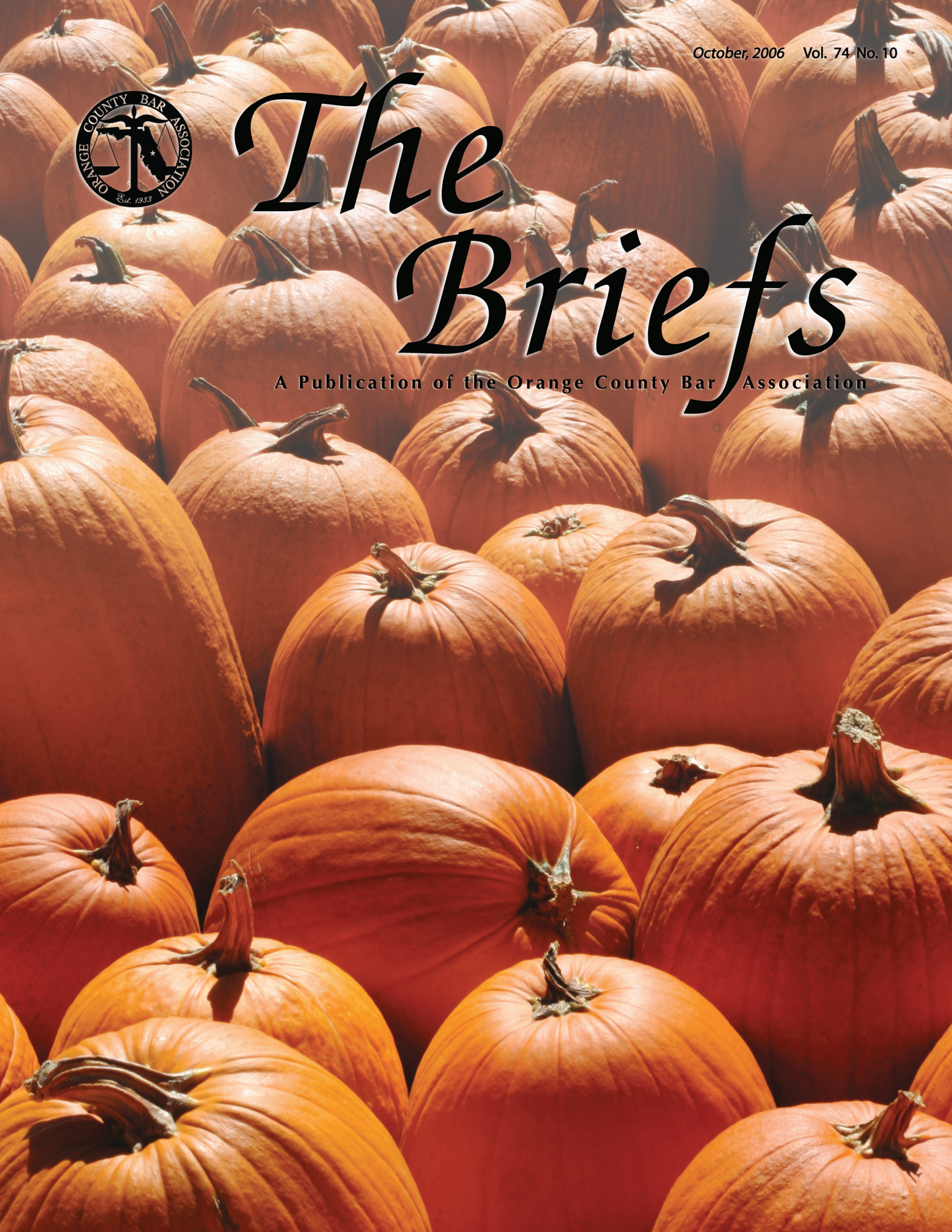
October, 2006 Vol. 74 No. 10



The Briefs

A Publication of the Orange County Bar Association

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S.C. Read, Inc. v. Seminole County School Board,
31 Fla. L. Weekly D1900a (Fla. 5th DCA 2006)
Dismissed sunshine law challenge to school rezoning plan.

Marriott International, Inc. v. Perez-Melendez,
855 So. 2d 624 (Fla. 5th DCA 2003)
Affirmed million dollar personal injury verdict based on the "two issue rule".

Savoie v. Southeast Bank, N.A.
529 So. 2d 1275 (Fla. 5th DCA 1988)
Reversed and remanded mortgage foreclosure for exercise of option to purchase.

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

Wenzel v. Boyles Galvanizing Co.,
920 F. 2d 779 (11th Cir. 1991)
Affirmed a 2.75 million dollar personal injury award.

Winn v. Winn,
669 So. 2d 1155 (Fla. 5th DCA 1996)
Reversed "woefully inadequate" permanent alimony.

McGhee v. Volusia County,
679 So. 2d 729 (Fla. 1996)
Clarified sovereign immunity/scope of employment rules for deputy sheriffs.

Brewer v. Flankey,
660 So. 2d 761 (Fla. 5th DCA 1995)
Reversed final judgment establishing a prescriptive easement.

Rykiel v. Rykiel,
795 So. 2d 90 (Fla. 5th DCA 2000)
Reversed dissolution judgment due to excessive awards against husband.

Acadia Partners, L.P. v. Tompkins,
759 So. 2d 732 (Fla. 5th DCA 2000)
Prevented multi-million dollar judgment addition in complex business litigation.

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Table of Contents

President's Message — **3**
Charles Brace Darrow Was Profound
Thomas P. Wert

OCBA Luncheon — **5**
Lawyers' Impact In American History
Francisco R. Angones,
President-Elect Designate, Florida Bar

Professionalism Committee — **6**
Professionalism – A Family Law Perspective
James Williams Hart

Legal Aid News — **8**
Volunteer Spotlight: Retired Lawyers
Bob Threadgill and Burton Spraker

ABA Commission on the American Jury — **9**
Balancing First and Sixth Amendment Rights
in High Profile Cases

Labor & Employment Committee — **11**
Make Sure Hurricanes Don't Blow You
Into Legal Hot Water
John S. Lord, Jr.

YLS Charity Golf Tournament — **13**
Sponsors, Donors and Photos

Hearsay — ***14-15***
Kristyne Kennedy

Presentation Skills for Lawyers — **16**
Make Each Second Count: How to Get Your
Point Across in 60 Seconds or Less
Elliott Wilcox

YLS on the Move! — **17**
Judith A. Garabo

Rainmaking — ***19***
Rainmaking 101 – Lesson 4
Mark Powers

New Members — **21**

Announcements — **23**

Classifieds — **25**

OCBA Calendar — ***28***



Page 5



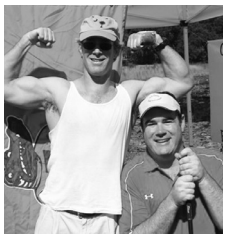
Page 6



Page 9



Page 11



Page 13



Past and present OCBA Presidents Brian Wilson, Tom Wert and Bill Sublette – Page 15

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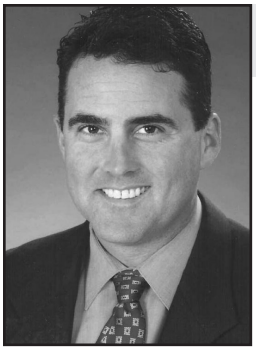
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Deadline for November Edition: 10/1/2006
The deadline for each edition will be the first day of each month. If that day falls on a weekend or holiday, the deadline will be the last working day prior.

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President's Message

October 2006

Charles Brace Darrow[1] Was Profound

Thomas P. Wert

"Go Directly to Jail. Do Not Pass Go. Do Not Collect $200." You may recognize this as a famous quote from a Community Chest card, but to some lawyers these words are akin to the language of a proposed new rule recently submitted to the Florida Supreme Court by the Court's Commission on Professionalism and the Florida Bar's Committee on Professionalism. Clearly, many judges and litigators are getting sick and tired of unprofessional courtroom behavior. So, on the heels of the rock, paper, scissors order, we now have proposed Rule 3-5.4, which would allow judges to order an attorney who exhibits unprofessional behavior to attend a professionalism and practice enhancement course. Under the proposed rule, a court can also order the unprofessional lawyer to pay a $100-$500 fine to the Florida Bar's Henry C. Latimer Center for Professionalism. A judge would not have to make a finding of contempt to impose sanctions under Rule 3-5.4.[2]

At first blush, this rule seemed to me to be pretty reasonable and a step in the right direction. Trial lawyers have voiced increasing concerns that judges do not have enough options when addressing unprofessional conduct. Right now, a court can either file a grievance with the Florida Bar, which is often seen as too harsh, or find the offending lawyer to be in contempt, which can require a time-consuming evidentiary hearing. Presumably, as a result of this quandary, the proposed directive was approved unanimously by the panels submitting it. However, upon further reflection, I can see why some lawyers are screaming for some tweaking.

