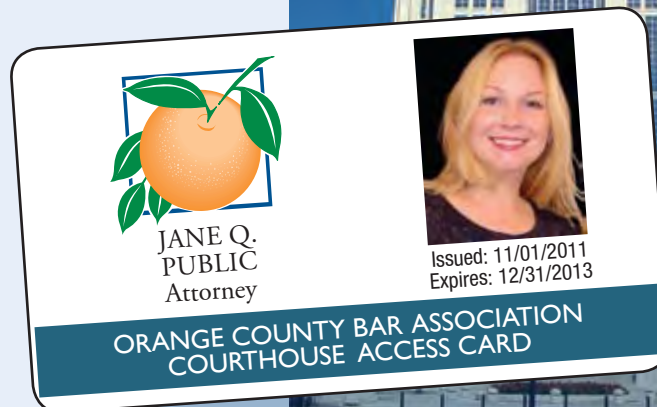
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Presentation Skills

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to be. You'll probably know exactly what your first reason will be, you'll have *some* idea of what your second reason will be, but you might not have any idea at all what your third reason is going to be.

It doesn't matter. You should still begin with the same set-up: "I'm glad you asked me that. There are three reasons why..." In fact, you should practice that set-up phrase a few times so that it rolls off your tongue. That way, while you're delivering the line, you can put your mind into high gear and finalize your thoughts for reasons #2 and #3.

Watch how much more attentive your listeners become when you deliver *three* reasons for each question or each objection, rather than the customary one (or worse, the half-answer) that they usually receive.

By justifying your arguments with *three* points, you look more polished and better prepared. People will assume that you've put more thought into your answer and will also feel that your answer is more believable, simply because you've done a better job of justifying it. By giving three reasons, rather than one, you'll soon become more persuasive than ever before.

Elliott Wilcox limits his trial practice to DUI cases. He has been a member of the OCBA since 2001

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Rainmaking



Mark Powers



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Think and Act Like a Marketer

Years ago, while having lunch with a friend, I spotted a potential referral source I wanted to meet, dining at another table. He'd been profiled in a local magazine recently and I had long wanted to make his acquaintance. I gestured for the waitress and said, "Can you find out what he's drinking?" indicating that I wanted to send over a drink. Upon receiving the drink he politely nodded his thanks to me, no doubt puzzled about who I was. I went over to his table, stuck out my hand and said, "I just read an article about you and I'd like to introduce myself." We started talking and in the brief conversation that ensued, he invited me to a fundraiser he was hosting. I accepted his invitation and we've been friends ever since.

That's how you think and act like a marketer. When serendipity presents you with an opportunity, you capitalize on it. And when serendipity doesn't present you with an opportunity, you create it.

When Susan, a family law attorney in North Florida, left her old firm to open her own practice, she didn't bring many clients with her. As an inexperienced marketer, she was understandably anxious about how she'd find new clients. Through clever positioning, however, her future clients would find her. After considering all her options, Susan opened her new office next to a popular daycare center frequented by young professionals. If you know anything about the demographics of divorcing couples – and Susan definitely does – you know that divorce among parents with small children is unfortunately very common. That those busy working parents had to pass her office every day on their way to pick up their kids was a brilliant form of passive marketing. Her convenient, new location did half the marketing for her. She then stepped it up a notch and introduced herself to the owners of the daycare center. She was soon conducting workshops for daycare center owners and staff around the county.

Both of these stories illustrate the point that to think like a marketer, it helps to be somewhat creative. My willingness to introduce myself to a stranger was made possible by the fact I'd read about him and targeted him as an influencer long before we met. Without the nuggets of information I'd read, I wouldn't have had any common ground to venture out upon. Likewise, Susan could have opened her office in a building full of attorneys. It would have been the expected thing to do and she agonized over her decision before

committing herself. Fortunately for her, she saw beyond what was expected and made an out-of-the-box decision that plunked her down in the path of future clients.

