

A Publication of the Orange County Bar Association



*A Person's Right to See the Children -
A Historical Perspective Since Gardner v. Gardner*
Gary S. Israel

THE HEALTH LAW FIRM

MAIN OFFICE • 1101 DOUGLAS AVENUE • ALTAMONTE SPRINGS, FL 32714
TELEPHONE: (407) 331-6620 • (850) 439-1001 • TELEFAX: (407) 331-3030

BRANCH OFFICE • 37 N. ORANGE AVE., STE. 500 • ORLANDO, FL 32801

BRANCH OFFICE • 201 E. GOVERNMENT STREET • PENSACOLA, FL 32501

WEBSITES • WWW.THEHEALTHLAWFIRM.COM • WWW.HEALTHATTORNEYS.COM

REPRESENTATION OF HEALTH PROFESSIONALS

George Indest is board certified by the Florida Bar in the specialty of Health Law and is available to accept referrals of health care clients or to act as co-counsel on health care cases state-wide. We represent health care professionals.

- Medicare/Medicaid Audit Defense

- DOH/AHCA Investigations

- Administrative Hearings

- Medicare/Medicaid Fraud Defense

- Professional Licensing

- Medical Board Cases

- Office Leases

- National Practitioner Data Bank

- Hospital Credentials Hearings

- Physician Contracts

- Partnership Dissolutions

- Covenants not to Compete

- Medicaid Cost Reimbursement

- Report Denials

- Medicaid Appeal Hearings

- Disciplinary Proceedings

- Substance Abuse (PRN/IPN)

- Appellate Practice



GEORGE F. INDEST III,
J.D., M.P.A., LL.M.

- Over 20 Years legal experience

- Former General Counsel of Teaching Hospital

- LL.M. from George Washington University

- Admitted in Florida, Louisiana and D.C.

- Board Certified by the Florida Bar in Health Law



- Medical Malpractice Defense

- Insurance Company Audit Defense

- Regulatory Hearings

- Utilization Review Defense

- Preparation/Litigation of Physician Contracts

- Managed Care Contracts

- Nursing Board Cases

- Corporations, LLC's, Partnerships and other Business Entities

- Sales/Purchases of Medical Practices

- Peer Review Defense

- Physicians' Personal Counsel

- Risk Management Investigations

- Due Diligence Investigations

- Opinion Letters

- Complex Litigation

- Medical Staff Bylaws



MICHAEL L. SMITH
J.D., R.R.T.

- B.S., Nova Southeastern University

- J.D., Stetson Univ. College of Law

- Registered Respiratory Therapist

- Licensed in Florida

- Board Certified by the Florida Bar in Health Law



JOANNE KENNA
J.D., R.N.

- J.D., Stetson Univ. College of Law

- B.A., Business Management, National Louis University (with honors)

- Diploma, St Anne's Hospital School of Nursing

- Licensed in Florida

Put a specialist in Health Law to work with you or for your client.

ONE FLORIDA, ONE TEAM.



Kathryn Hynes, Esq.
Executive Director
Orlando and Tampa Bay



Michael Davey, Esq.
Executive Director
Ft. Lauderdale and Miami



David Maldonado, Esq.
Senior Vice President
Florida, Louisiana, Tennessee, Texas, and Colorado



Nondas Davis, Esq.
Senior Attorney Placement Director
Florida



Jayme Cassidy, Esq.
Attorney Placement Director
Florida



Vennese Benitez Gordon
Business Development Director
Fort Lauderdale, Orlando and Tampa Bay



Marcia Hерaman
Placement Director
Jacksonville and Tallahassee



Julie DeLeon
Senior Placement Director
Miami



Gabriel Decaran-Voigt
Business Development Director
Miami



Your cases are not limited to one city or region, your recruiter shouldn't be either. Throughout Northeast, Central, and South Florida, Special Counsel is the leading provider of legal staffing services to corporate legal departments and law firms.

Our services include customized staffing and project management for e-discovery and document review projects of any size and duration, as well as providing experienced attorneys and paralegals for litigation and business transactions. Specialized services include search and direct hire placement of legal professionals at all levels, medical document review, Concise® Deposition Summary Service, and court reporting services through Alderson® Reporting.

We are one team for all of Florida's legal staffing needs. Call us today.

Jacksonville/Tallahassee/ Northeast Florida	(904) 737-3436
Tampa Bay/Orlando	(813) 287-0140
Ft. Lauderdale	(954) 764-5474
Miami	(305) 374-0977
Nationwide	(800) 737-3436

specialcounsel.com

A Member of the MPS Group
MPS
LISTED
NYSE

Table of Contents

President's Message —————	3
<i>Citizen Dispute Settlement and Family Law Mediation Program</i> Tad A. Yates	
OCBA Luncheon Speaker —————	5
<i>Val B. Demings</i> <i>Chief of Police, Orlando Police Department</i>	
Professionalism Committee —————	7
<i>2009 Professionalism Award Nominations</i> <i>Are Now Being Accepted</i>	
75 Years of Excellence —————	9
<i>The History of the OCBA in the 1980s</i> Melanie C. Shoemaker	
Family Law Committee —————	13
<i>A Person's Right to See the Children – A Historical Perspective</i> <i>Since Gardner v. Gardner</i> Gary S. Israel	
Insurance Law Committee —————	19
<i>Clearly Unambiguous</i> James W. Markel	
Hearsay —————	20-21
Nicholas A. Shannin	
YLS on the Move —————	23
<i>We Can't Wait to Tell You . . .</i> Bridget Heffernan Labutta	
Criminal Law Committee —————	25
<i>Recent Supreme Court Criminal Decisions</i> William Jay	
Legal Aid Society News —————	26
<i>Legal Aid Participates in Community Outreach Programs</i> Larri Thatcher	
Family Legacy —————	27
<i>George Walter Johnson Scholarship Fund</i> The Honorable Winifred J. Sharp	
Side Bar —————	28
Jessica K. Hew	
Presentation Skills for Lawyers —————	29
<i>"and Your Little Dog, too!"</i> Elliott Wilcox	
Rainmaking —————	31
<i>A Simple Way to Increase Referrals - Learn to Say Thank You</i> Mark Powers and Shawn McNalis	
Announcements —————	33
New Members —————	35
Classifieds —————	37
OCBA Calendar —————	40



Page 5



Page 9



Page 13



Page 27

About the September 2008 Cover

Many thanks to the following members of the judiciary for participating in our Annual September Football cover photo shoot: **Bottom row:** Judge John E. Jordan (USF); Judge Antoinette Plogstedt (UF); Judge Lisa T. Munyon (UF); Maureen Bell (UF); Alan S. Apte (Miami). **Second row:** Judge Steve Jewett (UF); Judge Faye L. Allen (FAMU); Judge Julie H. O'Kane (FAU); Judge Marc L. Lubet (UF); Judge Walter G. Komanski (UCF). **Third row:** Judge Bob LeBlanc (Miami); Judge W. Michael Miller (Furman); Judge Nancy L. Clark (UF); Judge Robert Egan (UF, helmet); Judge Heather L. Higbee (UF hat, Duke license plate). **Fourth row:** Judge F. Rand Wallis (Furman). **Back row:** Judge A. Thomas Mihok (Navy); Judge Mike Murphy (UF); Judge Bob Wattles (UF).



Cover by ProOne Video
Art Director: Mark Le Grand
Photographer: Derek Smith

The Briefs

© 2008

Co-Editors

Kristyne E. Kennedy & Thomas A. Zehnder

Associate Editors

LaShawnda K. Jackson & Kimberly D. Healy

Communications Manager

Peggy Storch

Side Bar Columnist

Jessica K. Hew

Hearsay Columnist

Nicholas A. Shannin

YLS Columnist

Bridget Heffernan Labutta

OFFICERS

Tad A. Yates, *President*

Diego "Woody" Rodriguez, *President-Elect*

Jessica K. Hew, *Treasurer*

Thomas A. Zehnder, *Secretary*

EXECUTIVE COUNCIL

Frank M. Bedell

Wiley S. Boston

Meenakshi A. Hirani

Kristyne E. Kennedy

Paul J. Scheck

Nicholas A. Shannin

William D. Umansky

William C. Vose

Esther M. Whitehead

C. Gene Shipley, *Ex-Officio*

Chelsie J. Roberts, *President, YLS*

EXECUTIVE DIRECTOR

Brant Bittner



880 North Orange Avenue

Orlando, FL 32801

(407) 422-4551 • Fax (407) 843-3470

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

DEADLINE INFORMATION

Deadline for Dec./Jan. Issue: 11/01/2008

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

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

All contents ©2008 Orange County Bar Association. All rights reserved.

Visit the OCBA's Website:
www.orangecountybar.org



Citizen Dispute Settlement and Family Law Mediation Program

Tad A. Yates

The OCBA conducted a membership survey in May 2008. I'm told that 70% of the respondents were not familiar with the OCBA's **Citizen Dispute Settlement and Family Law Mediation Program** (CDS). Because the survey respondents familiar with the program said they hold it in high regard, I thought I would dedicate September's column to letting all of our members know about the program and increasing our appreciation for this valuable and important OCBA community service program.

For starters, it should be noted that this program would not be possible without the financial backing of our **Orange County Government** and without the time and energy of volunteer lawyers and OCBA staffer, **Maria Sanchez**.

The CDS program was established under the OCBA presidency of **Judge Robert J. Pleus, Jr.** Judge Pleus recently shared with *The Briefs* that he considers the founding of this program to be a highlight of his tenure (1976-1977). For more than 30 years, the OCBA has provided CDS services to the citizens of Orange County. Through a service funding agreement between the County and the OCBA, the County now pledges funds from court costs imposed in certain criminal cases to the OCBA in return for the OCBA's agreement to manage the CDS program.

As it exists today, any citizen of Orange County may contact the OCBA CDS program for assistance in scheduling a *free* mediation. Disputes handled by the program include, but are not limited to, landlord/tenant issues, property disputes, neighborhood complaints, consumer issues, alimony, and child custody/support issues. OCBA members dedicate their time to provide this service to the community, and many OCBA members satisfy their *pro bono* requirement with service through the CDS program. If you have an interest in participating in the program, you may volunteer to serve as a mediator through the **OCBA Legal Aid Society**. In fact, CDS offers a great opportunity for government lawyers to fulfill their *pro bono* requirement. In recent years, Assistant Federal Public Defender **Peter Warren Kenny** and Assistant State Attorney **Robert J. Welch** have received awards of merit from the OCBA Legal Aid Society for their work with CDS. Any member of the Florida Bar is eligible to mediate non-family law cases through CDS, but only state-certified family mediators can mediate family law cases. A special thanks to all CDS volunteers!

Maria Sanchez is the OCBA staff member who oversees the CDS program and schedules mediations. From 2005 to 2007, Maria scheduled **1,864 mediations!** The 2008 numbers are on track to exceed the yearly average for that three-year period. With these numbers, it is not hard to imagine the resources saved by our justice system through the volunteer efforts of our members.

It is interesting to note that Maria resolves a fair number of matters referred to the CDS program before volunteer lawyers even get involved. Maria is contacted by a party to schedule a mediation. When she makes the call to the "opposing" party, she is sometimes able to settle the matter herself. Maria shared with me a recent case in which a single mother, who had recently been laid off from work, contacted her. The woman was desperate to pay rent and to buy groceries for her family. For more than a year, she had been trying on her own to recover a \$1,000 security deposit she had placed on a previous apartment. Without the funds to hire an attorney to assist in this effort, the woman had been stonewalled by her former landlord. Maria wrote to the landlord to set a date for mediation. Within one week, the landlord returned the security deposit to this needy woman.

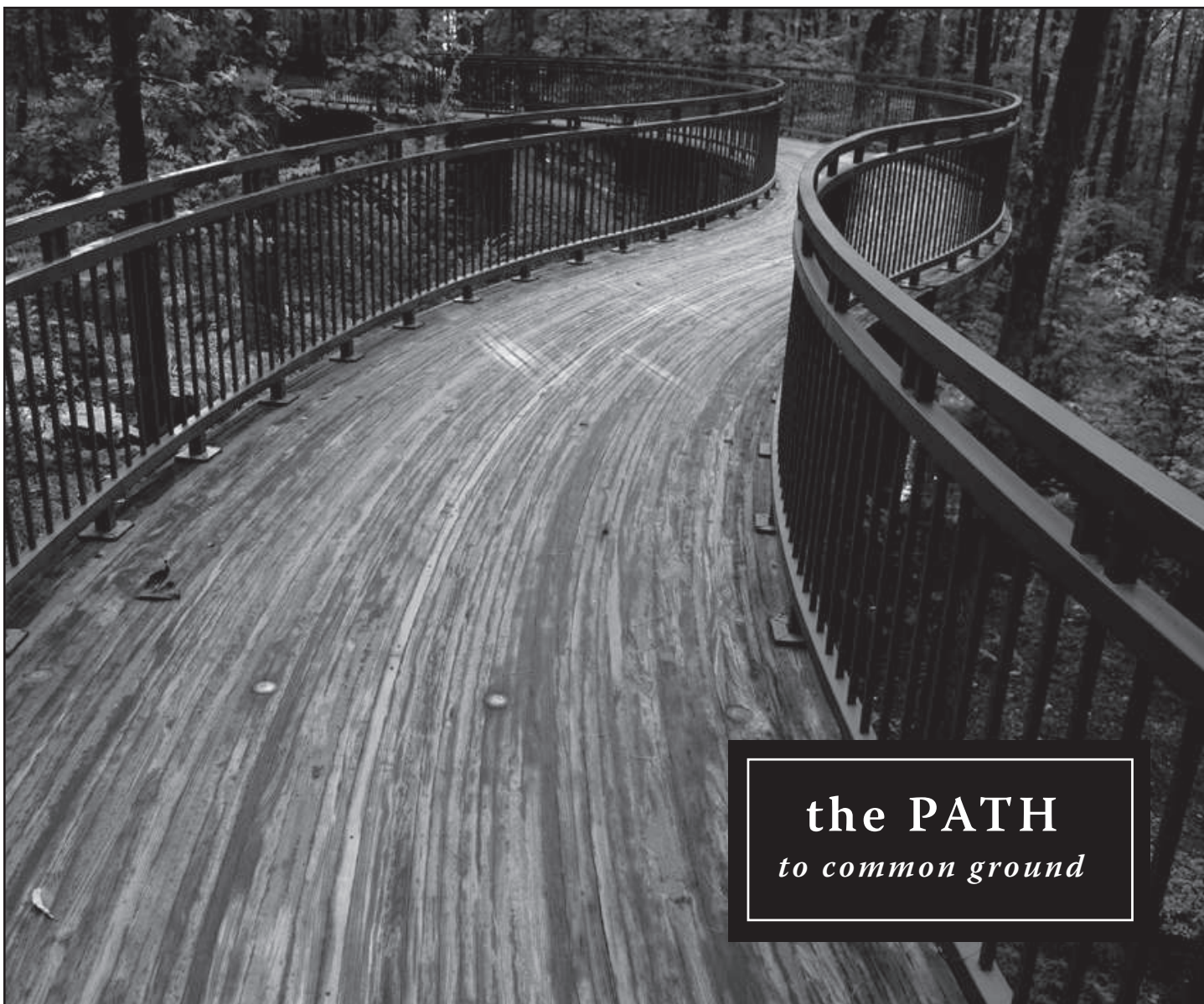
Maria shares that "[i]t is a really satisfying feeling to know that we can make a difference. I am very passionate about this job because it gives people an alternative to the court process." Maria receives many referrals for CDS services through the Clerk's Office, Code Enforcement, the Legal Aid Society, and Animal Control. Still, there are many who don't know about this terrific service.

For more information about the program, please feel free to telephone Maria Sanchez at 407-423-5732, or email her at marias@ocbanet.org. For volunteer opportunities, please contact the OCBA Legal Aid Society at 407-841-8310.

I again want to thank all of our CDS volunteers and Maria Sanchez.

I look forward to seeing you at our next luncheon on September 25, 2008. The OCBA will co-host the luncheon with the Central Florida Association for Women Lawyers, and Chief Val Demings of the City of Orlando Police Department will join us. We look forward to Chief Demings's remarks!

Tad A. Yates is a partner with Kirkconnell, Lindsey, Snure and Yates, P.A. He has been a member of the OCBA since 1994.



the PATH
to common ground



For Upchurch Watson White & Max,
the road to resolution is well traveled.

Navigating a settlement between parties who don't agree can be a rocky road. We can help. For Upchurch Watson White and Max, the road to resolution is paved with thousands of agreeable outcomes.

Upchurch Watson White and Max specializes in settling disputes—anywhere. Considered by many as the go-to mediation and arbitration firm, our team of attorneys and former judges has handled many of the most high-profile cases undertaken over the past 20 years. We are committed to the satisfactory resolution of every case, from the simplest to the most complex.

Our Supreme Court certified mediators will help you and your clients find the road to common ground.



Upchurch Watson White & Max
uww-adr.com

DAYTONA BEACH

MAITLAND / ORLANDO

WEST PALM BEACH

MIAMI

BIRMINGHAM

OCBA Luncheon Speaker

Sponsored by

Westlaw®

September 25, 2008



Val B. Demings **Chief of Police** **Orlando Police Department**

Val B. Demings, born in Jacksonville, Florida, received her Bachelor of Science degree in Criminology from Florida State University and her Master of Arts degree in Public Administration from Webster University. Chief Demings also completed the Southern Police Institute Command Officer's Development Course and is a graduate of the 226th Session of the FBI National Academy.