The obvious concerns involve due process, the lack of an evidentiary hearing and the absence of a clear right to have the order reviewed. Judge Peter Blanc, who sent the proposed rule to the Supreme Court on behalf of the Commission and the Committee, reportedly told Florida Bar President Hank Coxe that he believed lawyers would have a right to *certiorari* review. Nevertheless, it is my understanding that writs of *cert* are granted about as often as the swallows show up in Capistrano. So, it seems to me that, in most instances, sanctions entered under the rule as proposed would be final.

Other issues raised in *The Florida Bar News* include whether the proposed rule applies to abuses of the discovery process and whether lawyers would need to report sanctions given under the rule on malpractice insurance applications or certification application forms.

As I write this Message, the Florida Bar Board of Governors is preparing to discuss the proposed rule at its September 29th meeting. The board must take final action by December 8th, if it is to be included in the annual package of Bar rule amendments submitted to the Supreme Court. Indeed, time is of the essence. If you would like to have input on this topic, please contact your local Board of Governors representatives immediately. Otherwise, my guess is you won't be able to rely on rolling doubles before your third turn to get out of an order under 3-5.4.

---

[1] Charles Brace Darrow invented the board game Monopoly during the Great Depression.

[2] *See The Florida Bar News*, Sept. 15, 2006, Vol 33, No. 18.

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

Editors' Note: The Florida Bar Board of Governors representatives for the Ninth Circuit are Mayanne Downs (2008), 407-422-2472 or mdowns@kbdlaw.com; Daniel DeCubellis (2007), 407-872-2200 or ddecubellis@dmlawfirm.com; and Warren Lindsey (2008), 407-644-7600 or lindsayw@criminhaldefenselaw.com. The complete list of the members of the Florida Bar Board of Governors can be found at www.floridabar.org.

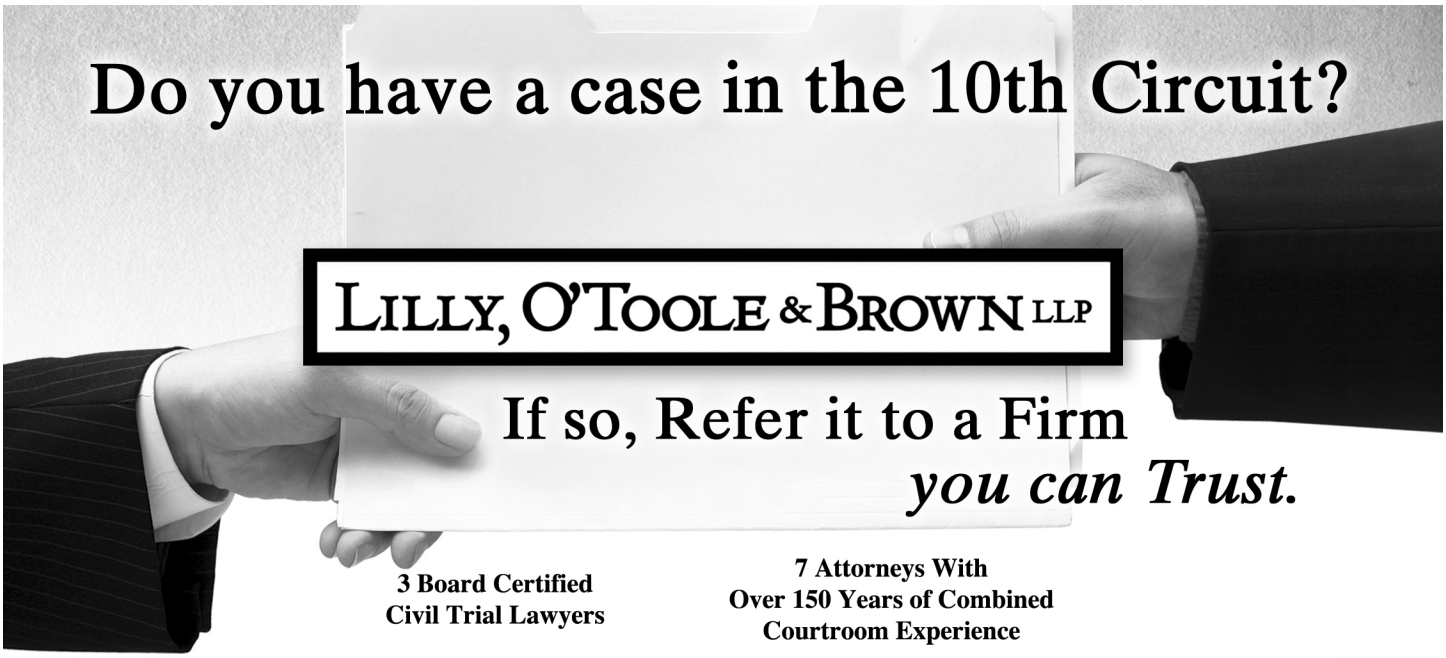
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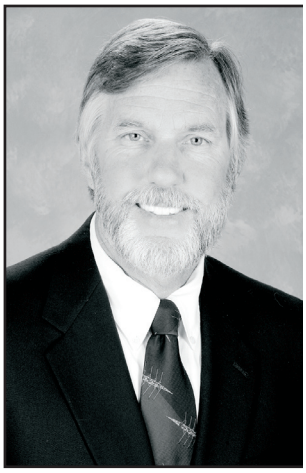
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OCBA Luncheon Speaker





October 26, 2006

Francisco R. Angones

President-Elect Designate
Florida Bar

Lawyers' Impact In American History

FRANCISCO "FRANK" ANGONES is a founding partner of the law firm of Angones, McClure & Garcia, P.A. in Miami, Florida. Frank's practice areas include commercial litigation and tort defense cases, including professional liability, products liability and personal injury defense. He is rated AV by *Martindale-Hubbell*. Frank attended the University of Miami where he received a J.D. degree in June, 1976, and a B.A. degree, *Magna Cum Laude* in June, 1972. He was inducted into Iron Arrow Honor Society, Omicron Delta Kappa and Phi Kappa Phi. Among numerous bar positions over his career, he has served as president of the Dade County Bar Association and of the Cuban-American Bar Association, a member of the Board of Governors of the Florida Bar, the House of Delegates of the American Bar Association and the Board of Directors of the Florida Bar Foundation. Currently, he serves on the Florida Bar's Executive Committee, as chair of the Legislation Committee and on the Strategic Planning Committee. He was appointed by the Chief U.S. District Judge for the Southern District of Florida to the Grievance Committee for the Southern District of Florida and to the Federal Judicial Bar and Community Liaison Committee. He served on the Federal Judicial Nominating Commission for the Southern District from 1997 to 2001. He also served on the Eleventh Judicial Circuit's Comprehensive Master Plan Committee. Currently, he serves on the Eleventh Judicial Circuit's Indigent Services Committee. Frank received the Voluntary Bar Association *Pro Bono* Service Award presented by The Supreme Court of the State of Florida in 1996. In 2000, he received the University of Miami School of Law's Lawyer of The Americas Award. He is listed in Top Lawyers in South Florida, *South Florida Legal Guide, 2006*. He is a member of the Eugene P. Spellman Inn of Court. He is admitted to practice in Florida, the U.S. District Court, Southern District of Florida, including the trial bar, the U.S. Fifth and Eleventh Circuit Court of Appeals and the U.S. Supreme Court.

In addition to his Bar service, Frank has been long active in community and business affairs. He has served on the Board of Directors of First Floridian Auto and Casualty Insurance Company, a member of the Travelers Group; the Visiting Committee for the University of Miami School of Law; the Miami-Dade Community Relations Board; the Executive Committee of the Miami Coalition for a Safe and Drug Free Community; Chair of Victoria Hospital's Board of Directors and the City of Miami District Boundaries Committee of Greater Miami United. He is one of the founding members and currently serves on the Board of Directors of U.S. Century Bank.

A native of Cuba and a South Florida resident since 1961, Frank and his wife Georgie reside in Coral Gables with their son, Frank, a 2005 graduate of Columbia University.

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Professionalism Committee

Professionalism – A Family Law Perspective



James Williams Hart

Writing on the topic of Professionalism is not an easy thing to do. As lawyers, we should strive to achieve professionalism in our everyday lives as we work with other attorneys, our clients, and our family and friends. For this month's issue of *The Briefs*, I have decided to approach this topic from a perspective that I know best: family law. From our initial contact with a client, to mediation, to dealings with opposing counsel, family law attorneys are in a unique position to enhance and further the principles of professionalism.

Clients that come in to see me are usually consumed with anger, fear, or hatred, are ravaged by guilt or are debilitated by depression. The initial meeting with a potential client can set the stage for the entire professional relationship. During the initial consultation, I try to accomplish three separate goals. First, I explain to the client my philosophy on how to handle their case, and learn about their goals and what they expect from their attorney. Next, if the client decides to retain me, then I enter into a written fee agreement that further explains my responsibilities and the responsibilities of my client during representation. Lastly, I explain to my clients the office procedures - specifically how they will be able to reach me on the phone.