Creativity *can* come in the form of spontaneous urges, but often it's backed up by a great deal of thought and preparation. To prepare yourself to maximize your marketing opportunities, do two things. First, take time to review your referral source list each week. Second, while you do this, ask yourself the question: *Who should I cultivate this week?*

If you don't have a referral source list to look at during this exercise, you are at a serious disadvantage. Some of our clients claim they keep these lists "in their head," but to our way of thinking nothing beats an actual list that you can pore over, annotate, and tweak as referral sources come and go. So if you're someone who lacks a list, get busy and put one together. Instead of doing this manually, print a report showing all your cases for the last year, ranked by fees starting at highest and ending with the lowest. Your bookkeeping software probably has the ability to do this – many of them can generate a range of reports that far exceed what most people utilize. Then, using information noted in your files, your case management software, and/or your memory, write in the referral source next to each case. Once you've done this, you'll have a list of referral sources ranked from the most productive to the least. From this you can create a list of top referral sources that send your best business and a list of secondary sources that send lesser business. Once you've done this pre-work you can review and isolate those you want to cultivate. Hand the list to your secretary or marketing assistant so he or she can schedule lunches, dinners, or other events with these people when you request it. Stash your referral source lists in a file where you can easily retrieve them the following week.

When you begin the cultivation part of this effort, what you plan to do will be different for everyone on the list. It may mean calling a colleague to say hello and catch up; it could mean inviting several others to lunch. It might mean asking a referral source to attend a sporting event or sending thank-you notes to those that recently referred business. Any number of different activities will serve the purpose of being in touch with or getting to know your referral sources better. What you do is up to you. But do something – with increased contacts to referral sources comes in-

creased top-of-mind awareness. Increased top-of-mind awareness correlates directly with increased referrals.

One talkative attorney who is so fervently committed to building his practice that he keeps his list of referral sources in his planning folder at the office, on his cell phone, and in his computer database. In addition to scheduling three marketing contacts a week – every week – he uses his commute to and from the office to stay in touch with his ever-expanding network, which includes a number of clients who have become great referrers for him.

He's made it a Friday afternoon ritual to plan the upcoming week and review his list of referral sources. Monday mornings might work better for you, but whenever you do it, allowing time for this new habit supports you in thinking like a rainmaker.

Here are a few more habits that will have you thinking and acting like a rainmaker:

Add at least five new names to your list of contacts every month.

One attorney serves on the welcoming committee of his local bar association just to meet new members each month. He takes them out to lunch and spends time learning where they came from, what their practice areas are, and what long-term goals they've set for themselves. Many productive referral sources have developed out of this effort, and not surprisingly, a few new friends.

Send a mailing to your contact list once a quarter.

Some attorneys like to send hard-copy and email newsletters, though others reject the long form of a newsletter and send post cards containing tips or reminders. Another client sends a legal update, which he authors himself, to all of his referral sources once per quarter. He works hard to ensure the topics are relevant to his intended audience.

Start showing up at your bar association lunches every month.

Bar events are obviously good to attend if most of your referrals come from attorneys.

When you attend these events, work the room, greeting existing friends and referral sources, but try to sit with new people when you eat. This way you can expand the number of new attorneys that you befriend. Keep your eyes open for any attorneys in practice areas that have proven to be good sources for referral. Also, join alternate bar associations and organizations for which you might qualify, such as the women's bar, the Hispanic bar, the African-American bar, the trial lawyers' bar, the Inns of Court, etc. We recommend you participate in the American Bar Association primarily for the educational opportunities and opportunities to meet others in your field. It is most beneficial, marketing wise, to those who want to gain national exposure for the out-of-area referrals that may come their way (though these may be few and far between unless you are in a niche that few others occupy).

Show up at high-visibility events every week that are likely to be attended by current or potential referral sources.