After working as a social worker in foster care, Chief Demings moved to Orlando in 1983 to attend the Police Academy. She was elected class president and later received the Board of Trustees Award for overall excellence. She has worked many assignments throughout her career, including the West Patrol Division, Criminal Investigation Division, Crime Prevention Division, Explorer and Cadet Unit, Public Information Office, Internal Affairs, and the Airport Division. She has also served as the Commander of Special Operations where she managed special events, dignitary protection, traffic enforcement, traffic homicide, marine patrol, the K-9 and Vehicles for Hire Units, and the Reserve and Auxiliary Units. Most recently, Chief Demings served as the Bureau Commander for Patrol Services and was responsible for more than 300 sworn and civilian personnel. Effective December 17, 2007, Chief Demings was appointed by Mayor Dyer as Chief of Police for the City of Orlando.

In addition to her regular assignments, Chief Demings served 12 years on the Crisis Negotiation Team, served as Commander of the Critical Incident Stress Debriefing Team, and served as Executive Vice President of the International Association of Airport and Seaport Police.

Chief Demings has held a wide variety of leadership roles and been active in organizations including: Saint Mark A.M.E. Church; Women's Missionary Society; Delta Sigma Theta Public Service Sorority; The Social Action Committee; The Links, Inc., Orlando Chapter; Central Florida Police Athletic League; YMCA Achievers Program; Orange County Family Services Program; Valencia Community College Black Advisory Board; United Negro College Fund; Guardian Care Nursing and Rehabilitative Center; NAACP; and Regional Commission on Homelessness, among others.

Chief Demings is married to Jerry L. Demings, Public Safety Director for Orange County Government and former Orlando Police Chief. They have three sons, Austin, Antoine, and Antonio.

The Ballroom at Church Street • 11:30 a.m. - 1:00 p.m.

225 S. Garland Avenue • Orlando, FL 32801

Hosted by the Central Florida Association for Women Lawyers

Please RSVP to reservations@ocbanet.org by Friday, September 19, 2008.

To ensure a proper luncheon count, **RSVPs and CANCELLATIONS** are requested no later than Friday, September 19, 2008. The OCBA is happy to provide 11 luncheons as part of your member benefits, **but no-shows incur additional charges for the Bar and walk-ups can't be guaranteed a spot.** Please keep us up-to-date on your reservation status! Thank you.

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

**Florida Emergency Physicians-Kang &
Associates, M.D., P.A. v. Parker,**
800 So. 2d 631 (Fla. 5th DCA 2001)
Protected liability on multi-million
dollar medical malpractice action.

Miller v. Jacobs & Goodman,
699 So. 2d 729 (Fla. 5th DCA 1997)
Declared liquidated damages clause
of attorney employment agreement
void and unenforceable.

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

Boyles v. Mid-Florida Television Corp.,
467 So. 2d 282 (Fla. 1985)
Reversed the dismissal of a libel action
against an Orlando television station.

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

Whigham v. Shands Teaching Hospital,
613 So. 2d 110 (Fla. 1st DCA 1993)
Reinstated multi-million dollar medical
malpractice action against blood bank.

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

Gaiazza v. Tuff Realty Corp.,
805 So. 2d 29 (Fla. 5th DCA 2001)
Protected ownership of two
multi-million dollar Florida
corporations.

Owen v. Owen
867 So. 2d 1222 (Fla. 5th DCA 2004)
Reversed imputation of income with
directions to reduce by 50%.

Your APPELLATE PARTNER

- All Florida Civil Appeals
- 30+ Years of Appellate Experience
- AV Rated - Martindale-Hubbell
- Florida Bar Certified in
Appellate Practice
- Bar Register of Preeminent
Lawyers
- Who's Who in American Law



P.O. Box 953693
Lake Mary, Florida 32795

(407) 688-2700

Toll Free (866) 688-2700

www.appellatepartner.com



Professionalism Committee

2009 OCBA Professionalism Award Nominations Are Now Being Accepted • Deadline: December 1, 2008

— Submitted by the OCBA Professionalism Committee

Professionalism is about understanding that the practice of law is a calling, and not just a business. Professionalism is about understanding and being committed to following the dictates of our Oath of Admission to the Florida Bar. Professionalism is about civility in one's manner of practice, while at the same time ardently representing one's client. Professionalism is about being your client's advocate, and at the same time being counselor and advisor. Professionalism is about saying "no" to your client even when he or she only wants to hear "yes."

- **Council Wooten, Jr.**, 2008 Trickel Award Recipient



We are all incredibly privileged to be lawyers in our society. I have never understood this more than when my Mom was falsely imprisoned in Vietnam. We, as lawyers, are charged with protecting the freedoms that we hold so dear as Americans. We are the final defense when these freedoms are attacked. As lawyers, we hold a special position of trust, power and influence. We are privileged to hold this place in our society and we, in turn, have the responsibility to make our community at large, and more specifically our profession, better and worthy of the privilege we hold.

- **Elizabeth F. McCausland**, 2008 Mathews Young Lawyer Award Recipient

You can share in this award, whenever you are courteous in dealing with other lawyers, with judges, clients, your employees, parties and witnesses, when you deal honestly with everyone you come into contact with - even your opposition, when you try as hard to settle a case as you do to litigate. You share in this award when you work on your pro bono case, when you freely give advice to a younger lawyer, when you do your work even when you don't feel like doing it, and when you strive to do a good job in everything you do in every case.

- **Hon. Emerson R. Thompson, Jr.**,

2008 Glazebrook Memorial Bar Service Award Recipient,
quoting **Jules S. Cohen**, 1995 Trickel Award Recipient



Now Accepting Nominations

The OCBA Professionalism Committee is now accepting nominations for the Orange County Bar Association's most prestigious annual awards for legal professionalism – the William Trickel, Jr. Professionalism Award, the Lawrence G. Mathews, Jr., Young Lawyer Professionalism Award, and the James G. Glazebrook Memorial Bar Service Award. Please honor Orange County's most distinguished and well-respected attorneys and jurists by making your nomination. The past winners have demonstrated a commitment to pursuing the highest ideals of professionalism, while achieving career success and distinction. The past winners have further demonstrated a commitment to professionalism and improving the practice of law not only by being consummate professionals, but also by being active in the community, in the OCBA, and in the Florida Bar.

Brief History of the Awards

In 1994, the OCBA dedicated the William Trickel, Jr. Professionalism Award to recognize attorneys for career dedication to aspiring to the highest ideals of professionalism.

In 2003, the OCBA dedicated the Lawrence G. Mathews, Jr., Young Lawyer Professionalism Award to recognize young lawyers for career dedication to aspiring to the highest ideals of professionalism. And in 2007, the OCBA dedicated the James G. Glazebrook Memorial Bar Service Award to the memory of the late U.S. Magistrate Judge, to recognize jurists for dedication to professionalism and outstanding service to and support for the legal profession. Annually, we honor the memory of William Trickel, Jr., Larry G. Mathews, Jr. and the Hon. James G. Glazebrook by presenting awards to attorneys and jurists who have followed in their footsteps down the path of professionalism.

FAQs

1. How do I make a nomination for the OCBA Professionalism Awards?

Nominations for the awards may be made by letter, email, facsimile, or by nomination form, (available on the OCBA website). Clearly identify your nominee, indicate

Continued on page 8

for which award you are making the nomination, and explain why your nominee embodies the qualities worthy of receiving the award. Ensure that you provide your contact information so that we may contact you if we have questions. Also, let us know if you desire to have the committee consider a previously submitted application. Forward your nomination(s) or any question(s) regarding the awards to either:

Brant Bittner,
Executive Director
Orange County Bar Association
880 N. Orange Avenue
Orlando, FL 32801
Phone No.: 407-422-4551
Fax: 407-843-3470
E-mail: Brantb@ocbanet.org

Howard D. Friedman
Chair, OCBA Professionalism Committee
2000 E. Michigan St.
Orlando, FL 32806
Phone No.: 407-836-7544
E-mail: ctgmhf1@ocnjcc.org

2. What are the award criteria for each of the OCBA Professionalism Awards?

James G. Glazebrook Memorial Bar Service Award for jurist.

The James G. Glazebrook Memorial Bar Service Award is presented annually to the state or federal judge (including state magistrates, judicial hearing officers, county court and circuit judges, appellate judges, federal magistrates, district court judges, and bankruptcy court judges) serving Orange County or hearing cases in a district which includes Orange County, who best embodies the following characteristics: (a) service to and support for the legal profession and/or the Orange County Bar Association and/or The Legal Aid Society of the OCBA; (b) dedication to professionalism, both in and out of the courtroom; and (c) leadership in promoting the qualities that heighten professionalism, including civility, integrity, and respect for our system of justice.

William Trickel, Jr. Professionalism Award for attorneys in practice 15 or more years.

Lawrence G. Mathews, Jr., Young Lawyer Professionalism Award for attorneys in practice less than 15 years.

Each year the OCBA Professionalism Committee, through the Trickel and Mathews awards, seeks to honor practicing attorneys whose conduct and career stand as models of success built on unquestioned professionalism.

In making the award determination, the Professionalism Committee focuses on career success, service to community, service to the profession and, most importantly, consistently ethical conduct, accompanied by courteous demeanor and the highest moral standards exceeding what is required by the Code of Professional Conduct.

The Professionalism Committee seeks to emphasize the OCBA's commitment to professionalism by identifying and awarding both younger attorneys and long-standing members who meet the highest standards of professionalism.

Through the Mathews and Trickel awards, the OCBA seeks to show, in a tangible manner, that professionalism is an integral part of career success.

3. What is the deadline for submitting my nomination?

The deadline for submission of your nomination for the 2009 Glazebrook, Trickel and Mathews awards is December 1, 2008.

4. Who are the past winners of these awards?

OCBA William Trickel, Jr. Professionalism Award Winners

1994	David King
1995	Jules Cohen
1996	Hon. Gregory A. Presnell
1997	Hon. John Kest
1998	Darryl B. Bloodworth
1999	Chandler R. Muller
2000	R. Lee Bennett
2001	Hon. Sally D.M. Kest
2002	Ava K. Doppelt
2003	Bruce B. Blackwell
2004	Warren W. Lindsey
2005	Michael P. McMahon
2006	Bill Wilson
2007	Kirk N. Kirkconnell
2008	Council Wooten, Jr.

OCBA Lawrence G. Mathews, Jr. Young Lawyer Professionalism Award Winners

2004	Tad A. Yates
2005	Nicholas A. Shannin
2006	Thomas A. Zehnder
2007	Diego "Woody" Rodriguez
2008	Elizabeth F. McCausland

OCBA James G. Glazebrook Memorial Bar Service Award Winner

2008	Hon. Emerson R. Thompson, Jr.
------	-------------------------------

5. Whose name should be added in 2009 to this list of distinguished attorneys and jurists?

It is up to you OCBA members. By making the small effort necessary to submit your nomination, you help a worthy friend, colleague, associate, partner, or jurist receive the recognition for which he or she is due. You may make a nomination for one, two, or all three awards. Serve the memory of William Trickel, Jr., Larry Mathews, and James G. Glazebrook well by making your nomination of a worthy recipient today.

Submitted by Magistrate Howard D. Friedman, chair of the OCBA Professionalism Committee.

The History of the OCBA in the 1980s



Melanie C. Shoemaker

Leaders. Trailblazers. Servant advocates. As I reflect on the five months I spent researching the history of the Orange County Bar Association and the people associated with it during the 1980s, these are the words that immediately come to mind.

I initially became involved with the OCBA's 75th Anniversary Committee last year because I wanted to meet people and play an active role in the legal community. As a first-year associate, I found no better way to accomplish this than to volunteer to write an article or two for *The Briefs*. Little did I know I was signing up for the best experience of my legal career to date.

The list of presidents who served the OCBA during the 1980s reads like a *Legal Elite Who's Who* list: **Chandler R. Muller** (1979-1980); **David B. King** (1980-1981); **The Honorable Patricia C. Fawsett** (1981-1982); **Darryl M. Bloodworth** (1982-1983); **J. Lindsay Builder** (1983-1984); **The Honorable C. Jeffery Arnold** (1984-1985); **Lawrence J. Phalin** (1985-1986); **John E. Fisher** (1986-1987); **Bruce B. Blackwell** (1987-1988); **Lawrence G. Mathews, Jr.** (1988-1989); and **The Honorable Charles T. Wells** (1989-1990). Many of these leaders took time from their busy schedules to speak with me, for which I am grateful. I believe their stories have made capturing the spirit of the 1980s possible. To each of you, we extend our thanks for the many contributions you have made to the OCBA and your continued leadership within the bar and in the community.

Women Lawyers and Eloise Fox Woods

As a female attorney who began her practice in 2007, I often take for granted that not too long ago women in the legal profession were an anomaly. Therefore, I must begin my article by recognizing the key roles several talented and dedicated women played in shaping the OCBA.

Because there currently are so many female attorneys practicing in Central Florida, it is hard to believe how few women were practicing law during the 1980s relative to the number of men in the profession. However, many of our

distinguished female OCBA members can remember being among the first women attorneys to be employed with a firm, litigate a case, or argue before a judge. Even though the OCBA would soon have its first woman president, women were making less money than men, did not have maternity leave, and faced challenging issues regarding medical insurance. Even advertisements in *The Briefs* seemed to target male attorneys: a full-page ad in the March 1980 issue entitled "The Thinking Man's Office" touted the importance of attorneys having office furniture and interior design that was engineered with the male's productivity in mind.¹

Despite the small number of female attorneys in the OCBA at that time, the association's Executive Director was a woman: **Eloise Fox Woods**. Although I did not have the opportunity to meet Eloise during my research for this article, every person I interviewed associated Eloise's tenure with the growth of the OCBA during the 1980s.

According to those who worked most closely with Eloise, she was the backbone of the OCBA in the 1980s and devoted her full energies toward running our organization. Described as "one of life's unexpected joys" and "[a] person of exceptional organizational ability coupled with a wonderful sense of humor,"² Eloise was not afraid to encourage OCBA leaders to tackle new challenges. For example, for years OCBA members and leadership had dreamed of building a bar center. In the early 1980s, when

the project inched closer to becoming a reality, there was great concern about whether pursuing the center would be financially sound, or whether it would send the OCBA into bankruptcy. Helping to lead the way, Eloise made one of the first "Pacesetters \$1,000 Contributions" that kicked off a private fundraising campaign and her donation encouraged many others to follow in her footsteps. Our beautiful bar offices are a testament to the positive impact Eloise Fox made on the OCBA.

Continued on page 11

¹ Bishop Office Furniture Company, Inc., *The Thinking Man's Office*, *The Briefs*, March 1980, at 3.

² Patricia C. Fawsett, *President's Message*, *The Briefs*, June 1981, at 11.



The Thinking Man's Office

You need an office that is you. Designed for your work habits. Your comfort and your individual tastes. But, that isn't always as simple a task, as it might seem.

Bishop's "imagineering" has made them Central Florida's leaders in office furniture and office interior design.

Today's work surfaces, modular systems and concealed filing brings together your personality into an office environment that is pleasing to the eye. Bishop's cannot make you successful, but they can make you look successful. Valuable purchasing and turn-key installation makes the price right, too!

And, comfort is important. Especially for those moments in your hectic schedule when you pause and think things over.

It's great when your office works for you. 1) giving your best impression. 2) enabling you to get things done effectively. 3) creating an atmosphere of relaxation.

Before you decide on anything about your office, talk with the "imagineers" at Bishop.

Bishop
OFFICE FURNITURE COMPANY, INC.
1800 East Colonial Drive
Orlando, Fla. (805) 896-4401

Visit the Bishop Office Furniture Showrooms — Open Monday through Friday 9:30 to 5:30

KELAHER LAW OFFICES

- :: Rated "AV" by Martindale-Hubbell
- :: Listed in Martindale-Hubbell's "Bar Register of Preeminent Lawyers"
- :: Listed in Leading American Attorneys
- :: Board Certified Civil Trial Lawyer by the Florida Bar
- :: Past President, Academy of Florida Trial Lawyers



LEADING AMERICAN
ATTORNEYS

America's Most Respected Legal Counsel As Selected By Their Peers.

Representing victims of legal
malpractice in Central Florida
for over 25 years...

James P. Kelaher
One Orlando Centre
800 N. Magnolia Ave
Suite 1301
Orlando, FL 32803
(407) 841-7698 Telephone
(407) 649-7760 Facsimile
jim@kelaherlaw.com

www.kelaherlaw.com

KANE & ASSOCIATES CERTIFIED PUBLIC ACCOUNTANTS

BUSINESS VALUATIONS FORENSIC ACCOUNTING

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

www.kane-cpa.com

670 W. Fairbanks Avenue, Winter Park

(407) 644-6066

Bar Center Headquarters

Rumblings about building a bar center began years before the center was constructed. By 1980, the OCBA, the Citizen Dispute Settlement Center, the Lawyer Referral Service, the Legal Aid Society, and the local office of The Florida Bar Foundation were housed separately, occupying approximately 6,797 square feet of separate office space and paying approximately \$37,548.00 in annual lease rentals. OCBA leaders realized that rising rents, increased taxes, and the exponential growth of the Central Florida legal community meant these numbers would only increase if the OCBA did not take action to combine resources and find a way to control costs.