I believe in zealously representing my clients within the bounds of the law and the ethical rules. Most clients will appreciate having an attorney that will serve as an honorable and zealous advocate, and at the same time will represent them in a competent and ethical manner. Clients who think otherwise are clients you should avoid. I avoid clients who think that they can purchase results, or who believe that if they pay me enough money I will turn into a cut-throat attorney whose only goal is to exact revenge on their spouse, no matter what the cost. It's not in my nature to act that way. It's certainly not professional, and I let clients know from the outset that I will not act that way as their attorney. I suggest that all attorneys explain to their clients at the outset of the relationship exactly what they can expect during the representation.

Once you have been hired, either after or during the initial interview, it is important to enter into a written fee agreement, or to send the client a letter of engagement. This is especially important with domestic cases because a lot of times clients are so distraught during the initial meeting that they barely remember the details of the engagement.

Finally, make sure to explain your office procedures to your clients during the initial consultation. Will they reach you each time they call or will they talk to someone else? Knowing this information is especially important during the first several weeks of representation, when clients will often call for the most trivial of matters. Having a written list of procedures for phone calls will not only help clarify the relationship between you and your client, but it will help to provide you more time to ethically represent all of your clients.

As the domestic case moves along, at some point the parties will engage in mediation. At mediation, an attorney has a great opportunity to demonstrate the principles of professionalism. You have an opportunity to forget about litigation and be a true problem solver. The attorney's purpose at mediation should be to act as a facilitator - working to defuse potentially explosive situations to reach a fair settlement. I always try to encourage my clients to believe and trust in the settlement process and to put away their egos for a couple of hours so that we can reach a settlement that is fair to both parties. A good mediation is one where both parties leave feeling that they gave up too much. That means that the ultimate settlement was a win-win to both parties.

My goal in family law cases is to finish the case quickly, while reaching the best possible result for my client, with the least amount of suffering to the family unit. Where there are children involved, it is important to consider their best interests when structuring the settlement. I deal with lots of other attorneys that are highly respected, ethical, and above all, professional. My law practice and my life are better because of ethical and professional attorneys. They make it easy to pick up the phone and discuss an issue in a case, talk about settlement options, or simply talk about how their lives and practices are going. When I work with those attorneys, I reach better results for my clients, with less heartache, sooner.

However, I also deal with other attorneys that can make life extremely difficult. They fight over the smallest of details. They agree to one thing and then do something completely different, or, worst of all, they misrepresent (i.e., lie) to the court about the facts or procedural history of a case. Besides not acting with professionalism or integrity, lawyers like these will consistently cause more problems (financial and emotional) for their clients and mine, drag cases out that could otherwise be settled, and cause disruption and animosity between the parties involved.

In an emotionally charged family law case, it can be increasingly easy to succumb to the tactics of these less-than-ethical attorneys. However, as advocates, we must remember the oath we took when we became members of the bar. One tenet of the Creed of Professionalism is that *"I will abstain from all rude, disruptive, disrespectful, and*

Continued on page 12



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OCBA Legal Aid News

Volunteer Spotlight: Retired Lawyers Bob Threadgill and Burton Spraker

Legal Aid Society of the OCBA

Most of you reading this probably know how fortunate we are to have so many lawyers in Orange County dedicated to doing *pro bono* while actively maintaining their practice. Did you also know that some lawyers continue to donate their time and expertise after retiring? We want to recognize two such lawyers.

Bob Threadgill comes to the Society's office every Tuesday morning and answers calls from 9:00 a.m. until noon. The calls are from residents of Orange County seeking a free lawyer. He currently donates approximately 120 hours of his time every year to the Legal Aid Society to assist these callers. However, when Bob first started answering phones for us in 1988, he came twice a week and was donating more than 200 hours of time each year.

Bob graduated from the University of Florida in 1943 and then spent three years in the military before going to law school. During his time in the military, he was assigned overseas during the war. He then graduated from Georgetown Law School in 1949. During his legal career, Bob spent 23 years here in Orlando with Attorney's Title Insurance Fund. He retired from the Fund in the fall of 1987 and began answering the Society's phones as his *pro bono* in the spring of 1988.

Bob has been married to Velma Threadgill for 48 years. They have three children, six grandchildren and one great-grandchild. When he is not answering phones at Legal Aid, Bob plays tennis several times a week and competes in senior tournaments across the state. In 2002, he was ranked number one in his age category. In 2003, he celebrated and was honored for being a member of The Florida Bar for 50 years. When asked why he continues to donate his time to Legal Aid, Bob said, "I enjoy the work, the clients and the staff at Legal Aid. I feel like I get something in return and that is the ability to keep my mind active and interested."

Another attorney who remains active with the Legal Aid Society is Burton Spraker, who interviews clients in the Society's office on Thursday mornings from 9:00 a.m. until noon.

Burton has always been actively involved in *pro bono* matters. He graduated from the University of Tennessee in 1955 and then obtained his law degree there in 1960. He comes to Legal Aid after 40 plus years of practice. For many years, he combined his work as a partner at Broad and Cassel while representing Legal Aid clients in landlord/tenant matters, and consumer and contractual disputes. In one of his more memorable *pro bono* cases, Burton represented a client who had purchased a defective solar heating system and was facing collection by the company that financed the purchase. This is a common problem for low-income folks who are often targeted by door-to-door sales tactics that leave them with defective products, a lack of knowledge about dispute procedures and high interest financing that the client doesn't understand. The reason Burton remembers the case so well is because it lasted approximately seven years before settling! Despite the longevity of the case, Burton also fondly remembers the rewarding experience when it did settle.

Burton has two children and two grandchildren, and when he isn't spending time with his family or with Legal Aid, he is busy playing golf and donating more time with a group of Christian men who go into the local jail and provide food, discussion and compassion to inmates.

When asked why he continues to spend time at Legal Aid, Burton says that his fulfillment comes not only from assisting the clients, but also from assisting the staff attorneys at Legal Aid. "I see my role as helping the process which helps clients and Legal Aid Attorneys," he says. "Clients need to feel comfortable when being interviewed for the first time and I think I convey an attitude that we are here to help."

We extend heartfelt thanks to Bob and Burton for their commitment to *pro bono* work and encourage others to investigate the *pro bono* opportunities available to retired lawyers.

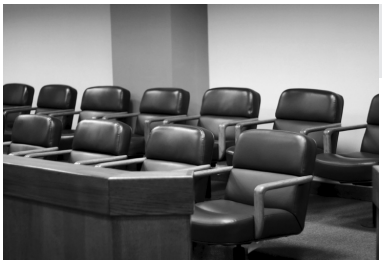
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Balancing First and Sixth Amendment Rights in High-Profile Cases

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The media coverage of recent high-profile trials – including those of Scott Peterson, Martha Stewart, Kobe Bryant, and Michael Jackson – has thrown into relief the tensions between two of our most fundamental constitutional rights. The first is the criminal defendant's Sixth Amendment right to a fair trial by an impartial jury. The second is the media's First Amendment right to observe and report on the trial. These rights are not necessarily in conflict. For example, one of the ways in which the Sixth Amendment protects the defendant is by guaranteeing that the trial will be public and subject to the scrutiny of an independent press. However, media coverage can have a detrimental effect on the defendant's ability to get a fair trial, especially when it exposes potential jurors to information or opinions that might predispose them against the defendant before the trial begins. At what point do the media's First Amendment rights jeopardize the defendant's Sixth Amendment rights? How can these potentially competing rights be balanced?

Public Right of Access to Trials

The public's right of access to trials has been derived from the First Amendment. In *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555 (1980), the trial judge closed the trial upon the unopposed motion of the defendant. The Supreme Court held that a presumption of openness is inherent in criminal trials, and that the right to attend criminal trials is implicit in the First Amendment. Chief Justice Burger, in an opinion joined by Justices White and Stevens, reasoned that:

> The explicit, guaranteed rights to speak and to publish concerning what takes place at a trial would lose much meaning if access to observe the trial could, as it was here, be foreclosed arbitrarily... We hold that the right to attend criminal trials is implicit in the guarantees of the First Amendment; without the freedom to attend such trials, which people have exercised for centuries, important aspects of freedom of speech and of the press could be eviscerated.

The Court held that, unless there is an "overriding interest articulated in findings," the trial of a criminal case must be open to the public.