Sponsoring a table at charity events provides a great reason to invite referral sources to have dinner with you. Other historic, community or trade-specific organizations have live and silent auctions, galas, car rallies, tournaments, and gatherings of all sorts. Find out what charities or causes your referral sources support – participating in their activities gives you one more reason to interact with existing referral sources and positions you to cultivate new ones.

Send out appropriate cards.

Send thank-you cards to anyone that refers business, *even* if the client didn't hire you. You want to reinforce the fact that they thought of you. Also, scan the newspaper and any trade journals or websites you read, and forward or clip articles of interest to clients and referral sources. Send the articles out with a quick note, relating that you thought this might be of interest to them. This is a tiny action that requires little effort but lets people know you're thinking of them.

Practice your laser talk as often as you can.

It's easier than you think to work your laser talk, or pieces of it, into conversations. Keep in mind most of your family and friends, other than your colleagues, have no idea what you really do all day. Educate them: there may be well-connected people in this group that can carry the message of your firm far and wide.

Focus on referrals from clients.

Develop the habit of asking for referrals. Use a version of the "good patient" strategy that doctors have used for ages. Say, "You've been an outstanding patient (client) and we enjoy working with (or helping) people just like you. If you know of anyone else who could use our services, please let them know about us." The clients you've helped probably like you and want to contribute to your success, but may not think of referring others to you. Remind them gently and in a complimentary fashion.

After all is said and done, probably the most significant habit that will support you in thinking and acting like a rainmaker is to be, in the words of Glenn Finch, a Senior Practice Advisor, "eternally optimistic." When it appears that your marketing efforts are not productive, make up your mind to stay proactive and committed to reviewing your list and initiating contacts every week. Your network will not produce if it is not developed, and you develop it by being in regular contact with those who can send business or who can influence others to send business. Progress is slow at first, but as time passes and you gather momentum it trends upward dramatically. Take time to invest now in the future of your firm.

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.

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Transitions

E. Thom Rumberger, 79, nationally respected as one of Florida's most accomplished attorneys, environmental champions and political strategists, died Wednesday, September 7, 2011, in Tallahassee, Florida. Mr. Rumberger was a Senior Partner and founding member of the law firm of Rumberger, Kirk & Caldwell, P.A., established in 1978. On September 13, 2011, the U.S. Senate formally passed a resolution honoring Mr. Rumberger's lifetime achievements (S. RES. 265).

Mr. Rumberger is survived by his wife, Debbie, and children: Susan, Todd, Hayden, Matt, Katie, Molly and Chris; son-in-law, Will McKinley, and daughter-in-law, Julie Cote Rumberger – and grandchildren: Megan, Max, Camille, Thommy, Audree, Emily, Caroline, Hayden and Charlie; and other family, Connie Rumberger and Mary Rumberger. The Orange County Bar Association extends its deepest condolences to Mr. Rumberger's family, friends, and colleagues.

Board Certification

Erik F. Szabo - Higley & Szabo, P.A. – Board Certified in Construction Law

Speaking Engagements

Clement L. Hyland, Hyland Mediation, LLC, was part of a *Mediators Ethics Panel* sponsored by the Florida Mediation Institute on August 24, 2011, in Orlando.

Ann Marie Giordano Gilden of Ann Marie Giordano Gilden, P.A., and **Elaine Silver, Esquire**, Barbara Kelly, Ph.D., and Audrey Simmons, CPA presented a *Collaborative Divorce* seminar to the Central Florida Paralegal Association at their August monthly CLE seminar.

Earnest DeLoach, Jr., Esq., Young DeLoach PLLC, was a panelist for the session, *How to Propel Your Business and Empower Your Employees*, at the Allstate Tom Joyner Family Reunion. He also presented at the seminar, *Church Foreclosure Prevention*, sponsored by UrbanAmerica Advisors in September.

Published

Dennis J. Wall of Winter Springs and Orlando, Florida, is the author of the third edition of "Litigation and Prevention of Insurer Bad Faith," which has just been released by West Publishing Company in print and online.