Consequently, the OCBA Executive Board made building “Bar Center Headquarters” its number one priority in 1980. One of the strongest advocates for building the new headquarters was then president-elect nominee **Patricia Fawsett**. In her candidacy platform summary, Judge Fawsett stated:

I favor the purchase of an OCBA headquarters for the membership and for the consolidated use by various Bar sponsored programs (which are currently paying rent for downtown office space) so long as such purchase is financially feasible, without jeopardy to the sound fiscal basis on which our Bar has been run, and so long as such purchase is supported by our membership, through voluntary contributions without increase in dues.³

At a meeting of the past presidents held on August 19, 1980, the enthusiasm needed to build the center was secured. **Bill Trickel** was appointed to head the Bar Center Site Selection Committee and Judge Fawsett was tasked with raising private funds for the venture through the Bar Center Funding Committee.

The plan to build the new headquarters was executed quickly. Bill Trickel’s committee found the lot at 800 North Orange Avenue, the location of our present bar offices, and deemed it the perfect spot for the new headquarters. Accordingly, OCBA President **David King** signed the contract for the purchase of the land, and Allen Helman, of the architecture firm Helman, Hurley, Charvat, and Peacock, began designing the 9,400-square-foot building. The groundbreaking ceremony was held on October 21, 1981, at 10:30 a.m., and a month later, Judge Fawsett’s fundraising committee announced it had raised more than \$200,000, \$50,000 more than the minimum amount of private funds needed to make the project a success. With this news, the Mark Arnold Construction Company picked up its pace, and the new building was dedicated on May 13, 1982, one month ahead of schedule. As **Darryl Bloodworth**, the newly installed OCBA president, turned a large, ornate key to open the Bar Center doors for the first time, those who had poured their hearts into this project for many months were rewarded by knowing what awesome accomplishments the OCBA was capable of achieving when its members united behind a common goal.

Technology and Growth

The OCBA decided that it could not have a state of the art headquarters with archaic technology inside. Consequently, OCBA leaders turned their attention to upgrading the association’s operational efficiency. During the early 1980s, the OCBA purchased its first computer, photocopying machine, and word processing machine. It also purchased a new telephone system and \$3,000 worth of portable video taping equipment. As a result, the OCBA became a modern pioneer for other bar associations to emulate. Further, the OCBA was able to upgrade *The Briefs*, creating a more professional newsletter, and produce a video to be shown to all Orange County jury members highlighting the valuable contributions OCBA members made to the Orlando community, increasing the goodwill the public associated with our profession.

In addition to making these internal improvements, OCBA leaders were able to make technological advancements at the Orange County Law Library. Unlike today, where many of us take for granted the ability to conveniently complete complex legal research online, in the 1980s the library was the only access many lawyers had to materials like reporters from other

Continued on page 12

³Patricia C. Fawsett, *Orange County Bar Association Elections Slated for March - President-Elect, The Briefs*, March 1980, at 10.



Eloise O. Fox
OCBA Executive Director



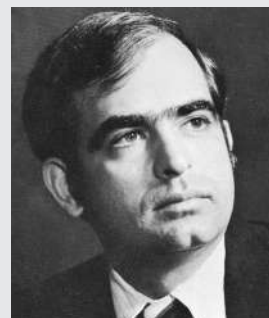
Patricia C. Fawsett
OCBA President (1981-82)



David B. King
OCBA President (1980-81)



Darryl M. Bloodworth
OCBA President (1982-83)



C. Jeffery Arnold
OCBA President (1984-85)

jurisdictions, specialized legal periodicals, and treatises. Between 1984 and 1985, the OCBA implemented the computer-based Westlaw Legal Research System at the library, which greatly improved local attorneys' abilities to provide quality service to their clients.

These technological improvements were a wise investment, as the OCBA needed capable resources to keep up with the demand of an expanding membership. In the early 1980s, there were 1,300 OCBA members - a 400% increase from the organization's membership in the mid-1960s. By 1986, the membership reached 1,600 and, in 1988, we admitted our 2,000th member. Although many people marveled at the OCBA's growing dominance as a powerhouse association, some who remembered the practice of law in Central Florida at the beginning of the 1980s missed the quieter times when members of the OCBA knew their colleagues, professional courtesies were more quickly extended, and a seemingly higher code of ethics was employed in the courtroom.

To help ease the transition from a relatively small, close-knit group of attorneys to a larger association with thousands of members, the OCBA focused on ways to provide additional member services. Thus, the OCBA began to invite noteworthy guests to speak at the monthly luncheons. State leaders such as Bill McCollum, Betty Castor, Sandy D'Alemberte, Ruben Askew, and Bill Nelson kept OCBA audiences abreast of local and state issues throughout the 1980s. The OCBA and the Orange County Courthouse developed the Court Access Card program, and the OCBA and the court established a Judicial Relations Committee to encourage dialogue between attorneys and judges, help solve local Rules disputes, and foster *ex parte* communications. These member programs are as vibrant today as they were twenty years ago.

Dominance of the Orange County Bar Association

After learning that the OCBA built its headquarters in less than a year, filled its office with state-of-the-art equipment in a matter of months, and grew its membership by more than 700 members in less than six years, it is easy to believe that we were the model bar for other associations in the state and nation in the 1980s. Throughout this period, the OCBA consistently received top honors from The Florida Bar, receiving first place in overall excellence for

a local large bar association several years in a row. At the same time, the American Bar Association (ABA) gave us the distinction of best local bar association for overall excellence in the country, and in 1988, then ABA President Robert McCrate stated, "The more I learn about Orange County and its Bar Association, the more impressed I am."⁴ In 1984, then OCBA Director Eloise Fox was elected president of the Florida Counsel of Bar Executives, and in 1986, the OCBA received a Certificate of Merit from the American Society of Association Executives. The OCBA's star shone so brightly during the 1980s that, when characterizing award categories, The Florida Bar noted, "[T]here are small bars, medium sized bars, large bars and the Orange County Bar."⁵

Importantly, the OCBA did not focus solely on socials, education programs, media publications, and leadership. Just as is true today, during the 1980s we were most proud of our community stewardship. In 1980, the OCBA's requirement

that each member accept two *pro bono* cases per year or make a \$250.00 contribution to the Legal Aid Society was firmly in place.⁶ In fact, at the time, the OCBA was the only bar association in the nation with this requirement. In 1981, the OCBA founded our Guardian Ad Litem Program. By 1988, our *pro bono* efforts had become so

OCBA Center Groundbreaking • October 21, 1981



Standing: Terry Ackert, Bill Palmer, Chuck Stepter, Ramsey Dulin, Jeff Arnold, Mike Walsh, Bob Pleus, Bill Trickle, Judge Stone, Judge Edwards, John Fisher, Mayor Bill Frederick, Mike Davis, Cheney Mason, Carl Motes, David King, Dan Honeywell, Lindsay Builder, Heather Rush, David Hedrick, Judge Hauser, and David McGunegle

Seated: Bill Davis, "Skip" Fowler, Joe Goldstein, Patricia Fawsett, Heskin Whittaker, Darryl Bloodworth, Fred Ward, and Eloise Fox

popular that the Legal Aid Society outgrew its offices in the new Bar Center. The OCBA assisted Legal Aid in acquiring the OCBA Annex at 100 East Robinson Street so that Legal Aid would have the space needed to fully carry out its mission. As a result of our commitment to helping those who could not afford legal services, the OCBA was featured in the ABA *The Bar Leader* as a trendsetter to be followed by fellow associations.

In an effort to increase the OCBA's ability to raise funds for its goodwill endeavors, OCBA President Darryl Bloodworth appointed **Charles Egerton** to create a 501(c)(3) organization to which OCBA members could make tax-deductible contributions. In 1982, Charlie created the OCBA Educational Fund, Inc. Its purpose was to educate the public about the law and the legal profession,

Continued on page 14

⁴ Robert McCrate, *ABA President Commends OCBA, The Briefs*, February 1988, at 7.

⁵ Christopher A. Detzel, *Orange County Bar Association Rated Outstanding Again, The Briefs*, August 1982, at 1.

⁶ In 1980, Legal Aid revenues totaled approximately \$270,000.00, coming from Circuit and County Court filing fees, the United Way, attorney contributions and miscellaneous donations.



Family Law Committee

A Person's Right to See the Children – A Historical Perspective Since Gardner v. Gardner¹

— Gary S. Israel, Esquire



Dr. Robert Gardner and his wife were divorced in 1983. Following the final judgment, Mrs. Gardner moved herself and the two teenaged children to New York without court permission or Dr. Gardner's consent. According to the final judgment, Dr. Gardner would have the right to visit with the children "not less than eighty-five days per year" Unfortunately, he never saw them. Mrs. Gardner remained neutral about visitation, taking the position that visitation arrangements were between her ex husband and the children. Since the children were resistant to visiting with their father, she washed her hands of the situation.

The Gardner Decision

In the first of several significant decisions from the district courts of appeal and the Florida Supreme Court, the Fourth District held that Mrs. Gardner "misconstrues the extent of her responsibility. The custodial parent may not merely remain neutral with regard to visitation, but has an *affirmative obligation* to the noncustodial parent 'to encourage and nurture the parent-child relationship.'"²

Unfortunately, by the time the district court reviewed the matter the parties' oldest child had already reached his majority. Nevertheless, the Court further discussed Mrs. Gardener's obligation with regard to the minor daughter:

Accordingly, we hold that the wife in the instant case cannot bring herself into compliance with the final judgment merely by taking no action with regard to visitation, but rather has an obligation to encourage the parties' minor daughter to visit the husband and to take steps to ensure that the daughter will do so. Until the wife does this, she is barred from seeking the court's aid in collecting alimony arrearages, in continuation of alimony payments, or in holding the husband in contempt for nonpayment.³

The Fourth District's decision was consistent with the 1946 holding of the Florida Supreme Court that "a divorced wife who refuse[s] to permit her child to visit its father, as provided by the decree of divorce, [is] not entitled to the aid of a court of equity in collecting alimony until compliance with the decree."⁴ However, the *Gardner* court went further by preventing the wife from seeking enforcement of the child support obligation with respect to the remaining child so long as she remained noncompliant with the final judgment on visitation.⁵

The Fourth District crafted a punitive means of obtaining compliance with the visitation provisions of the final judgment. It refused to bar enforcement of child support arrearages for the older child, who had already reached

his majority, since Dr. Gardner was no longer seeking visitation from him. But with respect to visitation with his younger daughter, Mrs. Gardner's failure to actively insure that visitation occurred resulted in a cut off of all monetary benefits from the husband until such time as Mrs. Gardner petitioned the trial court for relief after she complied with the final judgment.

The Schutz Decision in the DCA and Florida Supreme Court

Two years later, in *Schutz v. Schutz*,⁶ the Third District Court of Appeal cited *Gardner* as authority in extending the obligations of the custodial parent with respect to children and a former spouse. The Third District used language such as "children are entitled to a warm and loving affinity with both their parents" and "a custodian . . . has an 'affirmative obligation' to encourage and nurture the relationship between the children and the non-custodial parent."⁷ Comparing the mother's refusal to affirmatively encourage the relationship between the children and the other parent to falsely shout fire in a crowded theater, the lower court overruled the First Amendment claims of the mother that her rights were being violated in being required to raise her daughters' opinion of their father to one which she did not hold. Although the example may be one in the extreme, the opinion served as the basis of future decisions that raised the right to a warm and loving affinity between parent and child to a constitutional level.

Two months after *Schutz*, the Third District continued its assault upon restrictions to a parent's contact with his or her children in *Esteban v. Estaban*.⁸ The *Esteban* court struck down forfeiture provisions of visitation in the event the father was fifteen minutes late to pick up the children on the basis that the forfeiture provisions were "an unnecessarily arbitrary and unjustified interference with the rights of the father and the child to each other's company."⁹ The progression of these "rights" towards a constitutional plateau continued.

*Schutz v. Schutz*¹⁰ eventually made it to the Florida Supreme Court primarily on the First Amendment violation claim by Mrs. Schutz. Not only did the Supreme Court affirm the Third District's decision, it went into great detail in

¹ 494 So. 2d 500 (Fla. 4th DCA 1986).

² *Id.* at 502 (citations omitted).

³ *Id.*

⁴ *Craig v. Craig*, 157 Fla. 710, 26 So. 2d 881 (1946).

⁵ *Gardner*, 494 So. 2d. at 503.

⁶ 522 So. 2d 874 (Fla. 3d DCA 1988).

⁷ *Id.* at 875 (quoting *Gardner*, 494 So. 2d at 502).

⁸ 523 So. 2d 1250 (Fla. 3d DCA 1988).

⁹ *Id.* at 1252.

¹⁰ 581 So. 2d 1290 (Fla. 1991).

Continued on page 15

and to provide educational materials and programs for the bar and the public. By 1983, the Educational Fund was sponsoring events such as the Junior Achievement Project Business Program, which ran for nine weeks at Oviedo High School. Today, the Educational Fund is known as the Orange County Bar Foundation, a thriving part of the present OCBA community.

Birth of the Young Lawyers

With its burgeoning success in other areas of the legal profession during the 1980s, the OCBA decided it needed a program specifically geared toward addressing the needs of young lawyers. Accordingly, in 1984, the OCBA developed and launched the Young Lawyers' Section (YLS) as a committee of the organization. By 1986, the YLS began hosting annual events that still take place today, including the Law Clerks' Reception and the Great Oaks Village Cookout and Sports Day. By 1988, the YLS was wildly successful and had surpassed everyone's expectations. By the end of the decade the YLS became its own division within the OCBA.

During this period, the Young Lawyers' Section thrived not only on a local level, but on a statewide level as well. Three OCBA members served as president-elect

(and subsequently president) of the Young Lawyers' Division of The Florida Bar (YLD) as a result of their strong leadership skills and commitment to our profession: **Orman Kimbrough** (YLD President 1986-1987), **Ladd Fassett** (YLD President 1989-1990), and **Warren Lindsey** (YLD President 1990-1991).

A Community of Dreamers and Doers

I have enjoyed immensely my first year of practice in Central Florida and all of the wonderful people I have met. After learning about the OCBA in the 1980s, I feel even more blessed to have the opportunity to practice in Orlando. I truly believe there is no other legal community like ours where such a unique group of leaders who believe they can accomplish anything they set their minds to for the good of others has come together in one location. The next time you face a hurdle in your practice, think of all the things that were accomplished by the OCBA during this short, ten-year period, and remember that with the help of your fellow OCBA members anything is possible.

Melanie C. Shoemaker is an associate with Dean, Mead, Egerton, et al. She has been a member of the OCBA since June 2007.

For your next mediation please consider:



Patrick C. Crowell

Certified Circuit Civil Court Mediator

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

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



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

407-251-1131

Patrick C. Crowell, P.A., 4853 S. Orange Avenue, Suite B, Orlando, Florida 32806

informing the state that a new day had arrived in Florida with respect to the obligations of custodial parents by clarifying the affirmative obligation to encourage and nurture the relationship between the child and the noncustodial parent:

This duty is owed to both the noncustodial parent and the child. This obligation may be met by encouraging the child to interact with the noncustodial parent, taking good faith measures to ensure that the child visit and otherwise have frequent and continuing contact with the noncustodial parent and refraining from doing anything likely to undermine the relationship naturally fostered by such interaction.¹¹

In dismissing the First Amendment claims of the mother, the Supreme Court merely said that “any burden on the mother’s first amendment rights is merely ‘incidental.’”¹²

The Supreme Court continued its expansion of noncustodial parental rights by complimenting the district court’s attempt to restore a meaningful relationship between the children and their father by “assuring them unhampered, frequent and continuing contact with him.”¹³ The Court went further to stress that “it is the public policy of this state to assure a minor child frequent and continuing contact with both parents after marriage has been dissolved.”¹⁴ The Supreme Court also found that “the [district] court also properly considered the father’s constitutionally protected ‘inherent right’ to a meaningful relationship with his children.”¹⁵ Nowhere in the majority opinion of the Third District is this constitutional right found, but the Supreme Court elevated it to this status in its opinion. As such, the Florida Supreme Court actually found this constitutional right to be more important than the First Amendment rights asserted by the wife.

Establishment of the Constitutional Rights of Parents

The Fifth District weighed in on the issue in 1994 in the case of *McAlister v. Shaver*¹⁶ wherein it quoted the Supreme Court in *Schutz*:

A parent has a constitutionally protected inherent right to a meaningful relationship with his children. The only limitation to this rule of parental privilege is that between parent and child, the ultimate welfare of the child must be controlling. Visitation with a child should never be denied as long as the visiting parent conducts himself or herself, while in the presence of the child, in a manner which will not adversely affect the child’s morals or welfare.¹⁷

The Court went on to add that “extreme circumstances” or adverse affects on the welfare of the child would be the only reasons to deny reasonable visitation.¹⁸

In 1995, the Second District determined that *Gardner* was no longer authority to suspend alimony in the absence of visitation since the passage of Florida Statute §61.13(4) which prohibits withholding of support or alimony when

a custodial parent refuses to honor a noncustodial parent’s visitation rights.¹⁹ The Second District reversed the trial court’s order suspending the payment of rehabilitative alimony and barring the mother’s access to the court for enforcement under this authority. Without this ability to enforce visitation provisions, it appeared that the tide was shifting back to a time when visitation rights could not be enforced by a non-custodial parent. However, in 1998 the Second District did weigh in on the issue of visitation by overturning a lower court’s revision of a visitation schedule after one party had moved out of state.²⁰ The Second District quoted the mandatory language in *Schutz* in deciding that the move to North Carolina should not be used to limit the non-custodial parent’s contact with the children.