Pretrial Proceedings

In the *Press-Enterprise* cases, the Court extended the presumption of openness established in *Richmond v. Virginia* to pretrial proceedings. Pretrial proceedings can raise more complicated issues with respect to juries. For example, if information is released about pretrial suppression hearings, there is a risk that the jurors who are eventually empanelled could be influenced by reports on evidence suppressed before the trial, as well as evidence admitted at trial. In *Press Enterprise I (Press-Enterprise Co. v. Superior Court*, 464 U.S. 501 [1984]), the court extended the presumption of openness to the process of *voir dire*. In *Press-Enterprise II (Press Enterprise Co. v. Superior Court*, 478 U.S. 1 [1986]), the Court fashioned a two-part test for determining when closure of proceedings is appropriate. Chief Justice Burger again delivered the opinion of the Court:

> [T]he preliminary hearing shall be closed only if specific findings are made demonstrating that, first, there is a substantial probability that the defendant's right to a fair trial will be prejudiced by publicity that closure would prevent and, second, reasonable alternatives to closure cannot adequately protect the defendant's fair trial rights.

The recent trial of Martha Stewart illustrates how questions on the proper balance between media access and juror impartiality in high-profile cases persist. In that case, the trial judge blocked media access to the *voir dire* of prospective jurors at the request of the prosecutor, but provided that a transcript of the proceedings would be offered to the media. A coalition of media representatives successfully appealed the trial judge's decision to the U.S. Court of Appeals for the Second Circuit (*ABC, Inc. v. Stewart*, 360 F.3d 90 [2004]). Applying the Supreme Court's *Press-Enterprise* opinions, the Second Circuit said:

> [T]he government argues that the January 15 Order did not "entirely or even significantly impair" the public's First Amendment right of access but "merely deprive[d] Appellants of 'the contemporaneity and the "color and texture" of the voir dire proceedings.'" But one cannot transcribe an anguished look or a nervous tic. The ability to see and to hear a proceeding as it unfolds is a vital component of the First Amendment right of access - not, as the government describes, an incremental benefit.

The Second Circuit distinguished its decision in the Stewart case from its earlier ruling in *United States v. King*, 140 F.3d 76 (2d Cir. 1998). In that case, the trial court denied the press access to transcripts of *voir dire* proceedings held *in camera*. The trial court took this action because the defendant, boxing promoter Don King, had been the object of considerable press attention, and because this attention

Continued on page 18

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In recognition of Mediation Week and to raise awareness of ADR, our firm is pleased to have filled our Mediation Week calendar with activities designed to inform & educate the public and a number of Central Florida middle & high school students on the mediation process and its many benefits.

For additional information about Mediation Week in Florida visit www.uwwm.blogspot.com.



Monday, October 16:
Lynne Womack
will address the
8th grade class of
Gotha Middle School



Tuesday, October 17:
A. Michelle Jernigan is
speaking to
West Orange High's
Peer Mediation Group



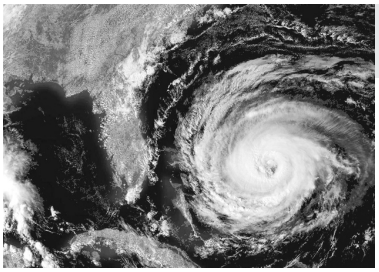
Thursday, October 19:
Kimberly Sands
will speak to
the students at
Timber Creek High School



Wednesday, October 18:
Michael Orfinger and Kimberly Sands
are scheduled to interview with
WROD's Tony Welch.
Tune in to AM 1340 at 6 p.m.



Friday, October 20:
Richard Lord
will be speaking to
the 10th grade class of
Dr. Phillip's High School



Labor & Employment Committee

Make Sure Hurricanes Don't Blow You Into Legal Hot Water



John S. Lord, Jr.

If - or when - a hurricane strikes Florida, your or your client's offices may close completely, they may remain open for partial hours or, depending on the type of work performed, they may need to stay open even during the storm. You and your clients may need to make decisions like whether or not you need to pay employees who don't come in, whether you need to force employees to work during or just after the storm and whether they can have leaves of absence or unpaid time off.

In the past couple of hurricane seasons in Central Florida, employers have had to be careful in deciding when to pay, or even fire, employees who did not come to work due to storms. Recently, the Department of Labor responded to written questions from a health care facility regarding deductions from the pay of exempt/salaried employees for weather-related absences. The health care institution told the DOL that due to the unique needs of its business, it had a specialized absence policy. That policy provided that if employees did not report to work during adverse weather conditions, when they were not sick and had not been advised not to report to work, the employees were docked a full day of pay and were not allowed to use their vacation or personal leave bank for the absence.

Exempt/salaried employees who arrived late under such circumstances were not docked in any manner regardless of how many hours they missed of their scheduled shift. The employer was aware that federal regulations permit deductions for one or more full days for absences for "personal reasons." The employer, therefore, asked the DOL if these regulations would allow deductions for absences caused by weather-related reasons.

The DOL said that it would consider an absence due to adverse weather conditions, such as when transportation difficulties during a hurricane cause an employee to choose not to report for work for the day even though the employer is open for business, as an absence for personal reasons. Such an absence does not constitute an absence due to sickness or disability.

Therefore, said the DOL, an employer that remains open for business during or just after a weather emergency may lawfully deduct one full-day's absence from the salary of an exempt employee who does not report for work for the day due to the bad weather conditions. The DOL reminded the employer that deductions from salary for less than a full-day's absence were not permitted for such reasons.

So, for example, if the employee comes in several hours late, but does not miss a full day due to bad weather, no deduction can be made. Or, if the exempt employee is absent for 1-1/2 days because of inclement weather, only one full-day's pay can be deducted.

The DOL also pointed out that if the employer chooses to close its business because of weather-related conditions, no deduction can be made from the exempt/salaried employee's salary because it is the employer who has not allowed the employee to come to work.

With respect to leave time that employees have accrued, such as vacation or paid time off, the employer can also require an exempt/salaried employee who does not show up at work for a full day to use leave time instead of paying the employee.

Employers may also be faced with a situation in which they have to discipline, or even terminate, employees who fail to come to work. Again, depending on the industry, certain employers (such as hospitals) have no choice but to stay open during a hurricane. In such situations, it is lawful for the employers to discipline or fire employees who fail to show up for their shifts.

Of course, employers should take care to look into the reasons for an employee's failure to show up, and weigh those reasons in light of the employer's other policies and procedures.

As you can see, hurricanes can blow up lots of legal issues in the workplace. Before any hurricanes blow in for the season, make sure you and your clients are prepared with policies on matters such as attendance and pay for employees. It's always best to let employees know well in advance what you will expect of them during, and in the aftermath of, a storm.

This article first appeared in the August 11, 2006 issue of the *Orlando Business Journal*.

John S. Lord, Jr. is a partner with Foley & Lardner LLP in the firm's Labor and Employment Law Practice Group. He has been a member of the OCBA since 1995.

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Professionalism – A Family Law Perspective *Continued from page 6*

abusive behavior and will at all times act with dignity, decency, and courtesy." Remember that tenet when deciding how to respond to an attorney who is making life difficult for you or your client. Lawyers who take the "high road," despite the tactics of difficult opposing counsel, demonstrate the true essence of professionalism.

When responding to attorneys like these, always remember to maintain your professionalism and follow the golden rule. When confronted with a situation in which your opposing counsel has engaged in unprofessional conduct, resist the urge to respond immediately. I can't tell you how many times I have received a letter or been served with a motion from an opposing attorney that makes my blood boil. Strangely enough, I doubt that I am the only attorney who has ever felt this way. Wait a day or two to send a letter back to that attorney. When you do respond, draft a letter that you would be proud to submit to the court - chances are it may be included as an exhibit in a future filing.

Professionalism is the golden rule of the legal industry. In other words, do unto others as we would have them do unto us. Yes, there are rules, guidelines, and any number of ethical opinions that we as lawyers must follow in our day-to-day practices. But wouldn't it be easier to just think about how we would feel if we were on the receiving end of the letter that we are about to send, the phone call we are about to make, or the motion that we are about to file?

As lawyers, we cannot change what has happened to our clients in the past, but we can positively affect what will happen to our clients during the legal process and in the future. Our clients want their lawyers to exhibit effort and concern. By following the golden rule, by treating others with respect, and by diligently following up with our clients, we will automatically exhibit the effort and concern that our clients so desperately require.

James Williams Hart, Law Offices of James W. Hart, has been a member of the OCBA since 2005.

Any culture that has had its Jeffersons, Lincolns, and Darrows also must have a healthy notion of the lawyer's role in society.
– Matthew A. Hodel, American Lawyer

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The 15th Annual Young Lawyers' Section Charity Golf Tournament

This year's YLS Charity Golf Tournament, held at Orange County National's Panther Lake course on September 8, 2006, raised more than $16,000 for the YLS and its charitable activities. More than 140 players came out and enjoyed a beautiful day and the challenges of the course. Event co-chairs Maria Hale and Chelsie Roberts thank the following generous sponsors and prize donors, as well as the committee members, for their hard work.