Events

Oct. 12 – *Central Florida Association of Trial Lawyers Judicial Reception*. Contact: Mary Ann Morgan at maryann@billingslawfirm.com.

Oct. 20 – *Lawyers for Literacy Spelling Bee*. 6:00 p.m.-8:00 p.m. Double Tree Hotel, Downtown Orlando. Contact Daryl Gottlieb at dgottlieb@fisherlawfirm.com or Alana Brenner at alanabrenner@hotmail.com for sponsorship and ticket information!

Oct. 21 – The Judges of the United States District Court for the Middle District of Florida cordially invite you to the investiture of The Honorable Thomas B. Smith as United States Magistrate Judge for the Middle District of Florida at 4:00 p.m., at the George C. Young United States Courthouse, 401 West Central Boulevard, Orlando, Florida. Reception immediately following. RSVP by Tuesday, October 11, 2011, to 407-835-4359 or smith_rsvp@flmd.uscourts.gov.

Nov. 16 – OCBA annual Joint Happy Hour, 5:30 p.m.-8:00 p.m., Mojo Cajun Bar & Grill, 129 W. Church St., Orlando, FL 32801. \$10 for OCBA & voluntary bar member, plus donation of non-preishable food item. \$15 non-members. R.S.V.P. by November 7 to Karen Persis: kpersis@rosenthallaw.com.

Seminars

Oct. 4 – *Temporary Custody of Minor Children Using Chapter 751*. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Comerica Bank, 111 N. Magnolia Ave., Ste. 1000, Orlando, FL 32801. CLE pending. Speakers: Attorneys William Davis and Catherine Tucker. Free for members. Contact: ctucker@legalaiddocba.org; mcarbo@legalaiddocba.org.

Oct. 8 – *Experts, E-Discovery, and Ethics, Oh My!* Major Seminar. Paralegal Section Seminar. 7:30 a.m.-5:00 p.m. Embassy Suites, 191 E. Pine Street, Orlando, Florida 32801. Speakers: Judge John M. Kest, Judge Antoinette Plogstedt, John Dill, Esq. Contact: Amy Guy at 407-601-4905.

Oct. 12 – *New Florida Power of Attorney Act of 2011 and Drafting It*. Estate, Guardianship and Trust Committee Seminar. 11:30 a.m.-2:00 p.m. OCBA Center. CLE: 2.5 pending. Speakers: Attorneys Timothy E. DePalma, Amber Jade Johnson, Thomas P. Moss. Fee: \$25. Lunch included. Contact: Marie at mariew@ocbanet.org.

Oct. 13 – *Mediation – The Basics*. 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 tell security that you will be attending the Brown Bag Lunch. Contact Diane Iacone at 407-836-0443 or ctjdi1@ocnjcc.org.

Oct. 18 – *Children's Developmental and Medical Issues and Services in Orange County* (GAL Topic). LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Comerica Bank, 111 N. Magnolia Ave., Ste. 1000, Orlando, FL 32801. CLE pending. Speaker: Attorney Ericka Garcia. Free for members. Contact: ctucker@legalaiddocba.org; mcarbo@legalaiddocba.org.

Oct. 25 – *Legal Malpractice*. Solo & Small Firm Committee Seminar. 12:00 p.m.-1:00 p.m. OCBA Center. CLE: 1.0. Contact: mariew@ocbanet.org.

Oct. 26 – *Update on Social Media Issues*. Labor & Employment Committee Seminar. 11:30 p.m.-1:00 p.m. OCBA Center. CLE: 1.0 pending. Contact: mariew@ocbanet.org.

Oct. 27 – *Lessons in Ethics and Professionalism from the Casey Anthony Trial*. 1:30 p.m.-4:15 p.m. The Ballroom at Church Street. CLE: 3.0 Ethics pending. Speakers: Jeffrey L. Ashton; Linda Drane Burdick; Frank George; J. Cheney Mason; William J. Sheaffer; Diana M. Tennis; Amy R. Mashburn. Master of Ceremonies: Tad A. Yates; Moderator: Mayanne Downs. Fee: \$50 OCBA members; \$100 non-members. A reception will follow the seminar. OCBA members have priority registration through Monday, Oct. 17. Please see OCBA website homepage for details and registration form. Payment must accompany registration.