The Third District, in 2003, reiterated the intent that visitation provisions for a non-custodial parent were to be enforced, this time by a finding the custodial parent in contempt of court.²¹ The Court repeated the language of *Schutz* in describing the nature of the obligation of the custodial parent. The Court also took to heart the language of the settlement agreement between the parties, elevating it to an affirmative obligation:

The settlement agreement provides that each parent shall encourage and foster the maximum relations, love and affection between the minor children and the other parent; shall not obstruct or interfere with the other parents right to companionship with the minor children; and shall discuss and work together in an effort to reach a joint decision on all major decisions involving the children.²²

The former wife’s failure to do this led to a finding of contempt of court which was affirmed.

Further Expansion of Parental Rights and Statutory Changes

In recent years, the Fourth District has taken the obligation of the custodial parent another step further.²³ It has first reminded parents that

when it is their time with the children it is their time with the children; that is not an option, it is an obligation. Even though the children express a desire to be with one parent over the other, that parent must insist that the child go see the other party. If necessary, the parties must close

Continued on page 16

¹¹ *Id.* at 1292.

¹² *Id.*

¹³ *Id.* at 1293.

¹⁴ (quoting Fla. Stat. §61.13 (2) (b) (1985)).

¹⁵ *Id.* at 1293.

¹⁶ 633 So. 2d 494 (Fla. 5th DCA 1994).

¹⁷ *Id.* at 496 (citations omitted).

¹⁸ *Id.*

¹⁹ *McCartney v. McCartney*, 659 So. 2d 371 (Fla. 2d DCA 1995).

²⁰ *De Lapouyade v. De Lapouyade*, 711 So. 2d 1202 (Fla. 2d DCA 1998).

²¹ *Levy v. Levy*, 861 So. 2d 1211 (Fla. 3d DCA 2003).

²² *Id.* at 1212.

²³ *Marcus v. Marcus*, 902 So. 2d 259 (Fla. 4d DCA 2005).

the door to their own home to the children and require them to visit the other party.²⁴

This year, the Fourth District expanded the obligations of the custodial parents even further.²⁵ It began by first recognizing the legislature's decree in Florida Statute 61.13(2)(b)1 (2006) by reiterating that the Florida Legislature had decreed that "the public policy of this state [is] to assure that each minor child has frequent and continuing contact with both parents after the parties separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities, and joys, of childrearing."²⁶

The Court recognized that overnight visitation is a "very important" component of a non-custodial parent's visitation rights. As such, the Fourth District held that "[i]t should be awarded, absent some overriding concern for the child's safety."²⁷ The *Todd* court provided the following example:

Unless a twelve-year old child suffers from some special physical or mental disability, we see no reason why he or she cannot spend four nights a month sleeping on a couch, rollaway bed, or even a padded mat or sleeping bag in an area not designated as a separate bedroom, if the non-custodial parent's economic circumstances so dictate.²⁸

The Court also found that visitation necessarily includes rotating holidays and if they are not awarded, there must be written factual findings justifying their absence.²⁹

The 2008 changes to the shared parenting statutes have attempted to codify the progression of visitation rights for parents. One of the changes in the law is "Time sharing," as it is now called, rather than custody. "Time sharing" is to be established by taking into account a larger number of factors than previously listed in Florida Statute 61.13(2)(B)(2)(b)(3) to be considered by the court, all with the intention of addressing the best interest of the child.³⁰

However, failure to honor time sharing schedules cannot serve as a basis to withhold child support or alimony.³¹ Such failures, nonetheless, can carry with it statutory sanctions, such as an award of the denied time in a sufficient amount of extra time-sharing to compensate for the time-sharing missed,³² court costs and attorney's fees,³³ attendance at a parenting course,³⁴ community service,³⁵ financial burden of promoting frequent and continuing contact when the parent and child reside further than 60 miles from the other parent,³⁶ modification of the shared parenting plan³⁷ and contempt.³⁸

The progression of the rights of children and parents to share each other's time has served to vastly improve the lives of fathers, who complained for years that the courts favored mothers. In *Gardner v. Gardner*,³⁹ Dr. Gardner, himself, was frustrated with a system that permitted his ex-wife to continually take his money to support children he was never able to see. If he ever reads this article, I hope he understands the significance of his persistence. Although the changes came too late to preserve his relationship with his children, it has certainly helped others.

²⁴ *Id.*

²⁵ *Todd v. Guillaume-Todd*, 972 So. 2d 1003 (Fla. 4th DCA 2008).

²⁶ *Id.* at 1006.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ § 61.13 (2)(B)(2)(b)(3), Fla. Stat. (2008).

³¹ § 61.13 (4)(b), Fla. Stat. (2008).

³² § 61.13(4)(c)1, Fla. Stat. (2008).

³³ § 61.13(4)(c)2, Fla. Stat. (2008).

³⁴ § 61.13(4)(c)3, Fla. Stat. (2008).

³⁵ § 61.13(4)(c)4, Fla. Stat. (2008).

³⁶ § 61.13(4)(c)5, Fla. Stat. (2008).

³⁷ § 61.13(4)(c)6, Fla. Stat. (2008).

³⁸ § 61.13(4)(d), Fla. Stat. (2008).

³⁹ 494 So. 2d 500.

Gary S. Israel, Esq. has been a member of the OCBA since 2005.

Computer Forensic Services

Search and Seizure

Analyzing User Activity

Recovering Deleted Data

Accessing Password-Protected Files

Secure Chain of Custody

Customized Reports

Expert Witness Testimony

Forensic Imaging

Data Carving

Internet Usage Reports

IM/Chat Retrieval

Criminal, Civil, Domestic



WWW.ESICONSULTINGFL.COM

richard@esiconsultingfl.com

Phone: 407-740-7163 Fax: 407-740-5805
955 South Orlando Avenue Winter Park, FL 32789



LINCOLN PROPERTY COMPANY

LINCOLN
PROPERTY
COMPANY



Dynetech Centre

111 N. Magnolia Ave

- 32-story, Class "A" mixed use building
- 163,000 RSF Office/Retail space
- 164 luxury apartment units
- Breathtaking views of Lake Eola and city skyline



Baldwin III

4798 New Broad St

- 3-Story Class "A" Building
Baldwin III - 47,500 RSF
- 4.25/1000 Parking
Baldwin IV - 40,000 RSF
- Reserved Parking



Regions Building

5401 S. Kirkman Rd

- 7-story, 92,254 RSF Class "B" Building
- Close proximity to I-4, 408 and Florida's Turnpike
- 3.5/1000 Parking with over 63,000 average daily trips on Kirkman Rd

MetroWest Center

882 S. Kirkman Rd

- 3-story, 36,130 RSF Class "A" Building
- Close proximity to I-4, 408 and the Turnpike
- 4/1000 Parking and monument signage



Jeffrey D. Patterson
jpatterson@lpc.com

407.872.3500
www.lpc.com

Ashley E. Roby
aroby@lpc.com



We Dig Deeper

At **Rachlin LLP**, we've been helping attorneys build stronger cases for more than 35 years. And now, we've moved into your neighborhood.

Our professionals, including highly experienced CPAs, retired IRS criminal investigators, receivers and a Chapter 7 Panel Trustee, offer specialized services across a variety of disciplines to support every facet of the litigation process. They dig deep to unearth facts and get the information attorneys need to build a stronger case.

Get to know our team of skilled professionals and the scope of our services. Our experience may be your greatest asset.

Rachlin
accountants • advisors

407.926.4012

www.rachlin.com

MIAMI ■ FORT LAUDERDALE ■ WEST PALM BEACH ■ ORLANDO

**Bankruptcy
& Insolvency**

**Business
Valuation**

Receivership

**Forensic
Accounting**

**Expert
Testimony**



INSURANCE THAT'S BEEN AROUND, STAYS AROUND.

Malpractice coverage that goes the distance: that's Lawyers Direct, an insurance program created for lawyers, by lawyers. Lawyers Direct is backed by a highly rated, financially strong insurance company that has an established record of providing coverage for law firms throughout the country. Small firms (one to ten attorneys) seeking dependable coverage should call 800.558.6688 or visit www.LawyersDirect.com.



Lawyers Direct is underwritten by Professionals Direct Insurance Company, a member of The Hanover Insurance Group, Inc., and is rated A- (Excellent) by the A.M. Best Company.



Clearly Unambiguous

James W. Markel

The Commercial General Liability (CGL) “occurrence” language provides “property damage” coverage for a subcontractor’s acts which damage a general contractor’s completed operations, but does not cover the repair or replacement of the sub’s own defective work. The Florida Supreme Court speaks plainly and decisively in U.S. Fire v. J.S.U.B., 979 So. 2d 871 (Fla. 2007).

In an earlier article published in *The Briefs*, “Commercial General Liability (CGL) Policy - Update On Coverage In Construction Claims,” the writer explained that CGL policies are intended to cover the tort actions of general contractors and subcontractors but not the contract obligations of contractors. Those obligations include the repair and replacement of the contracted work itself, an obligation traditionally assumed by a surety under a contractor’s performance bond. The proposition that a CGL policy does not cover repair and replacement of the contractor’s work is further supported by the language of the American Institute of Architects (AIA) main owner/contractor agreement – *AIA Document A201, General Conditions of the Contract for Construction* - which requires a contractor to have insurance for claims for damages “other than to the Work itself.”

The article did presage court interpretations of broader coverage in pending cases due to **insurance industry** driven changes in the post-1986 CGL policies, which inserted language in the completed operations exclusion for “damage to your work” and provided an exception to the exclusion: “This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.” This exception to the exclusion effectively overturned the broad holding in *LaMarche v. Shelby Mut. Ins. Co.*, 390 So. 2d 325 (Fla. 1980), which had upheld the exclusion in the old CGL policy and stated . . . “[r]ather than coverage and payment for building flaws or deficiencies, the policy instead covers damage caused by these flaws...” *LaMarche*, 390 So. 2d at 326. *LaMarche* properly formed the basis for the construction industry’s reliance on insurance only for “resulting damage.”

Also, in a far reaching decision of the Florida Supreme Court, *State Farm Fire & Casualty v. CTC Development*, 720 So. 2d 1072 (Fla. 1998), the Court found coverage under State Farm’s “Contractor’s Policy” (a form of a CGL policy) for damages sustained by the policy holder in mitigating the improperly placed residence within the setback and defending an action for improper placement of the residence within the setback. Receding from its earlier decision in *Hardware Mutual Casualty Co. v. Gerrits*, 65 So. 2d 69 (Fla. 1953), the Florida Supreme Court held that

the term “occurrence” included the word “accident,” which word (accident), while undefined in the policy, included accidental events and “damages and injuries that are neither expected nor intended from the view point of the insured.” *State Farm Fire & Casualty*, 720 So. 2d at 1072. Applying the analysis to the facts, the Court ruled: “Viewing the facts most favorably to the insured, Uzdevenes did not expect or intend for damages to result from his act of constructing the home...” *Id.* at 1076. This broad interpretation of occurrence rests upon well-founded principles of interpretation, including the oft-repeated proposition that “where policy language is subject to differing interpretations, the term should be construed liberally in favor of the insured and strictly against the insurer...” *Id.* at 1076.

The changes in the 1986 CGL policy expanding coverage for completed operations and the earlier Florida Supreme Court decision in *State Farm Fire & Casualty v. CTC Development*, *supra*, came together, resulting in another landmark decision in *U.S. Fire Ins. Co. v. J.S.U.B.*, 979 So. 2d 871 (Fla. 2007). In a comprehensive, well-reasoned, articulately phrased decision, the Court found that coverage is provided to a general contractor by and under a post-1986 CGL policy with expanded completed operations coverage for claims against the contractor for damage to a completed project caused by a subcontractor’s defective work. In this case, several completed homes had damage to the foundations, to drywall, and to various interior portions due to poor soil being provided by the subcontractor, together with the subcontractor’s improper compaction and testing. Speaking plainly and approving the decision of the Second District in *J.S.U.B. v. United States Fire Insurance Co.*, 906 So. 2d 303 (Fla. 2d DCA 2005), the Court stated:

We answer this question in the affirmative. We conclude that defective work performed by a subcontractor that causes damage to the contractor’s completed project and is neither expected nor intended from the standpoint of the contractor can constitute ‘property damage’ caused by an ‘occurrence’ as those terms are defined in a standard form commercial general liability policy. Accordingly, a claim made against the contractor for damage to the completed project caused by a subcontractor’s defective work is covered under a post-1986 CGL policy unless a specific exclusion applies to bar coverage. In this case, the terms of the policy included an exception to the ‘Your Work’ exclusion for faulty workmanship by a subcontractor and did not include a breach of contract exclusion. We therefore approve the Second District’s decision

Continued on page 22

HEARSAY

What mighty contests rise from trivial things.

– Alexander Pope

Greetings all loyal readers of “Hearsay.” Because of press limitations to cover a last-day-of-the-month event, this “Hearsay” installment is going to let the photographs do the talking. It seems to work for our new friends in town at *Orlando Lawyer* (next month: **Wiley Boston’s** Garage – color photo spread!) I would be amiss in simply having the photographs, however, without a special shout-out to OCBA Social Chairs **Kim Webb “2.0”** and **Shayne “Gunslinger” Thomas** (who was also Trivia Night chair), for again collaborating on what was our largest and most successful Trivia Contest to date, and to Trivia Host **Curtis Earth** who again donated his services. All proceeds went to Legal Aid – so a good time with a purpose!

Who won? Gold went to “Unforeseeable Equivalents” a/k/a our IP friends at ADDMG: **Bridget Heffernan Labutta**, **Jamie Malphurs**, **Dave Henry**, and **Connie Jones** (pictured, upper

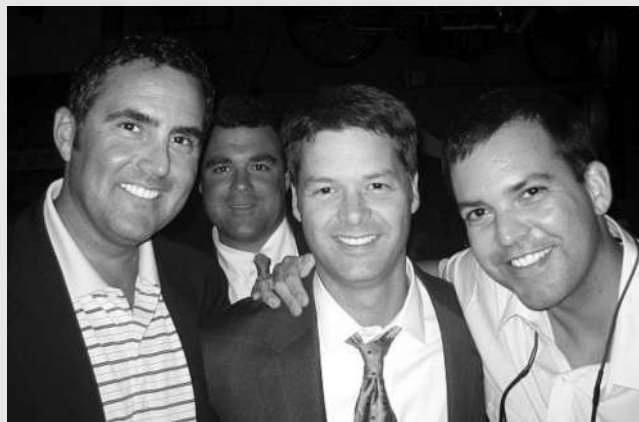


Nicholas A. Shannin

left) and David Sigalow. **Broad & Cassel** split a Pet Shop Boys lyric to enter two teams: “We’ve Got the Brains” (Silver) and “We’ve Got the Brawn” (Bronze.) Bonus Hearsay award to **Roetzel** “rhymes with pretzel” **and Address**, who came up with the best team name: “Tequila Mockingbird.” (Gregory Peck defends Dudley Moore?!)

Thanks to everyone who came out to make this a success for both the Bar and the Legal Aid Society. If you missed this one, the next big event is the always-sold-out **YLS Golf Tournament** on October 3, 2008 – check out the “YLS on the Move” column for details. In the meantime, please keep sending your honors, dishonors, whatever to nshannin@floridalawonline.com, and we’ll try to get you in print. Until then, enjoy the photographs and I’ll see you in the regular installment of “Hearsay” in November.

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



Mark your calendar!
OCBA Social Committee
2008-09 Calendar:

11/6/08 - Joint Happy Hour
1/29/09 - Winter Wine & Cheese
3/19/09 - Texas Hold 'Em Poker Tournament

For more information, contact
Social Committee Co-Chairs
Kim Webb at kdwebb@littler.com or
Shayne Thomas at stthomas@ralaw.com.

in *J.S.U.B.* and disapprove of the Fourth District's decision in *Lassiter*.

Justice Pariente carefully reviewed the facts and history of the case, correctly stated the coverage issues while reviewing the origin and evolution of CGL policies and their purpose, and observed that the insuring language and the exclusions in standard CGL policies have been modified **by the insurance industry** through expanding coverage for completed operations while narrowing the exclusions. Justice Pariente explained that the subcontractor exception to the exclusion of "damage to your work" was a result "both because of the demands of the policyholder community (which wanted this sort of coverage) and the view of insurers that the CGL was a more attractive product that could be better sold if it contained this coverage." (How seldom do we read cases which communicate real world situations elevating meaning and sense rather than descending into Law Review shibboleths.) The phrasing of Justice Pariente, while placing limits on the effect of the decision, should be instructive:

If U.S. Fire intended to preclude coverage based on the cause of action asserted, it was incumbent on U.S. Fire to include clear language to accomplish this result. *Citation omitted*. In fact, there is a breach of contract endorsement exclusion, not present in the CGL policies at issue in this case, that excludes coverage for breach of contract claims. *Citation omitted*.