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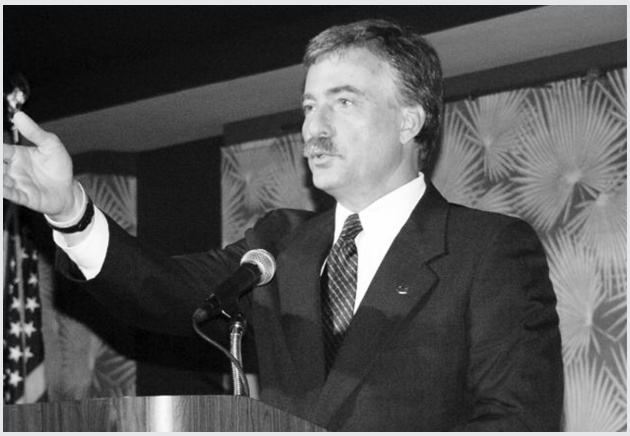












Rick Walsh, Senior Vice President of Corporate Affairs for Darden Restaurants, Inc., spoke to 300 members and guests at August's Bar Luncheon about the growth and changes we have all witnessed in Central Florida during the past 25 years. Darden owns and operates some of the most popular restaurants in the region: Red Lobster, Olive Garden, Bahama Breeze, Smokey Bones and Seasons 52.



Susan V. Stucker (center) received the Legal Aid Society's Judge J.C. "Jake" Stone Distinguished Service Award at August's Luncheon for her pro bono *work during the past year. The award is the highest recognition given by the LAS. Board of Trustees members John S. Lord, Jr., and Esther M. Whitehead presented the award.*



Foley & Lardner LLP was the recipient of the Legal Aid Society's Law Firm Award of Excellence. Pictured from left to right are: Jeremy Holt, Dulcy Miller, Jack Lord, Dawn Rodda, Jim Grodin, Ron Schirtzer, Mary Solik and Kevin Reck.

HEARSAY

Who says lawyers are no fun?! Last month a huge crowd of them showed up for the OCBA's joint happy hour with the Central Florida Association for Women Lawyers, Hispanic Bar Association, OCBA Young Lawyers' Section and Paul C. Perkins Bar Association and had a great time! More than 250 people came out to the Cigar and Wine Bar at the Exchange Lounge on Thursday, September 14, and enjoyed an evening socializing with friends and meeting new people - proving once again that lawyers really can be fun to hang out with! Special thanks go out to **WESTLAW** for sponsoring this event, giving us all the opportunity to take a break, have a couple drinks and enjoy a few laughs. With so much of our time these days now being spent glued to our computers and blackberries, these events really do provide important benefits - it isn't just about having fun (and no, it is not just an excuse to drink during the week!), but it also gives us all a chance to talk to each other face to face once in a while! Unfortunately (or fortunately), I have no scandalous gossip to report from the happy hour, but I have heard that OCBA member have been busy as usual doing more than just having fun. So, here's what's up...

LaShawnda Jackson, with Rumberger, Kirk & Caldwell, was appointed by Gov. Jeb Bush to the Judicial Nominating Commission for Florida's Ninth Circuit. The commission screens applicants for judgeship for the governor's approval. **Paul H. Chipok**, a shareholder with GrayRobinson, P.A., was elected to serve as Treasurer of the Environmental and Law Use Law Section of the Florida Bar for the 2006-2007 year. Chipok concentrates his practice in land use and environmental issues.

Richards H. Ford, with Wicker, Smith, O'Hara, McCoy, Graham & Ford, P.A., and **Francis E. Pierce, III**, with Cooney, Mattson, Lance, Blackburn, Richards & O'Connor, P.A., were recently named as 2006-7 District 5 Directors of the Florida Defense Lawyers' Association (FDLA). FDLA is the only statewide organization devoted exclusively to representing the interest of attorneys engaged in the defense of civil litigation.

A number of OCBA members have been named among the 2007 edition of *The Best Lawyers in America*®, including **David C. Schwartz**, with Fowler White Boggs Banker; **Darryl M. Bloodworth**, **Stephen J. Bozarth**, **Albert D. Capouano**, **Lauren Y. Detzel**, **Stephen D. Dunegan**, **Charles H. Egerton**, **Lynn J. Hinson**, **Steven C. Lee**, **Stephen R. Looney**, **Robert W. Mead, Jr**. and **Joseph "Jay" Van Heyde II**, all with Dean Mead; **Susan K. McKenna**, with Jackson Lewis LLP; **J. Gordon Arkin**, **Edmund T. Baxa, Jr.**, **Paul E. Rosenthal**, **John A. Sanders** and **Mary D. Solik**, all with Foley and Lardner LLP; **William E. Doster**, **William T. Dymond, Jr.**, **Richard J. Fildes**, **Miranda F. Fitzgerald**, **Thomas E. "Eddie" Francis**, **Julia L. Frey**, **Lou Frey, Jr.**, **Aaron J. Gorovitz**, **Robert F. Higgins**, **James J. Hoctor**, **Hal H. Kantor**, **John F. Lowndes**, **Timothy J. Manor**, **Rebecca L. Palmer**, **Nicholas A. Pope**, **Shawn G. Rader**, **Michael A. Ryan**, **James M. Spoonhour**, **Scott C. Thompson**, **Jon C. Yergler**, and **Terry C. Young**, all with Lowndes, Drosdick, *et al*.; and **Joyce Ackerbaum Cox**, **Richard T. Fulton**, **Jerry R. Linscott**, **Joel H. Sharp, Jr.** and **Kevin W.**



Kristyne Kennedy

Shaughnessy, with Baker Hostetler. *Best Lawyers in America*® lists attorneys in 52 specialties, representing all fifty states, who have been chosen through a survey in which thousands of the nation's top lawyers confidentially evaluate their peers.

The law firm of Lowndes, Drosdick, Doster, Kantor & Reed has been recognized in the 2006 *Orlando Sentinel*'s "Top 100 Companies for Working Families" annual ranking, placing 13th overall. The recognition is judged on the programs and policies of Central Florida employers relating to both work and family-related benefits.

Kathryn L. Kasprzak, a shareholder with the law firm of Fowler White Boggs Banker, has been selected to participate in Class 70 of Leadership Orlando. Ms. Kasprzak practices in the firm's Government, Environmental and Land Practice Group. **Nicholas A. Shannin**, Board Certified Appellate Attorney and part-time pseudo-anchorman (hey, you stay classy, OCBA!), has made a job change that sounds quite "appealing" - he has joined the Carlyle Appellate Law Firm where he will be heading up their new Orlando office to represent businesses and individuals regarding their appellate needs.

OCBA's Young Lawyers' Section and the Young CPAs will be hosting a **Happy Hour** on **October 20, 2006**, from 5:30-7:30 p.m. at Rhythm and Flow. For more information, contact **Kristen Cox** at kcox@shutts-law.com. The Central Florida Association for Women Lawyers (CFAWL) will host their annual **New Member Reception** on **October 5, 2006**, at 5:30 p.m. at Harvey's Bistro. For more information, contact CFAWL President **Kimberly Webb** at kwebb@rumberger.com.

Thanks again to **WESTLAW** for sponsoring last month's joint happy hour, and thanks to OCBA Social Committee members for their work planning and helping at the event, including **Shayne Thomas**, **Vivian Cocotas**, **Judi Garabo**, **Woody Rodriguez** and our very own **Dan O'Malley**, who provided us with great live music all night (from Megadeath to Manilow, Dan kept us entertained!). Once again, a great time was had by all, as we enjoyed good company, a few laughs and fine food and beverages. Be sure to mark your calendars for the OCBA Social Committee's upcoming events, including the **Texas Hold 'Em Poker Tournament** on **November 15, 2006**, and the **Winter Wine & Cheese Party** on **January 25, 2007**. If you would like more information about these events, sponsorship opportunities or participating on the Social Committee, contact me at kennedyk@jacksonlewis.com.

Until next month, try to take a few minutes to put down the blackberries and step away from the e-mail to have some human interaction once in a while! In this electronic world, sometimes looking someone in the eyes when you speak can be a reminder that we are all just *people* (and that includes all of us, even your adversaries!). And, as always, keep sending any of your interesting news, gossip or fun information to me at kennedyk@jacksonlewis.com or fax (407) 246-8441.

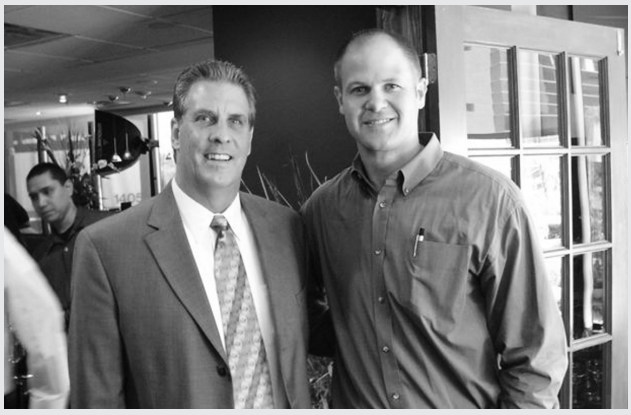
Kristyne E. Kennedy is an associate with Jackson Lewis LLP. She has been a member of the OCBA since 2001.