Oct. 28 – *Federal Prosecution: When Local Prosecution Ends & Federal Prosecution Begins*. Criminal Law Committee Seminar. 12:00 p.m. OCBA Center. CLE: pending. Contact: mariew@ocbanet.org.

Nov. 1 – *Landlord Tenant Law Update*. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Comerica Bank, 111 N. Magnolia Ave., Ste. 1000, Orlando, FL 32801. CLE pending. Speakers: Attorneys Larri Thatcher and Michael Resnick. Free for members. Contact: ctucker@legalaiddocba.org; mcarbo@legalaiddocba.org.

Nov. 4 – *Food for Thought. Paralegal Section Seminar*. 11:30 a.m. OCBA Center. Contact: Amy Guy at 407-601-4905.

Nov. 10 – *2011 Estate, Guardianship & Trust Updates*. Major Seminar. Estate, Guardianship and Trust Committee Seminar. 8:30 a.m.-5:00 p.m. OCBA Center. CLE: pending. Speakers: TBA. Contact: mariew@ocbanet.org.

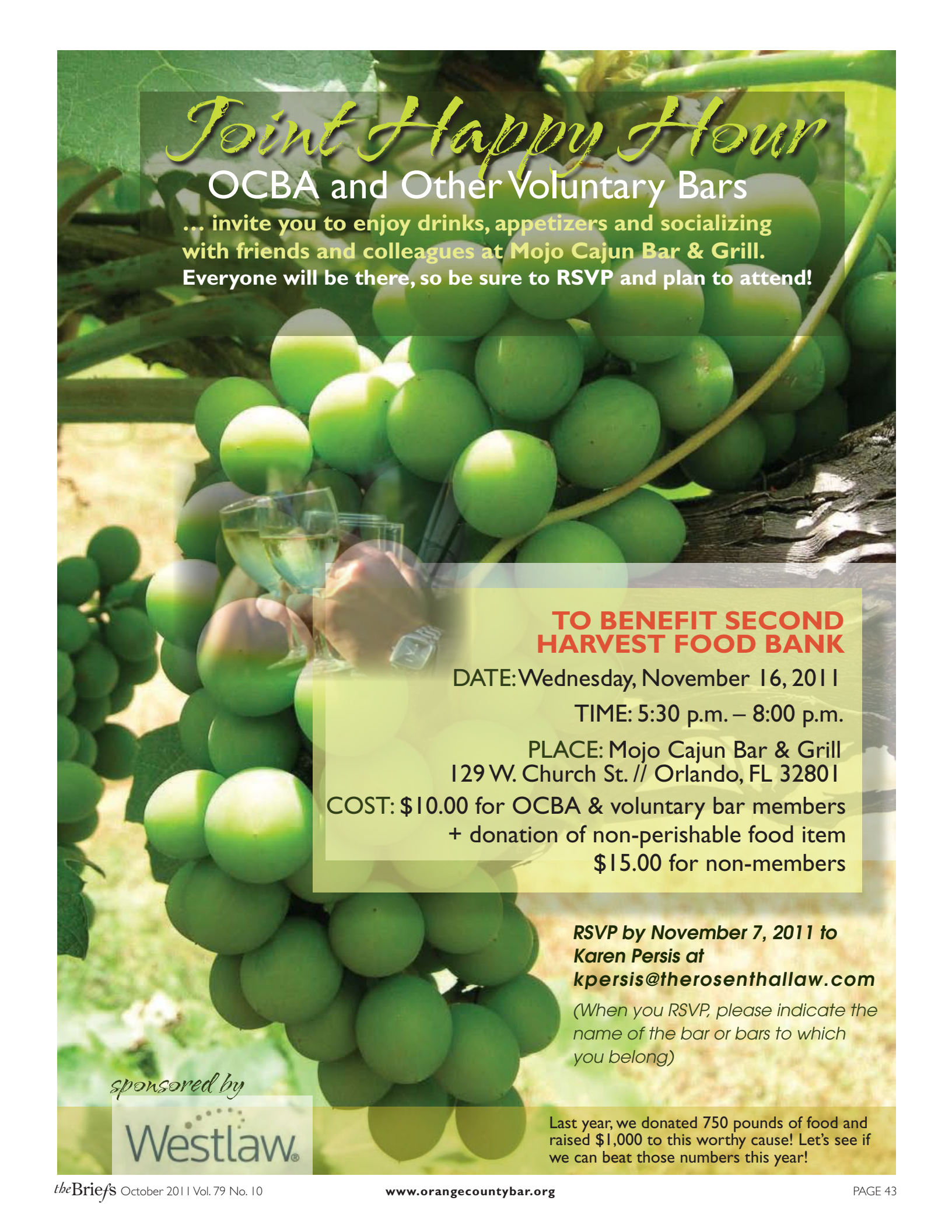
Nov. 11 – *Aspects of ADR*. Major Seminar. Alternative Dispute Resolution Committee Seminar. 9:30 a.m.-4:00 p.m. OCBA Center. CLE: pending. Featured speaker: Jay Cohen. Contact: mariew@ocbanet.org.