Furthermore, ISO has begun to issue an endorsement that may be included in a CGL policy, which entirely eliminates the subcontractor exception to the "your work" exclusion. See *ISO Properties, Inc., an Endorsement CG 22 94 10 01*, <http://www.lexus.com>; see also *Lamar Homes, Inc. v. Mid-Continent Cas. Co.* 242 S.W.3d 1, 12 (Tex. 2007) ("More recently, the Insurance Services Office has issued an endorsement that may be included in the CGL to eliminate the subcontractor exception to the 'your work' exclusion.") **The fact that these additional endorsements may be included in CGL policies highlights that the ultimate analysis is governed by the actual language contained in the applicable insurance contract.** *Lamar Homes*, 242 S.W.3d at 15 (emphasis added).¹

While praise for Justice Pariente's reasoning and phraseology is well deserved, the concurring opinion

language of Justice Lewis should not be overlooked:

It has become clear that if the insurance industry seeks to avoid further and expansive interpretations of its CGL policies, it must do a better job of more narrowly describing coverage and defining the type of 'property damage,' 'bodily injury,' and 'occurrences' that it may intend these types of policies to cover, rather than adopting linguistic forms that tend to force courts to swim against the interpretive current by looking into the policies' exclusions for answers to coverage questions to give meaning in life to all words utilized. Thus, while I am hesitant to place as much emphasis on the policies exclusions and exceptions as does the majority, I certainly recognize that courts should not rely on ephemeral policy justifications when the actual language of the policy at issue and the parties' admitted content do not include or reflect these justifications.

In summary, certain post-1986 CGL policies provide coverage for damage to a contractor's completed operations caused or contributed to by a subcontractor, but do not provide coverage to pay for the costs of repair or replacement of a subcontractor's defective work. In addition, the AIA Document A201-A2007, the newly revised standard form which sets the standard for owner/contractor agreements, has not modified the "Contractor's Liability Insurance" section that requires a contractor to have insurance for "[c]laims for damages, **other than to the Work itself**, because of injury to or destruction of tangible property, including loss of use resulting therefrom..." (emphasis added).

Practice tip: You, your clients, and your friends should deal only with knowledgeable insurance agents whose primary focus is on commercial and business policies and who carry documented E & O coverage. The new CGL policies allow for endorsements that provide complete coverage for the business endeavors in which parties engage. There is no free lunch, but there are "value menus."

¹This case sets the standard for study in law schools and as part of continuing legal education.

James W. Markel, Of Counsel, Graham, Builder, Jones, Pratt & Marks, LLP, has been a member of the OCBA for more than 30 years.



JEROME P. McCAULEY, C.P.A.
OFFERING SPECIALTY SERVICES:
Probate & Trust Litigation Support • Forensic Investigations
Serving as a Trustee & Personal Representative
Fiduciary Accountings • Tax Filings & IRS Representation

JEROME P. McCAULEY, C.P.A., P.A.
421 Montgomery Road, Suite 135 • Altamonte Springs, FL 32714
407-869-0052 • fltaxpert@aol.com
Visit this Website for more information: WWW.FLTAXPERT.COM

Liz Gillham Mediations

Providing mediation services
exclusively throughout Central Florida
with an emphasis in Personal Injury,
Insurance, & Commercial cases.

**Florida Supreme Court Certified
Circuit Civil Mediator**
(407) 210-6520 • www.lizgillham.com





YLS on the Move!

We Can't Wait to Tell You . . .



Bridget Heffernan Labutta

Summer is officially over, and I think it's safe to say that YLS worked hard and played hard over the past few months.

On July 10, 2008, the Young Lawyers hosted an extremely successful **Law Clerks' Reception** at The Taproom at Dubsdread. As is the tradition, the reception provided an after-hours venue for attorneys, judges, and other legal professionals to welcome law clerks to the Orlando legal community for the summer. This year, we had a record crowd of more than 375 attendees, including quite a few judges, elected officials, and candidates for various local elections. *Wow!*

Our event would not have been possible—or as successful—without the generous sponsorships of many local firms, law schools, and businesses. The YLS especially appreciates the support of **Westlaw**, our Signature Sponsor, and **IKON**, our Corporate Justice Sponsor. Thank you, Westlaw and IKON!

With so many wonderful things to celebrate, an unofficial reception continued well into the night with an after-party at Scruffy Murphy's in College Park. It was a festive evening all around, and we owe one final big thank you to **Melanie Shoemaker**, chairperson of the Law Clerks' Reception planning committee, without whom this event would not have been as great as it was!

At our July luncheon, the YLS was honored to have as our guests the candidates for the Ninth Judicial Circuit Court race: **John Crotty**, **Fred Schott**, and **Jim Turner**. There are several upcoming elections at both the federal and state level, and everyone reading this magazine should already be registered to vote in those elections. If not, you can print out a **Florida Voter Registration Application**

at <http://election.dos.state.fl.us/voter-registration/voter-reg.shtml> and mail it in. Remember that you must be registered to vote for at least 29 days before you can vote in an election, so don't delay.

The **7th Annual Backpack Project** to benefit Rock Lake Elementary School took place on August 14. The YLS is solely responsible for raising all the school supplies Rock Lake needs for the entire school year, and we greatly appreciate all the donations (including monetary) received this year. If you haven't already heard, since the start of the Backpack Project, Rock Lake has gone from being an "F" school to an "A" school. Many thanks to **Vanessa DiSimone** for all her hard work in making this annual project a success once again!

Kristen Cox and **Melanie Shoemaker** organized a fun (as always!) happy hour on August 8 at Citrus, and we hope all of you were able to make it. Mark your calendars for the next **YLS Happy Hour** on September 26 from 5:30 p.m. to 7:30 p.m. Reservations are not necessary, so just stop by and join us for complimentary appetizers and drinks. Keep your eyes open for more information on location, or contact Kristen Cox (kcox@shutts.com) or Melanie (melanie.shoemaker@deanmead.com) for more info.

The **Fall Oath of Admission Ceremony and Reception** will take place on Tuesday, October 1, 2008, at 5:30 p.m. This event is in honor of our newly admitted Florida Bar members, and we invite their families, friends, and guests to join us in celebration. Contact **Lauren Carmody** (lcarmody@rumberger.com)

for more information.

It's not too late to register for the **17th Annual YLS**

Continued on page 24



Melissa Cupps, Bridget Heffernan Labutta, Melanie Shoemaker (Chairperson)



Lauren Heatwole, Melanie Shoemaker, Tom Zehnder, Fritz Wermnth



Judge Debbie Ansbro, Judge Bob LeBlanc, Felipe Guerrero



The Taproom was packed!

YLS on the Move! *Continued from page 23*

Charity Golf Tournament, the one event of the year you don't want to miss! Everyone will be there and it's a ton of fun!

17th Annual YLS Charity Golf Tournament

When: October 3, 2008, 8:00 a.m. shotgun start; 7:00 a.m. breakfast and check-in

Where: ChampionsGate, 1400 Masters Boulevard, ChampionsGate, FL

Format: Four-person scramble

Cost: \$120 (judge or state attorney); \$150 (private practice attorney); \$550 (foursome)

Perks: Continental breakfast, goodie bag, golf cart with GPS, complimentary beverages and snacks throughout the day, buffet luncheon, prizes for longest drive, closest to the pin, and top foursomes, and a raffle and silent auction featuring such items as stays at luxury resorts, foursomes at premier golf courses, and golf equipment

Questions? Contact **Sunny Lim** (slim@sctlaw.com) or **Jason Hill** (jhill@shutts.com) to register or for more information.

Also, mark your calendars for these upcoming events. More information will be coming in your YLS email blasts, but we were so excited about them that we couldn't wait to tell you! **Dog Day Afternoon** will take place at Fleet Peoples Park at Noon on Saturday, October 18. **Kristen Cox** (kc Cox@shutts.com) and **Mike Caborn** (mcaborn@whww.com) are busy getting this event organized.

Also, Dellecker, Wilson, King, McKenna and Ruffier will be hosting a Hospitality Reception during the **College Park Jazz Fest** on Saturday, November 8. If

you can't wait for the YLS email blast, contact **Tony Sos** (asos@dwkllaw.com) for more info.

YLS meets the third Thursday of each month for a luncheon at the Citrus Club, and we are always interested in seeing new faces, including law students, attorneys who just moved to Central Florida, and guests. Stop by to see what we're all about, and come back again as a new member! The **YLS September Luncheon** will take place on September 18. RSVP to ocbayls@gmail.com by September 12. The cost is \$18 for RSVPs on or before August 19; \$20 at the door; or \$10 for sole practitioners, law students, government attorneys, and judges.

If you have an exciting story to share about a YLS member, or know of an award or accolade presented to one of our members, please send an email to me (blabutta@addmg.com) and it may be included in the next month's column. Photographs are welcomed and encouraged!

If you have any questions or want to find out more about our section and its committees, please call me at 407-841-2330 ext. 111, or email me at blabutta@addmg.com. I'd love to hear from you! Finally, if you are not receiving the YLS email blasts, send an email to ocbayls@gmail.com to sign up.

Bridget Heffernan Labutta is an associate with Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A. She has been a member of the OCBA since 2006.



THE ROSENTHAL
LAW FIRM, P.A.

The Rosenthal Law Firm, P.A.

is pleased to announce that

Marc D. Peltzman, Partner

and

Lori N. Hagan, Senior Associate

have joined the firm's

commercial litigation practice.

Jason A. Rosenthal
Jason@therosenthallaw.com

Ashley N. Rosenthal
Ashley@therosenthallaw.com

Marc D. Peltzman
Marc@therosenthallaw.com

Lori N. Hagan
Lori@therosenthallaw.com

212 Pasadena Place, Ste.A
Orlando, FL 32803
Phone 407.488.1220
Fax 407.488.1221
www.therosenthallaw.com

*Women who have been
practicing 20 years or more . . .*
MARK YOUR CALENDARS!!!

**2nd Annual 20+
Women Lawyer's Reception
Grande Dame Event**

Wed. October 22nd
5:30 p.m. - 8:00 p.m.

Dubsdread Country Club

RSVP to Mary Ann Morgan at
maryann@billingslawfirm.com
or 407-679-9900



Criminal Law Committee

Recent Supreme Court Criminal Decisions

William Jay



Several important criminal cases were decided in this term of the United States Supreme Court. The Court considered Congress's latest attempt to enact anti-child pornography legislation without violating the First Amendment in *United States v. Williams*, 128 S.Ct 1830 (May 19, 2008), the issue of whether or not killing someone is a blanket forfeiture of the right to confront that person's out of court testimonial statements in *Giles v. California*, 2008 WL 2511298 (June 25, 2008), and the issue of whether the death penalty for child rapists violates the Eighth Amendment in *Kennedy v. Louisiana*, 2008 WL 2511282 (June 25, 2008).

First, in *United States v. Williams*, with Justice Scalia writing for a 7-2 majority (Justices Souter and Ginsburg in dissent), the Court held that Congress had finally passed a constitutional statute regarding child pornography. Previous statutes had run into problems with the First Amendment by failing to protect one's rights to promote, distribute, and possess "fake" child pornography. This time, Congress focused on the distributors' and collectors' intentions and beliefs as to whether the imagery was "real." The statute read in part:

Any person who...knowingly...advertises, promotes, presents, distributes, or solicits through the mails, or in interstate or foreign commerce by any means, including by computer, any material or purported material in a manner that reflects the belief, or that is intended to cause another to believe, that the material or purported material is, or contains — (i) an obscene visual depiction of a minor engaging in sexually explicit conduct; or (ii) a visual depiction of an actual minor engaging in sexually explicit conduct...shall be punished as provided in subsection (b).

18 U. S. C. §2252A. (Effective July 27, 2006). Therefore, regardless of whether the material was "real" or "fake," child pornography, if it was being advertised or sought as "real," then the statute would apply. Therefore, "virtual" pornography, whether it is in high-definition, three-dimensional CGI, or simply black and white stick figures, is still protected — unless it is believed to be real.

Second, the latest interpretation of *Crawford v. Washington* came with the Court's opinion in *Giles v. California*. In this case, the defendant, who had killed his girlfriend, was involved in a domestic dispute with her several weeks prior to the homicide. At that time, statements were taken from the victim. The State of California did not raise the argument that the girlfriend's statements were non-testimonial, and both the majority and dissent made several comments that could lead one to believe that they would have found the statements to be non-testimonial had the issue been raised.

With no challenge regarding whether the statements were testimonial, the issue was whether the doctrine of forfeiture by wrongdoing applied. Justice Scalia delivered the 6-3 (Justices

Breyer, Stevens and Kennedy, dissenting) opinion of the Court, which held that the lower court's interpretation of that doctrine was incorrect. It held that only when the defendant "removes" the declarant from the picture with the purpose of preventing her testimony will the doctrine apply.

Third, in a 5-4 decision, with the "swing" vote of Justice Kennedy siding with Justices Ginsburg, Breyer, Stevens and Souter, the Court ruled in *Kennedy v. Louisiana* that the death penalty is unconstitutional when applied to child rape cases. No consideration was given to the particulars of any state's statutory scheme, so we will not likely be seeing any other state's statutory schemes being reviewed. In the Court's view, the death penalty, as applied to crimes against *individuals* for anything less than homicide, was cruel and unusual. It is an interesting distinction from crimes against "the State," such as "treason, espionage, terrorism, and drug kingpin activity," which also carry the death penalty. Florida was specifically mentioned and discussed because "capital" sexual battery in Florida is defined to occur when someone over the age of 18 commits a sexual battery against a child under twelve years of age, although the Florida Supreme Court ruled the death penalty was unconstitutional in 1981 following *Coker* (the 1977 case outlawing the death penalty for the rape of an adult woman). Finally, the majority opinion discussed at length why it would be bad public policy to apply the death penalty in these types of cases. The dissent, composed of Justices Scalia, Thomas, Alito, and Chief Justice Roberts, disputed whether there was a "national consensus" against applying the death penalty to child rapists and whether the majority's judgment that it was bad public policy was an appropriate discussion for the Court.

Finally, although it is not a criminal case, the landmark case of *District of Columbia v. Heller* was decided on June 26, 2008. This was the first major examination of the Second Amendment by the United States Supreme Court, and the majority opinion was delivered again by Justice Scalia. After 64 pages of discussion, the Court's holding was:

In sum, we hold that the District's ban on handgun possession in the home violates the Second Amendment, as does its prohibition against rendering any lawful firearm in the home operable for the purpose of immediate self-defense. Assuming that *Heller* is not disqualified from the exercise of Second Amendment rights, the District must permit him to register his handgun and must issue him a license to carry it in the home.

It is safe to expect many future cases discussing incorporation, full faith and credit, and whether the Second Amendment protects carrying a handgun outside the home.

William Jay is an associate with Carsten & Ladan, P.A. He has been a member of the OCBA since 1998.



Legal Aid Society News

Legal Aid Participates in Community Outreach Programs



Larri Thatcher

Many of you may be familiar with last year's changes to the process for restoration of civil rights after a felony. Effective April 5, 2007, a person who meets the requirements of Rule 9 of the Rules of Executive Clemency shall have his or her civil rights immediately restored. Those not qualifying under Rule 9 may qualify for restoration without a hearing under Rule 10. All others may request restoration, and a full investigation and hearing will be held. Persons released from incarceration/supervision shall now have their names electronically transmitted from the Department of Corrections to the Office of Executive Clemency to begin the process for the automatic approval of restoration of civil rights. Restoration of civil rights includes all rights of citizenship enjoyed by the person before his or her conviction, except the specific authority to own, possess, or use firearms. Many individuals whose rights may already have been restored are not aware of these changes and are not aware that their rights have been restored.

Since April 5, 2007, the State has initiated statewide workshops designed to educate the public and to bring the Parole Commission to local venues to assist in rights restoration. Locally, there have been efforts to hold these workshops in conjunction with voter registration and sealing or expunction of records. In the past year, the Legal Aid Society was invited to participate in three Restoration of Civil Rights Workshops held in Orange County. During these events, the Legal Aid Society accepted approximately 140 applications from residents who wished to know whether they qualified to have their records sealed or expunged. We are only able to undertake this kind of community outreach with significant *pro bono* assistance from bar members and law students. *Pro bono* attorneys help in these events in

several ways. Some attorneys attend the event and assist us in taking applications, gathering necessary information, or pre-screening people and advising them of their rights. The cases that do qualify to be sealed or expunged are then assigned to *pro bono* attorneys.

The most recent event took place on Saturday, July 12, 2008, at the Macedonia Missionary Baptist Church in Eatonville. Speakers at the event included State Senator Gary Siplin, Eatonville Mayor Anthony Grant, Circuit Judge Jeffery Arnold, Public Defender Robert Wesley, and Jane Tillman from the Florida Parole Commission. During the event, the Parole Commission announced the names of attendees whose rights had already been restored. These attendees were then directed to members of the Association of Community Organizations for Reform Now (ACORN), who assisted them in registering to vote. Our *pro bono* team at the Macedonia Missionary Baptist Church event consisted of 14 law students from Barry and FAMU as well as the following attorneys: Adam Bantner, Susan Scott, Tom Murphy, Charissa McIntosh, Catherine Chien, Bill Kinane, Chris Pennington, Shane Fischer, Shana Manuel, Lisa Jama, Julie Koves, Joanna Snow, Rudy Celi, Ryan Belanger, Bea Brown, and Harold Wesley.

These events allow us to collaborate with community partners to educate and assist low-income residents of Orange County in legal matters that have a fundamental effect on their lives. The Legal Aid Society will continue to participate in such events thanks to the wonderful *pro bono* commitment of the Orange County Bar Association.