Past and present OCBA Presidents Brian Wilson, Tom Wert and Bill Sublette pose on the Western Summit of Grand Teton, above Jackson Hole, Wyoming, on August 28, 2006.



The OCBA's Joint Happy Hour, sponsored by Westlaw, was a smashing success! More than 250 people braved the thunderstorm on September 14th to enjoy food, drink and friendship at the Exchange Lounge on Church Street. Charlie Kiester, Westlaw, and Tom Wert officially welcomed the crowd. Give a big thanks to Social Committee Chair Kristyne Kennedy and the committee members!



1996 Heisman Trophy winner Danny Wuerffel spoke on September 1, 2006, at The Lunch of Champions to benefit Desire Street Ministries. The luncheon, sponsored by Page, Eichenblatt, Bernbaum & Bennett, raised more than $50,000. Olympic Gold medalist Michelle Akers also spoke at the fundraiser. Brant Bittner, OCBA Executive Director, takes a moment to have his picture taken with Wuerffel.



Presentation Skills for Lawyers

Make Each Second Count: How to Get Your Point Across in 60 Seconds or Less



Elliott Wilcox

How valuable is your time? Do you know the value of each month? Each week? Each hour?

Some advertisers know the value of every *second*. If you purchase a 30-second advertisement for this year's Super Bowl, you will probably spend over $83,000 per second to get your message across. Because each second is so valuable, you'll invest a tremendous amount of effort organizing and scripting your message. You'll want to maximize the value of each and every second. In that short time frame, you'll want to grab your audience's attention, pull them in, entertain or inform them, and create a memorable image that will last long after the game is over. At $83,000 per second, you'll do everything possible to pack those 30 seconds with value.

You can apply those same principles to every 30- or 60-second message you present. When you have only a limited amount of time to present your message, you must craft each word carefully. If you don't, you'll be wasting a valuable opportunity to persuade your audience. For example, I recently watched a political debate. Before any questions were posed, each candidate was given the opportunity to present a 60-second opening comment. With only 60 seconds to present themselves to the audience, you would expect that each candidate's message was carefully crafted so they wouldn't waste a single second, right?

Instead, one of the candidates started by thanking everyone for attending (tick tock, tick tock, tick tock), then directing a "thank you" and a side comment to the moderator (tick tock, tick tock, tick tock), then talking about himself ("I am this... and I am that..."). Then, at the 45-second mark, he paused for a moment and said, "I wish I had more time."

"Why?"

In 45 seconds, he hadn't given his audience a single reason to listen to him, let alone vote for him. Why did he want more time? He'd already wasted the time he'd been given.

That candidate didn't understand the importance of time. Make sure that you don't make the same mistake. When you have a limited amount of time to present your message, you can't afford to waste a single second. Here are a few guidelines to help you get your point across in 60 seconds or less:

Know what you want. What do you want this audience to think, feel, or do *differently* after you finish speaking? Don't ramble on and string together a series of disconnected nothings. Keep your ideas logically grouped around that objective. Be as specific as possible. The more concrete your objective, the easier your audience can remember it. More importantly, once you know what you want, you can measure every word you plan to say against that objective. If the words don't help you attain that objective, you can eliminate them from your message.

Talk in terms of what your audience wants, not what *you* want. Presenting an effective 60-second message starts with the first word out of your mouth, so choose a word that the audience cares about. Not "I." Not "Thank you." Not some stupid joke. Consider starting with the word "You" to remind yourself who you're talking to and who you're trying to persuade.

There's a persuasive difference between "*I'm* going to teach you several techniques about winning trials" and "*You're* about to discover several techniques that will help *you* win more trials." The first phrase approaches the subject from your viewpoint. But the second phrase talks about your audience. It tells them what benefits they'll receive from the program and how it will improve *their* lives. People are always interested in themselves. To maximize the value of your presentation time, talk in terms of your audience's interests.

Ask for what you want. Finish your 60-second presentation on a strong note and ask for what you want. If you want their vote, ask them to vote for you. If you want the judge to rule in your favor, ask for the favorable ruling. If you want the sale, ask for the sale. With less than a minute to present, you don't have time to be bashful. Invest the effort to carefully craft your objective and identify what you want, and it should be easy to ask for it.

Some of the most important presentations you'll ever deliver will be hampered by severe time constraints. But once you master the skill of making each second count, you'll be ready to seize those opportunities and persuade your audience, delivering a persuasive message that gets your point across in 60 seconds or less.

Elliott Wilcox publishes Trial Tips Newsletter*, a free weekly ezine for trial lawyers that reveals proven techniques to help you persuade jurors and win more trials. Sign up today for your free trial advocacy tips at www.TrialTheater.com.*





YLS on the Move!

Trick or Treat!

Judi Garabo

Every year I rack my brain to come up with a great Halloween costume and, inevitably, every year October comes around and I haven't put together anything clever. My default costume is Holly Golightly from "Breakfast at Tiffany's" (who doesn't have a black dress, a double-strand of pearls and a tiara at their disposal? Is that just me?), but this year I'm actually planning ahead. I got engaged in June, and I'm in the middle of planning a spring wedding. I think that reading a zillion bridal magazines, trying on gown after gown after gown, sifting through hundreds upon hundreds of invitations and debating seated dinner versus buffet, has adequately prepared me to dress up as Bridezilla this year, complete with drink tickets for the (horror of horrors!) cash bar, a sparkly banner that shrieks: "But it's MY DAY!!!!" and truly horrifying bridesmaid dresses for my nearest and dearest friends that they'll "definitely be able to wear again!" Yes, I'm all ready for Halloween this year.

There are other events taking place in October before Halloween rolls around, just not a lot of them. Join the YLS for our **Monthly Luncheon on October 19 at the Citrus Club** at 11:45 a.m. Send your RSVPs to OCBAYLS@Gmail.com before Monday, October 16. The cost is $18 if you reserve in advance, $20 at the door, $10 for government attorneys and sole practitioners.

In other upcoming events, there will be a **Joint Happy Hour with the Young CPAs on October 20 at Rhythm & Flow** - look for more details in upcoming email blasts and start thinking of good finance-related questions to ask the CPAs - they love that. It's never too early to start thinking about excluding capital gains in 2007 or figuring out whether you're better off with a Roth IRA! (I'm kidding. If you do approach a CPA with a finance question at happy hour, be prepared to answer their legal questions as well!)

Under the heading of "old business," the results are in from the **YLS Golf Tournament** in September! The winning foursome was the Shutts and Bowen team of **Eric Reed**, **Eric Castleton**, **Gregg Swift** and **Bud Bennington**. Second place went to **Richard Hale**, **Rick Hale**, **Bradford Hale** and **Brian McClain**, and third place went to **Wayne Helsby**, **Judge Arnold** and **Judge Evans**. **Donna Shealy** won the ladies' Longest Drive contest and there was a tie for the men's, going to **Brian Richardson** and **Ken McKenna**. **Ryan Evans** won Closest to the Pin.

Maria Hale and **Chelsie Roberts**, our outstanding golf committee co-chairs, would like to thank all of the players, sponsors and prize donors for their generosity, as well as the hardest-working committee in all the Young Lawyers Section. Special thanks to **Kim Healy**, **Molly Young**, **Lisa Geiger**, **Delton Chen**, **Brent Wardrop**, **Kristopher Kest**, **Lori Spangler**, **Amy Steiner**, **Don Regan** and **Liz McCausland** for beating the heat and helping out on the day of the tournament. After all was said and done, the YLS Golf Tournament raised approximately $16,000 to fund the various charitable endeavors of the Section, including the annual scholarship. We have some exciting new projects in store, so watch this space for more information as it becomes available.

September also brought our annual **Oath Administration Reception**, once again chaired by **Kim Healy**, of King, Blackwell, Downs and Zehnder, which added several new attorneys to our ranks. We want to extend a warm welcome to those new attorneys and invite them all to join the OCBA and participate in the Young Lawyers Section, which encompasses all attorney younger than 35 or in their first five years of practice, whichever is longer. The October lunch is a good place to start getting involved! Halloween costumes are optional.

Lunches are generally the third Thursday of the month at the Citrus Club and happy hours are generally the following Friday, but not always. Stay tuned in November for the **Second Annual OCBA Texas Hold 'Em Poker Tournament on November 15, upstairs at the Exchange Lounge on Church Street,** featuring some local celebrity players.

As always, please direct any questions to me at garaboj@gtlaw.com and if you want to be added to our mailing list, please send an email to OCBAYLS@gmail.com.