Nov. 29 – *The Basics of Workers' Comp*. Solo & Small Firm Committee Seminar. 12:00 p.m.-1:00 p.m. OCBA Center. CLE: 1.0 pending. Contact: mariew@ocbanet.org.

Other News

The Volunteer Income Tax Assistance program (VITA) at the Barry University Dwayne O. Andreas School of Law has been recognized with the National Achievement Award from the American Bar Association Law Student Division. The award was announced on Aug. 6 at the ABA Annual Meeting in Toronto. It is the fifth consecutive year that Barry Law's VITA program earned the honor.

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DATE: Wednesday, November 16, 2011

TIME: 5:30 p.m. – 8:00 p.m.

PLACE: Mojo Cajun Bar & Grill
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COST: \$10.00 for OCBA & voluntary bar members
+ donation of non-perishable food item
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FERNCREEK 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@yergeyeylaw.com; 407-843-0430 office; 407-247-8756 cell. David Yergey, Jr. is an OCBA member

VIRTUAL OFFICE SPACE AVAILABLE-convenient downtown location. Full service including receptionist, mail service, conference rooms, fax machine, copy machine, etc. Package rates available-customize according to your needs. Call Cori at 407-956-1000 for pricing and more details.

OFFICE SPACE AVAILABLE FOR RENT. Approximately 1,537 sq ft., with furniture, phone system, receptionist area and 4 window offices, 2 large enough for attorneys and 2 for paralegals. Attorneys preferred. Please contact Denise Singler at 407-578-1334 or e-mail denise@boginmunns.com.

OFFICE/CONFERENCE SPACE FOR RENT: Downtown Orlando Executive Business Center- newly renovated fully furnished offices for rent. Includes: live receptionist, phone, internet, conference/mediation/seminar space, and FREE parking. Contact Janna (407)447-1919 for more information.

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

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OCBA Calendar

OCTOBER - NOVEMBER 2011

Scott G. Hawkins

President, The Florida Bar
Thursday, October 27, 2011
11:30 a.m.