Larri Thatcher is the Intake/Outreach/Community Education Attorney at the Legal Aid Society. She has been a member of the OCBA since 1998.



MBAF

MORRISON BROWN ARGIZ & FARRA, LLP

CERTIFIED PUBLIC ACCOUNTANTS AND CONSULTANTS | SHARING THE VISION™

Litigation Support Services
&
Private Wealth Services

Ira Silver, CPA, Partner
isilver@mbafcpa.com

Orlando Office
200 South Orange Avenue, Suite 1445
Orlando, FL 32801
Tel: (407) 237-3600

MIAMI | FT. LAUDERDALE | BOCA RATON | ORLANDO | BALTIMORE | BOULDER | INDIA
www.mbafcpa.com



The Law Firm of Anthony J. Diaz

"Put my experience to work for you today"

- Estate, Trust & Guardianship Litigation
- Over 10 years Litigation Experience
- Certified Public Accountant

1211 Orange Ave., Suite 104
Winter Park, FL 32789

Phone: (407) 774-4949 Fax: (407) 774-4960 ajd.lawfirm@gmail.com





Family Legacy

George Walter Johnson Scholarship Fund



The Honorable Winifred J. Sharp

Rollins College is the charity selected by the 2008 Reunion Committee and the children of George Walter Johnson to honor George Walter Johnson, father of Judge Winifred J. Sharp, Fifth District Court of Appeal, Florida (ret.). Funds given by family members will be placed in a permanent endowment fund to establish a scholarship for students who have graduated from a Title I or equivalent (high-poverty population) high school located in Orange County, Florida.

Why Rollins College? It is a high-quality, well-run private liberal arts college in Winter Park, Florida, and it is capable of and willing to manage a long-term scholarship program such as the one we want to establish. Many members of the Johnson family have had close connections with the college over the years. For example, the following have been involved with the college: Uncle Tom, a graduate with 50 plus years of service on the Board of Trustees and a generous donor of large gifts to the college; two Jim Johnsons, both graduates; Grace Perkins, a graduate; Charles Johnson, a graduate; Aunt Winnie, an enthusiastic supporter and donor to the Cornell Fine Arts Museum; and her Foundation, which has funded the Museum's educational outreach programs for school children and the community.

George Walter Johnson played a vital role in 1951 to save Rollins College from a potentially self-destructive battle between the then-president [Paul] Wagner and the senior faculty, students, and minority members of the Board of Trustees. In an effort to cut costs, President Wagner summarily dismissed 23 professors, 13 of whom had tenure, and it was impossible for Rollins to obtain a Reserve Officers Training Corps unit. The former was in violation of the 1940 Statement of Principles on Academic Freedom and Tenure, which threatened Rollins's accreditation by the American Association of University Professors. The latter was untrue.

Wagner was the holder of a Masters degree from Stetson. He was 33 years old and had been at Rollins only 17 months. Half the students went on strike, and half the remaining faculty threatened to resign. George was brought in as an attorney to represent some of the Trustees and to work out a solution.

Through a series of closed-door meetings with the Trustees and faculty, some of which excluded President Wagner, the Board of Trustees was reconstituted. Some resigned and new Trustees were added, one among whom was Jeanette Morse McKean. The Board then dismissed Wagner and elected Rollins Professor Hugh McKean to serve as President. George worked out a monetary settlement with Wagner, who had sued Rollins and some of the Trustees. Although Wagner gave interviews to

the newspapers, in violation of the settlement agreement, George refused to say anything about it to the press.

George continued to serve as Secretary to the Board of Trustees and as attorney for the College from 1951 to 1978. In 1961 Rollins College awarded George Johnson an honorary Doctor of Laws degree. When George retired, at the Patrons Dinner the College resolved that he be honored and cited for his "conspicuous service to Rollins College, wise counsel, perceptive interest and judicious leadership he has given to the College Board of Trustees, constituting service above and beyond normal requirements . . ."

Why scholarships for low-income Orange County public high school graduates? There is a much longer story to tell about George Johnson's interest in providing good education for the Orange County community. [A paper on George Johnson's contributions to the establishment of Jones High School is available from the OCBA office upon request.] When George first arrived in Orlando in 1935 and established a residence, he was concerned about the low-income, then largely black population forced to live in the center of town in a confined area. He started the Orlando Housing Authority in 1938, and in the following year, it began providing low-income housing for black families in Washington Shores, an area west of downtown Orlando. The Authority also built homes and apartments for this population in downtown Orlando and later for low-income populations and seniors. George served as Chair of the Housing Authority from 1954 to 1983, a record-setting 29 years. Incidentally, Charles Johnson worked with George on building "good little houses" in Washington Shores in the 1960s.

George Johnson was also concerned about the rag-tag, worn-out and over-crowded public schools in Orange County following WWII. He had three good reasons to be concerned: Jody, Margie, and Winnie, who would be attending the schools for many years. The schools provided for the white population were in very poor shape, but the ones provided the black community were even worse.

As Chairman of the School Board, in 1949 he spearheaded a bond issue election (the only successful one in the state at the time) to build, among other middle and elementary schools, three quality high schools: Jones, Edgewater, and Boone. He later raised funds for the Winter Park High School.

Where to place Jones created an ugly, nasty fight in Orlando, and George was in the middle of it as Chairman of the School Board. The white population did not want the black high school placed anywhere but the overcrowded area where most of the black population lived - in downtown

Continued on page 28

Side Bar

Jessica K. Hew



It's the official end of summer! Even though the kids are back to school and despite the heat, our legal community is still going strong!

Let's congratulate the newly elected 2008-09 Board of Directors for the **Central Florida Gay and Lesbian Lawyers Association (CFGLLA)**! President **Ken Bryk**; President Elect **Larry Smith**; Treasurer **Merrell Bailey**; Secretary **Laura Pichardo**; and Chapter Representative **Mike Morris** were recently elected at a Social/Networking Meeting at Hamburger Mary's. CFGLLA announces it will once again participate in the annual Minority Mentoring Picnic on November 1, 2008, at the Corporate Pavilion at Amelia Earhart Park in Hialeah, FL. For information, please contact CFGLLA.

The **Central Florida Real Estate Council (CFREC)** has also recently elected its 2008-10 Board of Directors. Board members elected to return for an additional two-year term are: **Jennifer Jones Bloodworth**, Joyce Savage Gaston, and Grace Anne Glavin. Four new board members were elected for two-year terms: Nancy P. Campiglia; **Stephen C. L. Chong**; **Eileen D. Fernandez**; and **Vincent J. Profaci**. Please note two upcoming CFREC events: 2008 Law Symposium Seminar on real estate law presented by members in conjunction with ORRA for realtors and attorneys, on Tuesday, September 16, 2008, from 8:30 a.m.-4:00 p.m. (7.0 hours CLER) at Plaza International Resort; and a dinner meeting: An Evening With Economist Dr. Hank Fishkind, *2008 and Beyond Economic Forecast*, on Thursday, October 16, 2008, from 6:00 p.m.-8:30 p.m. at the Downtown Orlando Marriott.

Central Florida Association for Women Lawyers (CFAWL) announces its New Member Reception on Thursday, September 25, 2008, from 5:30 p.m.-7:30 p.m. at the Downtown Orlando Marriott, 400 W. Livingston Street. The reception is free to all current and potential members and the judiciary. Refreshments and hors d'oeuvres will be served.

In partnership with the Hispanic Chamber of Commerce of Metro Orlando, Puerto Rican Chamber of Commerce of Central Florida, *La Prensa* newspaper, the Jewish Federation of Greater Orlando, WONQ Radio, Barry University School of Law, and the Lou Fry Institute of Politics and Government at UCF, the **Hispanic Bar Association of Central Florida (HBA)** will host its second in a series of Central Florida election debates on October 6 and 7 from 6:00 p.m.-9:00 p.m. at UCF's Downtown Orlando campus. As part of Hispanic Heritage Month, HBA will present attorney **Elizardi Castro's** one-man show at the Latin American Cultural Festival on Sunday, September 21 at UCF's main campus. Contact the HBA for details.

Central Florida Paralegal Association, Inc. (CFPA) hosts monthly lunches at three locations: Winter Park/Maitland (2nd Thursday), Downtown Orlando (2nd Wednesday), and Altamonte Springs (last Friday). CFPA hosts monthly Membership Mixers/Happy Hours the 3rd Thursday of the month. For more information on any and all of these events, please visit CFPA's website at www.cfpa-inc.org.

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

Jessica K. Hew is a partner with Graham, Builder, Jones, Pratt & Marks, LLP. She has been a member of the OCBA since 1995.

Family Legacy *Continued from page 27*

Orlando. But there was no room to build a high-quality school there, and its construction would displace a large black population.

There were mass protests, and City leaders, including City Commissioners and the Mayor, provided no support and no leadership. George and the Board suggested Washington Shores as a location, but the State refused to approve it because it was too far from the center of the black population in Orlando.

An intermediate site located between Washington Shores and Orlando was selected (its current site). But there were more mass protests, crosses were burned in George's yard, he received death threats, the Ku Klux Klan appeared at meetings in Tallahassee and Orlando, law suits were filed, and the State Cabinet got involved. George and the School Board stood firm and ordered Jones to be built on the site they had selected.

As a result, the black community got a modern, community college-style high school and new elementary schools, which were equaled no where in the this state at that time. The black community in Orlando has never forgotten George Johnson's leadership. On February 15, 2008, black leaders in Orange County honored persons in the community who had played significant roles to improve the status of the black community. George Johnson was one so honored, and his family received a plaque for his role in making Jones a reality.

George Johnson believed that all children were entitled to a quality education without regard to their race or income level. He also believed that good education had to be provided to produce quality future leaders for the continuation and salvation of this country. He said, "I believe that our educational system is the custodian of the ideal elements of our civilization."

Thus, Rollins College can provide this quality education – and this scholarship was establish in George's memory to benefit children who otherwise would not be able to afford this quality education and who will hopefully be enabled to assume a leadership role in the community and country. This is something, we think, George Walter Johnson would have heartily approved.

If you would like to make a donation to the scholarship fund, please make your check payable to Rollins College, for the George W. Johnson Scholarship Fund, and mail it to Winifred J. Sharp, P.O. Box 310 Windermere, FL, 34786. Thank you for your support.

Submitted by Judge Winifred J. Sharp on behalf of the The Johnson Family Reunion Committee, 2008.

MEDIATION

COMMERCIAL, CONSTRUCTION,
MALPRACTICE & PERSONAL INJURY

JAMES A. EDWARDS

Certified Civil Mediator & Certified Civil Trial Lawyer
Trial, Appellate, Pre-Suit & Federal Mediations

Downtown Conference & Media Facilities



407.872.7300 jedwards@rumberger.com



Presentation Skills for Lawyers

“and Your Little Dog, too!”

Elliott Wilcox



When I was a kid, we didn't have HBO, Netflix, or Movies-on-Demand. Back then, if you wanted to watch a movie, there were only two choices. You could either go to the theater or watch whatever was being televised on network TV.

When it came to broadcast TV, you didn't have any control over which movies would be shown, but at least one movie was guaranteed to be re-broadcast every year. From 1959 to 1991, *The Wizard of Oz* was an annual television tradition. First shown on the big screen in 1939, *The Wizard of Oz* is one of the most famous movies ever created and is adored by legions of fans. Some of the characters in the film, such as Dorothy, the Cowardly Lion, and the Tin Man, are among the most beloved characters in movie history. But one of the characters in the movie was portrayed as one of the most evil characters ever written. The filmmakers went so far out of their way to label her as being wicked that they actually called her the “Wicked” Witch of the West. They did such an excellent job of selling her “wickedness” that generations of moviegoers have recoiled at the sound of her cackling laugh and promises to “...get you, my pretty, and your little dog, too!”

But here's an interesting question: *What if she wasn't really wicked, but merely portrayed that way by a biased storyteller?*

In 1995, Gregory Maguire decided to set the story straight in his book, *Wicked: The Life and Times of the Wicked Witch of the West*. In this version, he reveals the Wizard of Oz as a corrupt government leader intent on subjugating his citizens, depicts Glinda the Good Witch as a self-absorbed snob, and tells a *much* different story about what *really* happened on the road to Oz. Most importantly, we learn that Elphaba, who will later become known as “The Wicked Witch of the West,” is not an evildoer, but merely a crusading animal rights activist intent on saving defenseless creatures from the Wizard's maniacal plans. This version of the story was so powerful that it was adapted into a wildly successful Broadway show, simply entitled *Wicked*, that became a Broadway hit in 2003 and proceeded to break box office records around the world.

Here's the important lesson for trial lawyers to note: There are *always* two sides to every story. Although both stories in this case were built around similar characters and similar “facts,” they lead to wildly divergent conclusions. In one story, she's the most “wicked” person in the kingdom. In the other, she's a kind, caring individual whose character has been assassinated by a corrupt government.

As John Quincy Adams once said, “Whoever tells the best story wins.” In this case, *both* storytellers did remarkable jobs of pulling in the audience and constructing plausible, persuasive stories, but in the courtroom, only **one** storyteller can prevail. As the trial lawyer, it's your job to tell your client's story persuasively so that you win.

However, when you're creating a persuasive storyline in court, you'll be facing a few limitations that most storytellers will never encounter. Most importantly, you're not permitted to change the facts, re-cast the characters, or make stuff up. (As I've said before, “Your facts are your facts.” If you try to change them, you'll lose your license to practice.)

So if you can't change your facts, how are you going to tell a persuasive story?

One of the most important things you can change is how you frame your case. Framing makes a tremendous difference. If I showed you a picture framed in a cheap plastic frame, you might think to yourself, “Eh... it's alright, but nothing special.” But, if I took that same picture to the frame store, got it matted, framed, placed behind non-glare glass, and framed in an elegant wooden frame, you might think, “Wow! That's an amazing picture!”

Nothing about the picture changed – only the way it is **framed**.

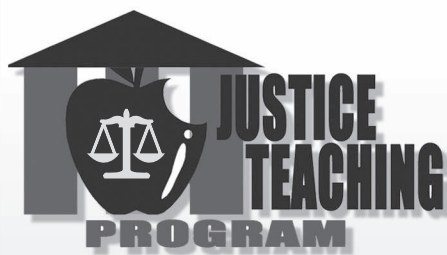
How you frame **your** case makes a huge difference. Your facts are your facts, but the way you frame your story will make a tremendous difference in how the jury views it. One of the most important lessons you need to keep in mind when framing your case is that your jurors don't want to fight against inertia. They like to leave things the way they are and not have to challenge their views of the world. The more you force them to fight against their natural instincts, the more difficult you'll make your job.

For example, imagine a case involving police brutality. Most of your typical jurors will probably think that the police officers in their community are good, honest people doing a difficult, thankless job. If you try to frame your case as a story of “cops are bad,” then you'll be swimming upstream, fighting against your jurors' instinctual beliefs. However, if you reframe your story as “cops are good, and the best way that we can continue to protect the good cops is to point our fingers at the bad ones,” you could use their instinctive beliefs and attitudes to your benefit. ***Same facts, different story.***

The next time you go to court, your client will be depending upon you to tell (and to sell) his story to the jury. Don't merely recite a bland story for them – pick through the facts so that you can tell the most persuasive story possible. Don't accept the common thinking that your client is “wicked” – spend as much time as necessary thinking about how to reframe your facts, and you'll be able to tell a story that portrays your client in the most positive (and persuasive) light possible.

© 2008 Elliott Wilcox – All Rights Reserved

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



JUSTICE TEACHING

*Reaching Florida's Students
One School at a Time*

Volunteer today for Justice Teaching, a civic education initiative of Florida Supreme Court Justice R. Fred Lewis.

The program needs judges, lawyers and other legal professionals to STEP UP and STEP IN TO THE CLASSROOM to serve as Justice Teaching Resource persons in our local elementary, middle and high schools.

- Receive all training materials!
- Volunteer only one hour a month!
- Make classroom visits!
- Participate in teacher conferences!
- Help with in-service training!
- Assist with law-related education!

Read more about the goals of Justice Teaching and apply to be a Justice Teaching volunteer at

www.justiceteaching.org

Justice
"Come share with us your
vision of Justice."



RICHARD B. LORD

Full time mediator since 1999

- ♦ Certified Circuit Civil Mediator
- ♦ Also Qualified to Mediate Florida Appellate and Federal Court Cases

Panel Member / Shareholder
Upchurch Watson White & Max
800-863-1462 ♦ uww-adr.com



NEUTRAL FACILITIES AVAILABLE
Maitland ♦ Daytona Beach ♦ Miami ♦ Birmingham

Searching for something more?



Been there, done that! Confidentially let's talk.

JANIS HALKER SIMPSON, J.D., M.A., M.P.S.

407-616-6207 • creativechangecounseling@hotmail.com

NATIONAL CERTIFIED COUNSELOR • INDIVIDUAL OR COUPLES COUNSELING

Registered Mental Health Counseling Intern #IMH5792

Registered Marriage & Family Therapist Intern #IMT927

LITIGATION SUPPORT SPECIALISTS



Valuation & Litigation Services, LLC

OUR FIRM SPECIALIZES IN COMPREHENSIVE SERVICES INCLUDING:

- | | |
|-----------------------|------------------------|
| ▪ FORENSIC ACCOUNTING | ▪ FINANCIAL AFFIDAVITS |
| ▪ BUSINESS VALUATIONS | ▪ FAMILY LAW FORMS |
| ▪ STANDARD OF LIVING | ▪ EXPERT TESTIMONY |

1234 EAST CONCORD STREET, SUITE B, ORLANDO, FL 32803

407-233-4180 | 407-233-4182 FAX

<http://www.valuation-litigation.com> | info@valuation-litigation.com

Golf Fore You?