Since it's still football season . . . GO 'NOLES!!!!

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



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 Continued from page 9

concerned "the delicate area of possible racial bias." The court's rationale for denying access was that prospective jurors would be less likely to be candid about racial bias if they knew their views would be publicly disseminated.

In the *Stewart* case, the court ascertained that the questions asked of potential jurors did not call upon jurors to discuss gender bias or any other socially polarizing issues, and distinguished *King* on the basis that the presence of media at *voir dire* proceedings would not have especially chilled juror candor.

Restraints on the Media

The U.S. Supreme Court has not issued an absolute prohibition against restrictive orders, commonly known as "gag orders," in criminal cases. But it has made clear that such orders come to the Court with a strong First Amendment presumption against their constitutional validity.

The Court established a test to determine the validity of restraints on the press in the case of *Nebraska Press Association v. Stuart*, 427 U.S. 539 (1976). In that case, a suspect was accused of murdering six members of a Nebraska family who lived in a small community of about 850 people. The crimes received attention on local, regional, and national levels, and the trial court issued a restrictive order banning the public release of information on testimony or evidence. The Nebraska Supreme Court agreed that such an order was necessary. The Supreme Court reversed. Chief Justice Burger delivered the opinion of the Court:

> The problems presented by this case are almost as old as the Republic. Neither in the Constitution nor in contemporaneous writings do we find that the conflict between these two important rights was anticipated, yet it is inconceivable that the authors of the Constitution were unaware of the potential conflicts between the right to an unbiased jury and the guarantee of freedom of the press. The unusually able lawyers who helped write the Constitution and later drafted the Bill of Rights were familiar with the historic episode in which John Adams defended British soldiers charged with homicide for firing into a crowd of Boston demonstrators; they were intimately familiar with the clash of the adversary system and the part that passions of the populace sometimes play in influencing potential jurors. They did not address themselves directly to the situation presented by this case; their chief concern was the need for freedom of expression in the political arena and the dialogue in ideas. But they recognized that there were risks to private rights from an unfettered press... The speed of communication and the pervasiveness of the modern news media have exacerbated these problems...

The Court recognized that pretrial publicity does not inevitably lead to an unfair trial, but it also recognized that the cost of failure to afford a fair trial are high. The Court established a three-part test to determine whether a restrictive order limiting reporting on a criminal case violates the media's First Amendment rights: It examined (a) the nature and extent of pretrial news coverage; (b) whether other measures would be likely to mitigate the effects of unrestrained pretrial publicity; and (c) how effectively a restraining order would operate to prevent the threatened danger.

Applying the test, the Court agreed with the trial court that the pretrial news coverage was likely to be intense and pervasive. However, the Court found that the Nebraska courts had failed to consider alternatives short of a prior restraint on the press, which could have ensured a fair trial. Such alternatives included:

- A change of venue to a location less saturated by media coverage
- Postponement of the trial until public interest diminished
- Intensive *voir dire* of prospective jurors
- Sequestration of the jury.

Finally, the Court found that a restraining order on the press was not likely to ensure the defendant's fair trial anyway, as the case was likely to be a topic of discussion in such a small community whether a restraining order was made or not.

Courts considered a gag order recently in the rape case involving Kobe Bryant. In pretrial proceedings in that case, the judge held proceedings in his chambers to address issues regarding the victim's sexual history. When a court reporter mistakenly emailed a transcript of the proceedings to several media outlets, the court issued a gag order forbidding publication of the information in the transcript. Several media outlets appealed this decision. The Colorado Supreme Court upheld the gag order, noting that "the state has an interest of the highest order in this case in providing a confidential evidentiary proceeding under the rape shield statute, because such hearings protect the victims' privacy, encourage victims to report sexual assault, and further the prosecution and deterrence of sexual assault."

Conclusion

Intense media coverage of high-profile cases has become a regular feature of American culture. But these cases can offer much more than entertainment. By bringing into conflict two of our most cherished constitutional rights - the right to fair trial by an impartial jury and the right to freedom of speech - they offer opportunities to explore the tensions between rights that we typically take for granted. They also invite us to consider more closely, and respect, the difficult work of the many citizens called to jury service each year, who are asked to give all defendants a fair trial based not on popular opinion or media reports, but on the evidence they see and hear at trial.

"Balancing First and Sixth Amendment Rights in High-Profile Cases," by the ABA Commission on the American Jury, published in *The Commission on the American Jury: A Year in Review*. © 2005 by the American Bar Association. Reprinted with permission.



Rainmaking 101 – Lesson 4



Mark Powers

In the first four issues we have concentrated on "Who to Talk To" in your word-of-mouth marketing campaign. In this issue we will discuss several ways to market your services to *existing clients*. This is called "cross-selling" and is one of the least expensive marketing options available to you. Why? Because you've already spent the time, money and effort to get the client in the door - there are minimal marketing costs associated with continuing to serve that client and therefore they are more profitable.

In cross-selling you educate your present and past clientele about your range of services, with the hope that they will want to use more of what you have to offer. This includes clients who might need advanced services in the same practice area you've served them in the past and clients who could be served by another practice area altogether.

Cross-Selling Your Client Base

Select past clients by looking at your client lists. If your client information is on a database that allows you to sort by given parameters or fields, it will be easy to generate reports or lists of those who meet specific criteria. If you are not that well organized, delegate a staff member to hand sort your files using your list of criteria.

For example, an Estate Planner could search for past clients that might need advanced estate planning services by sorting through the following criteria: age, asset level, past service provided by the law firm, whether the past client is a business owner, whether it is a family-owned business, etc. Develop similar lists of attributes that are reliable predictors of your client needs and then strategize about cross-selling or upgrading these groups. There is a great deal of hidden revenue to uncover in this process.

Once the sorting is complete, the next step is to re-establish communication with the targeted group of clients. There are several ways to do this, but most of our clients find that it is most effective to reconnect with a group by sending a letter. Add as much personalization as you can to your letter to increase its effectiveness - this should include the client's name and perhaps a brief handwritten note which states something like: *"I look forward to hearing from you,"* or*, "I have some interesting new tools (or strategies) I'd like to discuss with you."*

Cross-Selling Letter #1

The following is a sample letter from a real estate attorney informing his client of further services provided by the firm and offering a complementary consultation. This letter is sent as part of the post-closing process -- before the relationship with the client fades.

Cross-Selling Letter #1

Dear _____ (name):

We at (firm name) enjoyed meeting and working with you on the purchase of your new home. We want to take this opportunity to again offer our congratulations. In addition to real estate transactions, our firm has expertise in a wide variety of legal matters including the following:

- Corporate Law
- Estate Planning & Probate
- Family Law

We would be delighted to assist you in any future matters or transactions in which you may need the assistance of an attorney. We offer an initial 1/2 hour consultation at no charge to you.

Please give us a call if we can be of further assistance.

Sincerely,
(name)

Cross-Selling Letter #2

This letter invites past clients to a small, informal, information session. Typically these information sessions are held in your conference room, accompanied by simple refreshments and involving less than 10 people at a time. You can also let your clients know you will meet with them individually to answer further questions.

Cross-Selling Letter #2

Dear _____ (name):

The new _____ law is becoming more and more complicated. There are many aspects of it that may affect you (or your interests). Because you have placed your trust and confidence in me in the past, I feel I should keep you informed of changes in the law that may have important consequences for you (or your business).

Many people are not making the best use of this law simply because they are uninformed. I believe you should have the opportunity to learn what your options are and how this change affects you.

In order to remedy this situation I am holding a small, informal information session at my office on _____ at ____. Please join me and get your questions answered. Give us a

Continued on page 20



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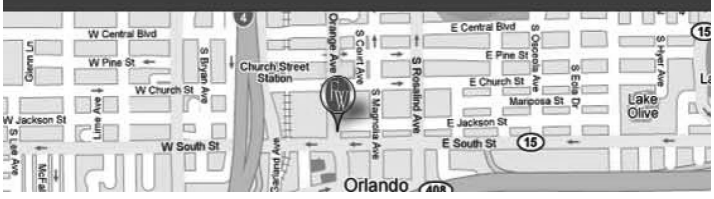
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Rainmaking – *Lesson 4* *Continued from page 19*

call at _____ to RSVP.

I look forward to seeing you again.

Sincerely,
(name)

Cross-Selling Letter #3

This letter is for the attorney who is cross-selling within his own client base, but it can be modified to suit cross-selling a client who has worked successfully with one member of a legal firm and is judged to be a candidate for other firm services.

Cross-Selling Letter #3

Dear _____ (name):

Here at (firm name) we've begun the process of updating our past client files. We realized we had not heard from you for some time. We would like to take this opportunity to say we've enjoyed working with you in the past and express our willingness to assist you in any further legal matters.