The Ballroom at Church St.
RSVP by Friday, October 21, 2011
reservations@ocbanet.org
Co-host: Legal Aid Society

October

- 4 LAS Lunchtime Training**
Temporary Custody of Minor Children Using Chapter 751
12:00 p.m. • Comerica Bank
- 5 Business Law Committee**
12:00 p.m. • Bar Center
- 8 Paralegal Section Major Seminar**
Experts, E-Discovery and Ethics, Oh My!
7:30 a.m. • Embassy Suites
- 11 Intellectual Property Committee**
12:00 p.m. • Bar Center
- 12 Estate, Guardianship & Trust Committee Seminar**
New Florida Power of Attorney Act of 2011 and Drafting It
12:00 p.m. • Bar Center
- Lawyer's Literary Committee**
12:00 p.m. • Bar Center
- Executive Council**
4:30 p.m. • Bar Center
- 13 Brown Bag Lunch with Judge John Kest**
Mediations - The Basics
12:00 p.m. • Courthouse
23rd Flr. Judicial Conference Rm.
- 14 Workers' Compensation Committee**
11:45 a.m. • Bar Center
- 18 LAS Lunchtime Training (GAL Topic)**
Children's Developmental and Medical Issues and Services in Orange County
12:00 p.m. • Comerica Bank
- Professionalism Committee**
12:00 p.m. • Bar Center
- 19 YLS Luncheon**
11:45 a.m. • University Club
- Elder Law Committee**
12:00 p.m. • Bar Center
- 20 The 2nd Annual Lawyers for Literacy Spelling Bee**
6:00 p.m. • Doubletree Hotel
Downtown Orlando

- 21 Family Law Committee**
12:00 p.m. • Bar Center
- Federal Judicial Investiture**
The Hon. Thomas B. Smith
4:00 p.m. • George C. Young U.S. Courthouse
- 25 Solo & Small Firm Committee Seminar**
Legal Malpractice
12:00 p.m. • Bar Center
- 26 Labor & Employment Committee Seminar**
Update on Social Media Issues
11:30 a.m. • Bar Center
- Appellate Law Committee**
12:00 p.m. • Bar Center
- 27 OCBA Luncheon**
Scott G. Hawkins, President, The Florida Bar
11:30 a.m. • The Ballroom at Church St.
- Professionalism, Criminal Law & Judicial Relations Committees**
Lessons in Ethics and Professionalism from the Casey Anthony Trial
1:30 p.m. • The Ballroom at Church St.
- 28 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

November

- 1 LAS Lunchtime Training**
Landlord Tenant Law Update
12:00 p.m. • Comerica Bank
- 2 Business Law Committee**
12:00 p.m. • Bar Center
- 4 Paralegal Section**
Food for Thought Seminar
11:30 p.m. • Bar Center
- 9 Lawyers Literary Committee**
12:00 p.m. • Bar Center
- Judicial Relations Committee**
12:15 p.m. • Courthouse
21st Flr. Conference Rm.
- Executive Council**
4:30 p.m. • Bar Center
- 10 Estate, Guardianship & Trust Committee Seminar**
2011 Estate, Guardianship & Trust Updates
9:00 a.m. • Bar Center
- Social Security Committee**
12:00 p.m. • Bar Center
- 11 Alternative Dispute Resolution Committee Seminar**
Aspects of ADR
9:30 a.m. • Bar Center
- 15 Professionalism Committee**
12:00 p.m. • Bar Center
- 16 YLS Luncheon**
11:45 a.m. • University Club
- Elder Law Committee**
12:00 p.m. • Bar Center
- Insurance Law Committee**
12:00 p.m. • Bar Center
- OCBA Annual Joint Happy Hour**
5:30 p.m. • Mojo Cajun Bar & Grill
- 17 OCBA Bar Luncheon**
Bill Robinson, ABA President
11:30 a.m. • The Ballroom at Church St.
- 18 Family Law Committee**
12:00 p.m. • Bar Center
- Technology Committee**
12:00 p.m. • Bar Center
- 23 Appellate Law Committee**
12:00 p.m. • Bar Center
- 24 - 25 Thanksgiving Holiday**
Bar Center Closed
- 29 Solo & Small Firm Committee Seminar**
The Basics of Workers' Comp
12:00 p.m. • Bar Center

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

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