Anyone interested in forming
an **OCBA Golf League** should
contact Jim Sears
at jsearslaw@gmail.com
or 407-896-9068.





Rainmaking

A Simple Way to Increase Referrals – Learn to Say Thank You

—Mark Powers & Shawn McNalis



If you received a check for a considerable amount of money from an acquaintance who expected nothing in return, would you go out of your way to express your gratitude and acknowledge the sender's generosity? Of course you would.

Do you unfailingly extend this same courtesy to your business contacts when they have referred potential clients - clients whose fees may amount to many thousands of dollars? If you are like many of the attorneys we know, you may fail to appropriately recognize the generosity behind the referrals you receive.

A referral is by definition an implicit endorsement of your legal skills and professionalism. What's more, a referral represents a vote of confidence in your ethics, honesty, and integrity. It says a lot about you as an attorney and a person. The referrer believes in you, respects you, and has confidence in your demonstrated ability to work effectively with others. For litigators, there is no higher compliment than when the opposing counsel sends clients. No matter what your practice area, anyone who sends business your way deserves recognition.

Think about what happens when you refer clients to another attorney or professional in your community. Do you regard those who thank you and appreciate your efforts more positively than those who don't? Probably. Are you tempted to send more business to those who in some way express their gratitude? Absolutely. There is an unwritten rule surrounding the exchange of business that depends on a certain degree of social grace. The delicate nature of referral relationships must be nurtured.

When attorneys seek our advice due to a decline in the amount of new business coming their way, one of the first questions we ask is this: how do you acknowledge referrals? We do this to gauge their reaction to this often-ignored aspect of client development.

Sometimes the initial silence or their hesitant "Oh...I, uh..." immediately indicates the attorney has a blind spot in this area. While not an unusual reaction, it is particularly puzzling considering that, as a rule, a quick and personal acknowledgement of a contact's thoughtfulness is crucial in encouraging more referrals. The good news, however, is that this problem is easily remedied. With a minimal investment of time, an attorney can easily establish a procedure for regular and timely acknowledgement of referrals.

Personal Notes to Referral Sources

Taking time to add a personal touch when acknowledging referrals is important and, in this age of electronic communication, will really stand out. Writing a brief, personal, handwritten message acknowledging not

only the referral but also the source's thoughtfulness and confidence in you, is always appropriate. To facilitate a timely response, many attorneys keep an inventory of blank note cards handy in order to write thank you notes whenever a new client is referred. You can do the same thing. By simply having a supply of note cards handy, the number of thank you cards you send will increase dramatically.

Systemizing this process even further, some of our attorney clients have made writing their thank you note part of their file opening routine. Whenever a referred client's file is opened, the attorney is brought the new file with the referrer's information, an envelope, and a blank note card already tucked inside the file. The attorney immediately writes the thank you note and hands it back to a staff member to mail.

Several attorneys have adopted the same system but take it beyond just sending a thank you note to the referrers who frequently send business. These attorneys are handed a checklist of gift options with the newly opened file. The options include such things as "send flowers," or "send basket of cookies to the whole office" (for those referrals that sometimes come from staff members, or as an effort to involve the staff even if the professional has sent the business).

Having these options clearly outlined and available to be quickly checked-off reduces the amount of time the attorney has to think about what to send. The staff has vendors lined up to supply the flowers or baskets. This systematic response saves time because the planning and thought that went into the project at the beginning reduces the time and effort needed once it is established.

Gifts for Referral Sources

Some situations call for acknowledgement beyond a simple note or basket of cookies. When referral sources send you an especially important or valuable client, be prepared to send them something that communicates your appreciation in a way that is specifically meaningful to them. Discover which wine they prefer, the type of cigars they like, or whether a gift basket of favorite foods would suit them better. For some referral sources, a gift certificate for a special restaurant may be in order.

One attorney we work with is particularly good at detecting the likes and dislikes of his referral sources. While making small talk at lunch, dinner, or in a meeting, he asks questions of his referral sources and then jots down what they say. Under the guise of casual curiosity, he learns what sports they like, what their children like to do, and what hobbies, passions, and interests they enjoy. He then gives

Continued on page 32

THE 100 CLUB!

Congratulations to the members of the OCBA'S 100 Club

Allen, Norton & Blue, P.A.
Billings, Morgan, Boatwright & Hernandez, LLC
Chaires & Hammond, P.A.
Cohen Battisti, Attorneys at Law
DeCiccio & Johnson
Dellecker Wilson King McKenna & Ruffier, LLP
Diaz & Moss
Fishback, Dominick, Bennett, Stepter, Ardman, Ahlers & Langley, LLP
Fisher, Rushmer, Werrenrath, Dickson, Talley & Dunlap, P.A.
Fowler White Boggs Banker P.A.
Graham, Builder, Jones, Pratt & Marks, LLP
Halim & Pratt, LLC
Harris, Harris, Bauerle & Sharma
Jill S. Schwartz & Associates, P.A.
King, Blackwell, Downs & Zehnder, P.A.
Kirkconnell, Lindsey, Snure & Yates, P.A.
Law Office of David Maxwell, P.A.
Law Office of Jeffrey Feulner, P.A.
Law Offices of Blair T. Jackson, P.A.
Law Offices of Farr and Bowen, P.L.
Law Offices of Neal T. McShane, P.A.
Law Offices of Raymond Bodiford, P.A.
Legal Aid Society of the OCBA
Lewis & Crichton, Attorneys at Law
Lynum & Sanchez, P.A.
Marcus, McMahon & Myers, PL
Marshall, Dennehey, Warner, Coleman & Goggin, P.A.
Michael R. Walsh, P.A.
Murrah, Doyle and Wigle, P.A.
N. Diane Holmes, P.A.
Nardella Chong, P.A.
Ossinsky & Cathcart, P.A.
Page, Eichenblatt, Bernbaum & Bennett, P.A.
Perla & Associates, P.A.
Quintairos, Prieto, Wood & Boyer, P.A.
Roetzel & Andress, LPA
Schlegel Caplan, L.C.
Stovash, Case & Tingley, P.A.
Sublette Law Offices
Tangel-Rodriguez & Associates
The Brennan Law Firm
The Carlyle Appellate Law Firm
The Carr Law Firm, P.A.
The Draves Law Firm, P.A.
The Law Office of Frank A. Hamner, P.A.
The Marks Law Firm, P.A.
The Morsch Law Group
The Rosenthal Law Firm, P.A.
The Skambis Law Firm
The Zeini Law Firm, P.A.
Vose Law Firm
Wendy L. Aikin, P.A.
West, Green & Associates, P.L.
William G. Osborne, P.A.
Wolff, Hill, McFarlin & Herron, P.A.
Wooten, Honeywell, Kimbrough, Gibson, Doherty & Normand, P.A.
Yergey and Yergey, P.A.

Is your firm part of the 100 Club? Any firm with two or more attorneys and 100% membership in the OCBA can be a member of the 100 Club. If you think your firm is eligible, e-mail a typed list of your attorneys to Susan Laviolette at susanl@ocbanet.org and she'll let you know!

Rainmaking *Continued from page 31*

his marketing assistant the notes he's made and she enters the notes into the firm database. Now he doesn't have to worry about remembering who likes which kind of wine or what restaurant his referral sources prefer.

For those of you that think there is something artificial about this approach, think about this: the process of developing referral sources is the same process you'd follow to develop a friendship. In fact, the most successful attorneys we know are those who authentically regard their referral sources as friends. Friendships are built on shared information, and relationships with referral sources are no different.

Taking notes on what your referral sources like and dislike aids you in keeping track of the many personal details you'll learn if you listen closely. A quick review of the notes in your database before you next meet with a referral source will refresh your memory about his or her personal life, allowing you to engage the source in meaningful conversation even if you have not seen the person in quite a while.

If you don't have a database, the old-fashioned method of keeping notes in a file can work but isn't nearly as convenient. Most computers come equipped with a basic database such as Outlook, which can be used as your marketing database. Alternately, many of our clients adapt their case management software by opening a file under the name of each referral source and use it to keep track of the referrer's personal information.

In return for the investment of time used to systemize your acknowledgement of referrals, you can rest assured that your referring contacts will know their efforts have been worthwhile and appreciated – which leads to further referrals. Although the process of nurturing your business contacts and expanding your potential for referrals must take place over a period of time, you can establish creating a "thank you" habit as a priority for your practice immediately. Commit to acknowledging all those who will help you along your way, and couple this with an ongoing push to broaden your network of referral sources. The future success of your practice is built on the small gestures you make today.

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

A Private Practice Announcement

Bo Ward, Ph. D.

– Certified Family Mediator Since 1988 –

Ward Mediation Services, Inc.

(407) 461-4815

Announcements

Shareholders

Martin B. Unger - *Unger, Stokes, Acree, Gilbert, Tressler & Tackitt, P.L.*

New Partners

W. Scott Callahan - *Ruden McClosky*

Managing Partner/Shareholder

Brian D. Stokes - *Unger, Stokes, Acree, Gilbert, Tressler & Tackitt, P.L.*

Of Counsel

Rodger D. Moss, Jr. - *Zimmerman Kiser Sutcliffe*

Anthony M. Nardella, Jr. - *Zimmerman Kiser Sutcliffe*

Board Certification

Ingrid A. Keller - *N. Diane Holmes, P.A.* - Marital and Family Law

Charlotte L. Warren - *Carlton Fields, P.A.* - Construction Law

Published

A. Michelle Jernigan and **Richard B. Lord**, shareholders with Upchurch Watson White & Max and co-directors of the firm's Family Business services panel, collaborated on an article titled, "The Mediator's Role in the Family Business." The article is featured in the second edition of American College of Civil Trial Mediators (ACCTM) publication, *The American Journal of Mediation*.

Speaking Engagements

David W. Henry of Allen, Dyer, Doppelt, Milbrath and Gilchrist presented *Advertising Injury and Insuring Intellectual Property* to the Professional Independent Insurance Agents of Illinois in Chicago, IL, on July 24, 2008.

Louise B. Zeuli, JD, MSN, ARNP, RN, of Louise B. Zeuli, P.A., recently presented *Documentation from a Risk Management Perspective* to Management, Nurses, Social Workers and Chaplains at Hospice of the Comforter in Altamonte Springs.

Seminars

Tues., Sept. 9 - *Representing the Employee in Unemployment Compensation Cases*. LAS*; presenters: Attorneys Larri Thatcher and Sally McArthur. CLE pending.

Tues., Sept. 23 - *Understanding the Termination of Parental Rights*. LAS*; presenter: George Lytle, Attorney at Law, DCF. CLE pending.

Fri., Sept. 26 - *Practice Management Seminar, Part I*. Co-sponsored by the OCBA; presented by Law Tech Partners, Inc.; 8:30 a.m. - 4:00 p.m.; OCBA Center. CLE TBA.

Fri., Oct. 3 - *A General Perspective of the Past, Present & Future*. OCBA Workers' Compensation Committee. Details TBA.

Fri., Oct. 10 - *Practice Management Seminar, Part II*. Co-sponsored by the OCBA; presented by Law Tech Partners, Inc.; 8:30 a.m. - 4:00 p.m.; OCBA Center. CLE TBA.

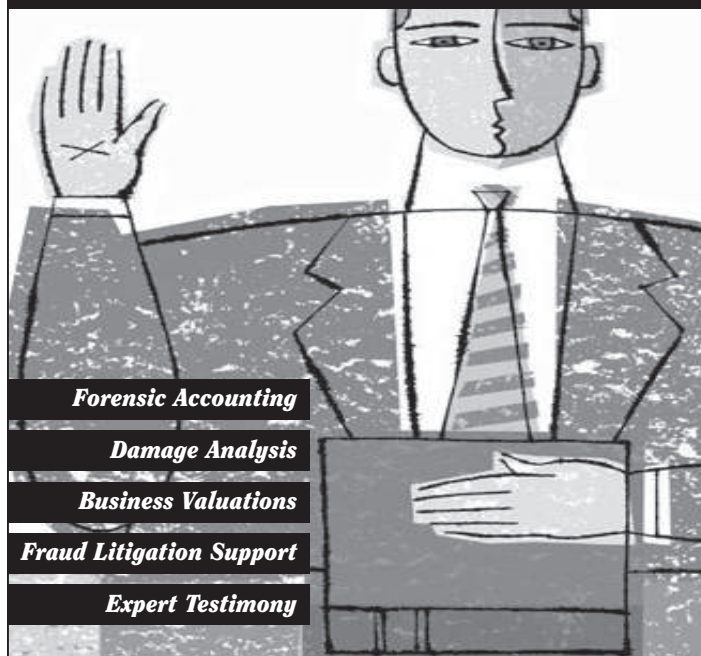
Tues., Oct. 14 - *Immigrants Who are Battered and Victims of Crimes, VAWA, I-751, U Visas*. LAS*; presenter: Ana Bernal. CLE pending.

Tues., Oct. 28 - *Creating a Family: The Adoption Process*. LAS*; presenter: Linda Forbes, Family Services of Metro Orlando. CLE pending.

Thurs., Nov. 20 - *Appeals and Extraordinary Writs for the Criminal Law Practitioner*. OCBA Appellate Practice Committee; 1:30 p.m. - 5:30 p.m.; OCBA Center. CLE TBA.

* All LAS Lunchtime Training Seminars will be held from 12:00 p.m.-1:30 p.m. at the First Presbyterian Church in downtown Orlando. To RSVP, please contact LAS at 407-841-8310.

Independent Financial & Accounting Expertise



Call Bob Morrison 407.898.2727 - Robert.Morrison@rsmi.com

RSM McGladrey, Inc.

Accounting • Tax • Business Consulting
www.rsmMcGladrey.com

Shark Season

Sharks bite rates in half
for legal eagles during
Legal Professional
Appreciation Season,
& Half Off Landshark®.

Save 50%

Shark Season runs
Aug. 25 – Dec. 15, 2008
Reservations and all details
www.JustLetGo.com/SHARK.

For a small retainer of a
3 night reservation get your
\$100 Bonus Card online.

TraderWinds

ISLAND RESORTS ON ST. PETE BEACH

Florida's West Coast • 800.367.7050



OCBA Citizens Dispute Settlement and Family Law Mediation Program

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

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

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

75
YEARS
OF EXCELLENCE

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



New Members

Regular

Claire A. ASHINGTON-PICKETT

Shutts & Bowen, LLP
300 S. Orange Ave., Ste. 1000
Orlando FL 32801
407-835-6767

Walter F. BENENATI

*Law Offices of
Walter F. Benenati, P.A.*
555 Winderley Pl., Ste. 300
Maitland FL 32751
407-236-7171

Richard COAXUM, Jr.