Our firm has grown and we now include _____ (list of practice areas) as part of our services. Give us a call or drop by if we can be of additional help. We will make a 1/2-hour complimentary consultation available to you if you need to have any questions answered.

Please give us a call at _____. We look forward to seeing you again.

Sincerely,
(name)

The Next Step

Compose a customizable form letter inviting your clients to:

- Call and schedule an appointment with you, or
- Attend a small, informational session in your office conference room

Remember: buried within your client files is a great deal of potential business. It is up to you to access it. Cross-selling is one of the easiest, least expensive and most ethical ways to market your services.

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



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Patrick C. Howell - *Taylor & Carls, P.A.*

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Nicholas A. Shannin - *Carlyle Appellate Law Firm*

Speaking Engagements

Harry W. Carls and **Robert L. Taylor**, founding partners of the community association law firm of Taylor & Carls, P.A., will present "Establishing and Operating Homeowners' Associations in Florida: Understanding the Legal Issues" on October 17, 2006, for Lorman Education Services in Orlando, Florida.

S. Brent Spain, of Theriaque Vorbeck & Spain's Orlando office, presented "Judicial Appeals of Zoning Decisions" and "Ethical Issues in Land Use Law: The Lawyer's Responsibility" at a seminar hosted by the National Business Institute in Orlando.

Keith Hammond, of Jackson Lewis LLP, recently organized and was a presenter at a full-day seminar entitled "Advanced FMLA Seminar." Hammond presented topics including "An Overview of the FMLA" and "Developing a Compliance Procedure to Reduce Risk." **Kristyne Kennedy**, also with Jackson Lewis LLP, addressed "Borderline Eligibility Considerations" at the seminar. **Hammond** also recently was featured at a presentation for the East Orlando Chamber of Commerce entitled "Avoiding Workplace Liability: An Overview of Employment Law for Employers of All Sizes."

Dennis Wall, of Winter Springs, Florida, presented "Good Faith Claim File Handling - The Ethics" on September 16, 2006, to the Jacksonville Association of Defense Counsel at the Ritz Carlton on Amelia Island, Florida.

News to Note

Florida Bar CLE Seminar - The Florida Bar Continuing Legal Education Committee and the Practice Management & Development Section present: Staff Management for the Law Office - How to Hire and Retain Good People, on Friday, October 27, 2006, from 9:00 a.m. to Noon, at the Ivanhoe Plaza Hotel, 60 S. Ivanhoe Blvd., Orlando, FL, 32804. (Late registration: 8:30 a.m.) The course will blend legal advice from experienced employment-law practitioners with practical tips from firm administrators. Materials will be provided. CLE: 3.0 General (1.0 Ethics; 1.5 Labor & Employment Law). Advanced registration for section members: $105; non-section members: $130; registration at the door: add $25. For forms or to register online, go to: www.FLORIDABAR.org or call 850-561-5831.

***The Briefs* Photo Contest Submissions**: The editors and staff of *The Briefs* would like to thank **Cheryl Barker**, **Amanda Etzkorn**, **Kristen Flynn**, **Nicholas Ostrem**, **Tarsila Reybitz**, **Jordan Robinson** and **Laura Lee Shields** for their recent photo submissions. They all sent beautiful images - from Paris, Rio de Janeiro, Gibraltar (UK), Greece and Spain - and we applaud their collective creative talents. Unfortunately, the resolution for the photos was not of the quality necessary for reproduction on our cover. Please continue sending your photos, though, and use the following as your guide: Digital format with a minimum pixel size of 1024 x 768 or higher.

OCBA January Luncheon Date Change



The January OCBA Speaker Series Luncheon, previously scheduled for January 25th, will now be held on Thursday, January 11, 2007, at the Downtown Orlando Marriott. Doors open at 11:30 a.m.

Our guest speaker will be Florida Supreme Court Justice Barbara J. Pariente.

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OCBA MODEST MEANS PROGRAM NEEDS YOU!

The OCBA is continuing to build its new Modest Means Program and is seeking attorneys who are interested in expanding their client base by joining the Modest Mean panel. The program's objective is to provide legal services to members of the community who cannot afford or do not qualify for legal services through traditional means. Panel lawyers will bill at set rates that will accord them fair compensation for legal services they provide in the following specialty areas:

a) Bankruptcy: $1,500 for Chapter 13 cases; $800 for Chapter 7 cases.

b) Family Law: $850 retainer for dissolutions and custodial disputes; thereafter, $100 per hour to the extent that a participating attorney reasonably expends in excess of 8.5 hours of billable time in the case. For all other family law matters, $350 retainer; thereafter, $100 per hour to the extent that a participating attorney reasonably expends in excess of 3.5 hours of billable time in the case.

c) Landlord-tenant: $350 retainer; thereafter, $100 per hour to the extent that a participating attorney reasonably expends in excess of 3.5 hours of billable time in the case.

d) Simple Wills: $100 for a simple Will; $150 for a reciprocal Will package; $250 for a simple planning package, including Will, designation of medical agent, and power of attorney; $350 for a reciprocal planning package, including Will, designation of medical agent, and power of attorney.

For more information, or to join the Modest Means panel, please contact the OCBA office at 407-422-4551.

Wyndham Vacation Ownership, Inc. has two Sr. Counsel openings in our South Orlando corporate office supporting two of our timeshare brands, Fairfield Resorts, Inc. and Trendwest Resorts, Inc. We have over 750,000 owners and we're continuing to grow our business. Attorneys if you have experience working with sales and marketing, contract negotiations or with corporate acquisitions, due diligence or general corporate matters such as securitizations (or other borrowing facilities), consumer finance and business development, please apply as soon as possible. A minimum of 2 years of experience, with two years of practice at a law firm strongly preferred. Apply by logging on to https://www2.fairfieldresorts.com/inside/career.asp and referencing the following job number WYN000003H and WYN000002E, for these positions.

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LEGAL ADMIN ASSISTANT for small growing law firm in downtown Orlando. Duties incl. data entry, filing, general secretarial and receptionist duties. Computer experience incl. MS Word and Outlook required as are organizational skills, attention to detail and willingness to learn. E-mail resume or letter of interest to resumes@theconstructionlawfirm.com.

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2006 October - November Calendar

OCBA Luncheon • October 26, 2006

Francisco R. Angones

President-Elect Designate, The Florida Bar

RSVP by October 24th to reservations@ocbanet.org

October

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

OCALSS Meeting
5:30 p.m. • Bar Center

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

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

6 ***Diversity Committee***
8:00 a.m. • Bar Center

CFAWL Bar Luncheon
11:30 a.m. • Citrus Club

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

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

12 ***Legal Aid Society Executive***
8:00 a.m. • 100 E. Robinson St.

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

13 ***Workers' Compensation Committee***
11:45 a.m. • Bar Center

Teen Court Golf Tournament
12:00 p.m. • North Shore Golf Club

17 ***Legal Aid Society Board***
11:45 a.m. • 100 E. Robinson St. (Upstairs)

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

Inns of Court
5:30 p.m. • Dubsdread

19 ***Young Lawyer Section Luncheon***
11:45 a.m. • Citrus Club

Paul C. Perkins Bar General Meeting
12:00 p.m. • Bar Center

Hispanic Bar Association
5:30 p.m. • TBA

Health Law Committee
6:00 p.m. • GrayRobinson, P.A.

20 ***Family Law Breakfast Meeting***
8:00 a.m. • 425 N. Orange Ave., Rm. 2310

25 ***Business Law Committee***
12:00 p.m. • Baker & Hostetler, Sun Trust Bank Bldg.

CFACDL
11:45 a.m. • Sorosis Club

YLS Board Meeting
5:30 p.m. • Napasorn

26 ***OCBA Luncheon***
Francisco R. Angones
President-Elect Designate, The Florida Bar
Lawyers' Impact In American History
11:30 a.m. • Downtown Marriott

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

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

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

November

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

Federal Judicial Relations Committee
12:00 p.m. • Judge Conway's Chambers

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

3 ***Diversity Committee***
8:00 a.m. • Bar Center

CFAWL Bar Luncheon
11:30 a.m. • Citrus Club

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

OCALSS
5:30 p.m. • Bar Center

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

Family Law Executive Board Committee
12:00 p.m. • Bar Center

Judicial Relations Committee
12:15 p.m. • Orange County Courthouse, 21st Floor, Conference Room

9 ***Legal Aid Society Executive***
8:00 a.m. • 100 E. Robinson St.

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

10 ***Workers' Compensation Law***
11:45 a.m. • Bar Center

14 ***Executive Council***
11:30 a.m. • Bar Center

15 ***OCBA Texas Hold 'Em Poker Tournament***
5:30 p.m. • TBA

16 ***Young Lawyers Luncheon***
11:45 a.m. • Citrus Club

Hispanic Bar Association
5:30 p.m. • TBA

Paul C. Perkins Bar General Meeting
6:00 p.m. • FAMU College of Law

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

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