Saxon, Gilmore, Carroway, et al.
518 S. Magnolia Ave., Ste. 100
Orlando FL 32801
407-835-7878

Anthony J. COTTER

GrayRobinson, P.A.
301 E. Pine St., Ste. 1400
Orlando FL 32801
407-843-8880

Robert A. CRABILL

*Wright, Fulford, Moorhead
& Brown, P.A.*
145 N. Magnolia Ave.
Orlando FL 32802
407-425-0234

Holly M. DERENTHAL

Christine M. Derenthal, P.A.
5401 S. Kirkman Rd., Ste. 310
Orlando FL 32819
407-926-0255

W. Thomas DYER

W. Thomas Dyer, Esq.
414 N. Ferncreek Ave.
Orlando FL 32803
407-648-1153

Rosemarie E. FARRELL

Public Defender's Office
435 N. Orange Ave.
Orlando FL 32801
407-836-4768

Thomas B. FEITER

State Attorney's Office
415 N. Orange Ave.
Orlando FL 32801
407-836-1371

Arnold FIGUEROA

Arnold Figueroa, P.A.
1172 E. Vine St.
Kissimmee FL 34744
407-944-4401

Joshua FRICK

Rissman, Barrett, Hurt, et al.
201 E. Pine St., Ste. 1500
Orlando FL 32801
407-839-0120

Bernard H. GENTRY

*Stump, Dietrich, Spears
& Norman, P.A.*
37 N. Orange Ave., Ste. 200
Orlando FL 32801
407-425-2571

George E. GIBEAULT

Private E. Gibeault
733 W. Colonial Dr.
Orlando FL 32804
407-849-2949

Michael H. GOTSCHALL

CPLS, P.A.
201 E. Pine St., Ste. 445
Orlando FL 32801
407-647-7887

Robert B. GRIFFIS

Jones, Hurley & Hand, P.A.
1040 Woodcock Rd., Ste. 100
Orlando FL 32803
407-895-8001

Charles C. HART

Chase / Freeman P.A.
250 International Pky., Ste. 250
Lake Mary FL 32746
407-831-8075

Shawn T. JEWELL

Fisher, Rushmer, et al.
20 N. Orange Ave., Ste. 1500
Orlando FL 32801
407-843-2111

Amy M. LEFKOWITZ

Barry University School of Law
6441 E. Colonial Dr.
Orlando FL 32807
321-206-5764

Andrea LOZANO

Wicker, Smith, O'Hara, et al.
390 N. Orange Ave.
Orlando FL 32801
407-317-2102

Susan S. MORRIS

Susan S. Morris, Esquire
390 N. Orange Ave., #2424
Orlando FL 32801
407-920-0333

Guna OSE

Bross, Bross, Thomas & Saly
50 N. Grove St.
Merritt Island FL 32953
321-456-5914

James L. PAISLEY

State Attorney's Office
415 N. Orange Ave.
Orlando FL 32801
407-836-1500

H. Clay PARKER

Parker & Associates, P.A.
460 E. Altamonte Dr.
Altamonte Springs FL 32751
407-660-2223

Adam M. PASTIS

GrayRobinson, P.A.
301 E. Pine St., Ste. 1400
Orlando FL 32801
407-843-8880

Marc D. PELTZMAN

The Rosenthal Law Firm, P.A.
212 Pasadena Pl., Ste. A
Orlando FL 32803
407-488-1220

Laura M. PICHARDO

*Community Legal Services
of Mid Florida*
122 E. Colonial Dr., Ste. 200
Orlando FL 32801
407-841-7777

Damien H. PROSSER

Shutts & Bowen, LLP
300 S. Orange Ave., Ste. 1000
Orlando FL 32801
407-835-6725

Peter C. RICHARD, II

*Cabaniss, Smith, Toole
& Wiggins, P.L.*
485 N. Keller Rd., Ste. 401
Maitland FL 32751
407-246-1800

Peter SCHOEMANN

Broad & Cassel
390 N. Orange Ave.
Orlando FL 32801
407-839-4200

Andrew SERRANO

McDonough & Serrano
19 E. Central Blvd.
Orlando FL 32801
407-425-7577

W. Robert SHERRY

Lytle & Sherry, P.A.
390 N. Orange Ave., Ste. 2300
Orlando FL 32801
407-956-1056

Jonathan R. SIMON

Fisher, Rushmer, et al.
20 N. Orange Ave., Ste. 1500
Orlando FL 32801
407-843-2111

Cindy M. SWINSON

Darden Restaurants, Inc.
5900 Lake Ellenor Dr.
Orlando FL 32809
407-245-4424

D. TOOLE

Public Defender's Office
435 N. Orange Ave.
Orlando FL 32801
407-836-4874

Giselle M. TORRES

Pantas Law Firm, P.A.
250 N. Orange Ave., 11th Flr.
Orlando FL 32801
407-425-5775

Melissa T. WOODWARD

*Cabaniss, Smith, Toole
& Wiggins, P.L.*
485 N. Keller Rd., Ste. 401
Maitland FL 32751
407-246-1800

Affiliate

Alicia A. MCKNIGHT

10309 Manderly Way
Orlando FL 32929
860-227-0017

Law Students

Hallie M. AYMAT

420 Harding Ave., # 201
Cocoa Beach FL 32931
407-376-3791

Karen K. ESTRY

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

Richard FURMAN, Sr.

601 N. Interlachen Ave.
Winter Park FL 32789
407-617-1270

Kelly E. TILLIS

2516 Wilkinson Cir.
Sarasota FL 34231
941-923-4860

Let the Orange County Bar Association Help Build Your Practice!

Lawyer Referral Service

The Lawyer Referral Service is an excellent resource that will help you expand your client base and increase your income. In 2007, our LRS program referred more than 24,000 cases to the 260+ attorneys belonging to the program. Our LRS Manager refers clients to you based on your practice area and the clients' specific need. It's a win-win situation!

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

Build your practice - Join the Lawyer Referral Service and the Modest Means Program today!



Modest Means Program

This new service of the OCBA allows attorneys to earn set fees for specific law-related cases referred to you by our Modest Means Program Manager. Clients are pre-screened by the Legal Aid Society to meet income guidelines that do not exceed one-half the Florida median income. The program seeks to serve individuals who require legal services, but who are of modest financial means.

For the Modest Means Program application and additional information, go to www.orangecountybar.org, or call our LRS Manager at 407-422-4551, ext. 281.

Types of cases referred include:

- :: Bankruptcy - Chapter 7 and Chapter 13.
- :: Family Law / Domestic Relations - dissolutions; child custody; spousal/child support; visitation; paternity; adoption; name change; and modifications and enforcement of Florida support orders.
- :: Landlord/Tenant.
- :: Simple Wills - reciprocal will package; simple planning package, including will, designation of medical agent and power of attorney; reciprocal planning package, including will, designation of medical agent and power of attorney.





Classifieds

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

Employment

ALVAREZ, SAMBOL, WINTHROP & MADSON, P.A., A Full Service AV rated firm has immediate openings for the Orlando Office for the Commercial Litigation and General Liability Practice Groups. Successful candidates will have two to five years' experience. Please forward resume in confidence to, Firm Administrator, Alvarez, Sambol, Winthrop & Madson, P.A., P.O. Box 3511, Orlando, Florida 32802 or email to hrf@aswmpa.com.

THE LAW OFFICES OF LARRY M. ROTH, an Orlando, Florida "AV" rated firm has an opening for an associate attorney with five to ten years experience preferred in both defense and plaintiff liability law. Office located in College Park. Excellent benefits and competitive salary. Forward resume and salary requirements to Debbie Peshek, P. O. Box 547637, Orlando, FL 32854-7637, or email to dpeshek@roth-law.com.

LITIGATION ATTORNEY: Downtown Orlando AV mid size firm seeks 5-10 year experienced commercial litigation attorney with strong professional credentials. Independent work ethic required. Highly competitive salary and bonus structure with full benefits. Confidential response to: posborne32801@gmail.com.

ALTAMONTE SPRINGS law firm looking for lawyer with 3-5 years experience in commercial and/or construction litigation. Salary and benefits commensurate with experience. Send resume to: Attorney, 986 Douglas Avenue, Suite 102, Altamonte Springs, FL 32714.

AV RATED WINTER PARK Medical Malpractice Defense firm seeks associates with 2-5 years experience. Competitive salary and benefits. Send cover letter and resume to Larry D. Hall, Hill, Adams, Hall & Schieffelin, P.A., P.O. Box 1090, Winter Park, FL 32790-1090.

IMMIGRATION LAW ATTORNEY: Tom Olsen, host of "Olsen on Law" Radio Show is looking for an experienced solo practice immigration law firm to merge with our firm. If you love your work and independence and want to join a leading team in legal marketing, office systems and technology, call me. 407-423-5561 or tom@tropa.com.

Office Space

OFFICE SUBLEASE AVAILABLE. 1 or 2 offices, free parking, reception area, shared snack area and restroom. Adjoining offices to Personal Injury attorney on E. Colonial. Contact Gina Simms 407-699-6797.

ESTABLISHED LAW PRACTICE has 2 small offices available in downtown Orlando with waiting room, receptionist, furniture, utilities, beautifully decorated conference room, and parking space. Rent \$500.00 p/m, referrals/overflow possible. Please contact Norma Costas at ncostas@suarezcti.com or Anthony Suarez at suarez@cfl.rr.com.

ORLANDO - Downtown Office Space. FIRST MONTH FREE. NO LEASE REQUIRED. Move in immediately. Law library/conference rooms; large reception area, kitchen, copier, fax and telephone (v/mail & internet included) 407-843-4310.

EXECUTIVE SUITES - Full service. Convenient location. Starting at \$425/mo. 407-682-9600.

GREAT LOCATION: Corner of Ferncreek and Harwood. 700 square feet with a large reception area, a private office, and a third room perfect for a secretary or paralegal. Perfect for sole practitioners. Call Rick 407-481-2243 ext 101.

DOWNTOWN ORLANDO: 5 large offices in modern office tower, 4 with panoramic views. Close to courthouse. Kitchenette. Library and Reception area to share. 2-year lease required. 407-423-0029 x112. Ask for Javier.

FERNCREEK PROFESSIONAL CENTER - Office space available just minutes from downtown Orlando. Free parking and signage on busy road. Receptionist, conference rooms, phone system, fax machine, copier, high speed DSL, and other services provided. Call (407) 898-4848.

WINTER PARK: Office with secretarial space available in Winter Park. Shared use of reception areas, conference rooms, telephone system and high speed internet access. Free parking. Call 407/629-5008.

DOWNTOWN SMALL OFFICE BUILDING FOR RENT, Lake Lucerne at Delaney. Approx. 1500 sq ft, furnished. Includes utilities, janitorial, receptionist service and free parking. Call Sandy at 407-843-7060.

DOWNTOWN INDIVIDUAL OFFICES starting at \$450 per month. Includes all utilities, taxes, use of a conference and break room. May rent month to month. Located at 33 East Robinson Street near Orange, one block from the courthouse. Call owner at 321/277-5426 or email RBG52@aol.com.

NEAR COURTHOUSE Office Suites 1500 - 3500 sq. ft. Call Owner at 321-277-5426 or e-mail RBG52@aol.com.

GREAT LOCATION. CLASS "A" - WINTER PARK - Many lease options from 500 to 5000 sq. ft. Beautiful, distinctive M&I Bank Building - 1211 Orange Avenue. Please call Harvey Cohen at 407-478-4878.

Office Space to Share

WINTER PARK - Howell Branch area - Large office with separate entrance and secretarial space available. Beautifully appointed offices with large conference room, copier/scanner/computers, telephone system. Contact Helen for information. (407) 539-3939.

LAKE MARY/HEATHROW OFFICES: Share luxurious office at Heathrow with established practitioner. Full access to copier, conference rooms, fax and phone system. One attorney office and 2 secretarial spaces available. E-mail: Kdm@morselaw.com to inquire.

SHARE DOWNTOWN OFFICE: Luxurious offices with established sole practitioner. Full access to copier, conference room and kitchen. One attorney office and one secretarial space. E-Mail kdm@morselaw.com to inquire.

3 RM OFFICE SUITE, Thorton Park Area, Parking and Utilities, \$1,100.00 Monthly. (407) 426-8278



ORANGE COUNTY BAR ASSOCIATION MEETING FACILITIES



FOR ROOM RATES AND AVAILABILITY CONTACT OUR EVENTS DEPARTMENT AT (407)-422-4551 EXT. 233
ORANGE COUNTY BAR ASSOCIATION
880 N. ORANGE AVE.
ORLANDO FL, 32801

ALTAMONTE SPRINGS/ORLANDO: Space sharing & legal offices in class A, beautiful, new, upscale building. Kitchen, receptionist, library, copier, internet, fax. (407) 331-6620.

Office Building for Sale

DOWNTOWN OFFICE BUILDING FOR SALE: 6,503+ SF on Magnolia Ave @ Orange Ave. & I-4. Buyer can occupy all or portion of building. Highly visible pylon and building signage. Free parking on-site (18 spaces). Christi Davis / MCRE, LLC 407-219-3500. cdavis@morrissoncre.com.

Office Building for Lease

OFFICE BUILDING FOR LEASE – Orlando-Delaney Park. Free standing office building (approx. 1,860 sq. ft.) with ample parking. Signage available. Four large office, conference room, kitchen, 2 restrooms, storage. Easy access to I-4 and E/W Expy. Call Mary at 407-426-8203 or Janice at 407-275-9512 for an appointment or more information.

Virtual Office Space

DAYTONA BEACH – Virtual/Office Space Available situated in the most central location in Daytona Beach on Beville Road (Rt. 400). The office space includes receptionist/secretarial area, use of conference room, telephone system, cable internet and kitchen with ample parking; Referrals possible. Available July 1, 2008, call 386-304-2821 or crocelaw@cfl.rr.com.

VIRTUAL OFFICE - STARTING AT \$100/mo. Call 407-682-9600.

Professional Services

THE LEGAL MEDICINE GROUP, LLC - "Excellence in Medical Records Pre-Screening and Affidavits". * Plaintiff and Defense Litigation Support Services * Board Certified Reviewers and Expert Witness * Medical Malpractice and Personal Injury Specialists. 407-869-7671 www.legalmedicinegroup.com.

BARRY RIGBY - DISCIPLINARY DEFENSE and Bar Admission matters. Former Florida Bar Chief Headquarters Discipline Counsel. 407-999-2630. www.barryrigby.com.

CARLOS TORRES, Attorney Discipline, UPL, and Bar Admission matters. Former TFB Ethics Prosecutor (407) 849-6111.

For Sale

Orlandoattorney.com for sale. Great domain name, it has been good to me! Please contact Susan Barnes at 321-663-7455.

**Place your
Classified
or Display Ad
in The Briefs!**

**Contact Peggy Storch
at peggys@ocbanet.org**

OCBA Continuing Legal Education



**Don't Let
Your CLE
Renewal
Date Slip
Up On You!**

Order the latest CLE material from the OCBA today. Select from more than 60 courses covering a wide range of legal topics. In addition to general credit, many programs offer ethics and certification credits. Courses are available on cassettes and CDs.

OCBA also hosts dozens of seminars sponsored by our committees and outside vendors each year. Be sure to check the OCBA website at www.orangecountybar.org for current offerings.

CLE tapes and seminars are available to OCBA members at discounted rates!

For details, contact our Seminar/Events Manager at 407-422-4551, ext. 233.



Need Qualified Legal Support Staff?

For pre-screened, experienced, professional paralegals, legal assistants, legal secretaries and receptionists call:

Charlotte Mason,
Placement Service Manager,
at 407-422-4551, or
e-mail charlottem@ocbanet.org.

Orange County Bar Association

Join us as we tee-off the 17th Annual YLS Charity Golf Tournament!

Friday October 3, 2008
Tee Time 8:00am
ChampionsGate Golf Club
National Course



Players and sponsors are encouraged to register early.

For more information, contact:
Sunny Lim (slim@sctlaw.com) or **Jason Hill** (jhill@shutts.com)



2008

September - October Calendar

OCBA Luncheon • Thursday, Sept. 25, 2008

RSVP by Sept. 19 to: reservations@ocbanet.org

Val Demings, Chief of Police

Orlando Police Department

September

- 9 Legal Aid Society Lunchtime Training**
Representing the Employee in Unemployment Compensation Cases
12:00 p.m. • First Presbyterian Church, Downtown

Executive Council Meeting
4:30 p.m. • Bar Center

- 10 Diversity Committee**
11:30 a.m. • Bar Center

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

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

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

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

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

YLS Executive Board Meeting
5:30 p.m. • 300 S. Orange Ave., #1300

- 12 Family Law Executive Committee Meeting**
11:30 a.m. • Bar Center

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

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

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

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

Social Committee
5:30 p.m. • TBA

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

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

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

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

- 23 Legal Aid Society Lunchtime Training**
Understanding the Termination of Parental Rights
12:00 p.m. • First Presbyterian Church, Downtown

- 24 Business Law Committee**
12:00 p.m. • TBA
- Labor and Employment Law Committee**
12:00 p.m. • Bar Center

- 25 OCBA Luncheon**
Val Demings, Chief of Police Orlando Police Department
11:30 a.m. • The Ballroom at Church Street

- 26 Practice Management Seminar, Part I**
Co-sponsored by OCBA and Law Tech Partners, Inc
8:30 a.m. • Bar Center
- Bankruptcy Law Committee**
12:00 p.m. • Bar Center

October

- 3 Workers' Compensation Committee Seminar**
A General Perspective of the Past, Present & Future
11:30 a.m. • Bar Center

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

Intellectual Property Committee
11:30 a.m. • Bar Center

- 8 Diversity Committee**
11:30 a.m. • Bar Center

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

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

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

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

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

YLS Executive Board Meeting
5:30 p.m. • 300 S. Orange Ave., #1300

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

- 10 Practice Management Seminar, Part II**
Co-sponsored by OCBA and Law Tech Partners, Inc.
8:30 a.m. • Bar Center

- 14 Executive Council Meeting**
4:30 p.m. • Bar Center

Legal Aid Society Lunchtime Training
Immigrants Who Are Battered and Victims of Crimes, VAWA, I-751, U Visas
12:00 p.m. • First Presbyterian Church, Downtown

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

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

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

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

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

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

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

Social Committee
6:00 p.m. • TBA

- 22 Labor and Employment Law Committee**
12:00 p.m. • Bar Center

- 28 Legal Aid Society Lunchtime Training**
Creating a Family: The Adoption Process
12:00 p.m. • First Presbyterian Church, Downtown

Solo & Small Firm Committee
11:30 a.m. • Bar Center

- 29 Family Law Committee - JA Luncheon**
11:30 a.m. • Bar Center

Business Law Committee
1:00 p.m. • Location varies. Contact Chair

- 30 OCBA Luncheon**
Jason Gonzalez, General Counsel to Governor Crist
11:30 a.m. • The Ballroom at Church Street

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

- Insurance Coverage
- Bad Faith
- Serious Personal Injury
- Medical Malpractice
- Product Liability

Lee D. Gunn IV

Focused On Insurance

“However, the focus in a bad faith case is not on the actions of the claimant but rather on those of the insurer in fulfilling its obligations to the insured.”

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

**Gunn Law Group, focused on claims conduct cases.
Let us look at the issues for you.**



GUNN LAW GROUP

777 S. Harbour Island Blvd | Suite 765 | Tampa, FL 33602
813-228-7070 | 866-GUNNLAW | www.gunnlawgroup.com

Defective. Deadly.



Do you know why?



NEWSOME
LAW FIRM

Representing catastrophic injury survivors.

For help evaluating potential products liability claims call **888.808.5977**

www.ProductsLiability.net

75

YEARS
OF EXCELLENCE
1933 - 2008

The Briefs

880 North Orange Avenue
Orlando, Florida 32801

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