

the Briefs

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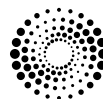
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Paul J. Scheck, Esq.

Join the OCBA's Celebration of "Law Months"

I urge the people of the United States to observe Law Day with appropriate public ceremonies and by the reaffirmance of their dedication to our form of government and the supremacy of law in our lives.

— President Dwight D. Eisenhower, December 31, 1958

May 1st is celebrated in the United States as Law Day. Law Day is a national day to celebrate the rule of law and its contributions to the freedoms Americans enjoy. It originated in 1957 when American Bar Association president, Charles S. Rhyne, expressed a vision for having a special day to celebrate our legal system. This was followed in February 1958 by President Dwight D. Eisenhower issuing an official proclamation establishing Law Day. In order to institutionalize this sentiment, on April 7, 1961, Congress passed a joint resolution designating May 1st as Law Day in the United States and providing in part that Law Day:

...is a special day of celebration by the people of the United States... in appreciation of their liberties and the reaffirmation of their loyalty to the United States and of their rededication to the ideals of equality and justice under law in their relations with each other and with other countries; ...for the cultivation of the respect for law that is so vital to the democratic way of life..."

Since President Eisenhower in 1958, every U.S. president has issued a Law Day proclamation, inviting the nation to join in recognizing the importance of the rule of law in the United States. This proclamation typically sets the theme for that year's observance. As we approach the 50th anniversaries of the Civil Rights Act of 1964 and the Voting Rights Act of 1965, the 2014 Law Day theme, *American Democracy and the Rule of Law: Why Every Vote Matters*, calls on every American to reflect on the importance of a citizen's right to vote and ensuring that all Americans have the opportunity to participate in our representative form of government.

Here in Orange County, we cannot accomplish all of our activities within a day or even a month, and thus we have a history of celebrating "Law Months." During the month of February, our events included our Big Bad Wolf mock trials in numerous elementary schools throughout the county. Students were allowed to watch the trial of the Big Bad Wolf in which he was tried for the alleged murder of the three pigs residing in straw and stick houses. During February, students also submitted posters and speeches that reflected their own personal interpretations of this year's theme.

In March, the events continued, highlighted by the Pathways in Law Program at the Orange County Courthouse. This program involved children from ages 8 to 18, primarily from the Parramore Kids Zone and the Apopka Farm Worker's Ministry, spending a day at the courthouse. The students were educated and exposed to various potential legal careers, including judges, sheriff deputies, prosecutors, public defenders, court reporters, parole officers, and translators. The children also participated in their own mock trial, where they played the various roles, which included being jurors. The League of Women Voters discussed with the students the importance of voting and how every vote matters in an election. At the conclusion of the program, the Central Florida Paralegal Association provided students with goodie bags stocked with school supplies.

This month, the OCBA will be reestablishing its role in a local naturalization ceremony. It is hard to imagine a greater recognition of our system of laws than a celebration honoring individuals who have chosen to legally become citizens of our country. We also will be conducting Judge Shadowing Day at the Orange County Courthouse later this month, in which several of our wonderful judges spend a day with local students.

All of these great events will culminate in our annual Law Day Luncheon on April 24, 2014. At this luncheon, we will have the opportunity to recognize the student winners of our poster and speech contests. We will also honor our annual Liberty Bell Award recipient, an award given to a non-lawyer in our community who demonstrates a deep commitment to the rule of law and the promotion of civic responsibility among our citizens. This luncheon will also be an opportunity for all of us, as lawyers, to gather together and celebrate the significant and honored role that the rule of law plays in making the United States the greatest country in the world.

As the above should make clear, the OCBA has taken President Eisenhower's words to heart and has done its best to observe Law Day with appropriate public ceremonies and a reaffirmation of our dedication to the supremacy of law. So, I wish everyone a "Happy Law Day," and I hope you will come and join us in our celebration!

Paul J. Scheck, Esq., is a partner with Shutts & Bowen, LLP. He has been a member of the OCBA since 1993.



Rafael E. Martinez, Esq.

Remarks upon Receipt of the William Trickel, Jr. Professionalism Award

When I learned about my receiving the William Trickel, Jr. Professionalism Award, I was reminded of the famous line by Senator Benson to Vice President Quayle. In my case, I knew Bill Trickel, I worked with Bill Trickel, and I am no Bill Trickel! This award is rightfully named after Bill Trickel. He was a giant when it came to professionalism – a lawyer's lawyer.

I had the pleasure of working with Bill in many bar activities before his premature death. He mentored me in the Health Law Committee of The Florida Bar. Since I was the Orlando kid on the board, he worked closely with me to show me the ropes. He exhibited the qualities of dignity, decency, and courtesy which are outlined in the Professionalism Creed. These are the cornerstones of professionalism. I am honored to receive an award that bears Bill Trickel's name. I am also further honored to see the list of prior recipients, many of whom mentored me as I came along in the law.

Our creed also says that we should strive to "further our profession's devotion to public service and to public good." This is more than just a platitude. As lawyers we have many opportunities, both in the practice and in our private lives for public service. One of my early mentors, Raymer Maguire Jr., told me that as a lawyer I had a duty to pay my civic rent. If we take this concept seriously, we will all engage in non-profit organizations, community, religious, and civic organizations in order to pay our civic rent.

In my many years of practice, I have seen countless examples of professionalism and periodically, a lack of it. I was extremely fortunate to have had the opportunity in my early career to be mentored by many older, professional lawyers, firmly rooted in ethics, who were not afraid to say, "Don't do that!" It seems like it was easier in those years, since we were a smaller bar, to identify individuals considered to be very professional and very ethical, and when I did, I tried my best to emulate them. I frankly would suggest to young lawyers that they seek a mentor – someone who exhibits true professionalism in his or her practice – and imitate this as they learn from them. Professionalism is contagious. It is something you can't buy, you can't ask for, or clothe yourself in. It is, however, something that you hope you can earn, and that others will recognize and note in you. In the words of the commercial: It's priceless!

It is sad to see occasional, unprofessional conduct in our legal profession – "the end justifies the means" attitude. It is wrong, it is shortsighted, and sadly it often is engaged in by the same lawyers over and over again. Often, young lawyers fall in the trap of being so zealous for their cause that they are willing to stretch the rules. I have often told young lawyers in our firm that there is no case, no client, no situation for which it's worth doing something inappropriate. There is no substitute for doing what is right. Some examples are that you must produce all the documents requested by opposing counsel even if some may hurt your case. You must mention to the judge the opposing case law, admit your mistakes to the court or your client, be honest in your billing, and never deviate from the truth.

You should judge what you say or what you write as if it will be published on the front page of your local paper. A good reputation for professionalism is difficult to earn but easily lost. No episode, no case is worth tarnishing your reputation. Just following the rules is not enough. We all know people who follow the letter of the law without honoring the spirit of the law. If you have a doubt in your mind whether something is okay, take the time to think about it and check it out. If your gut tells you it isn't right, then it probably is not. Chances are your conscience is telling you something.

As all of us who represent the legal profession to the public should be extremely aware of how we behave and appear. Know that the public draws conclusions from how they see us conducting ourselves in business and in professional life. No one is perfect, but it's important for each of us to avoid even the appearance of impropriety. Remember those words from the ethics portion of the bar exam? It is a great phrase to keep in your memory bank. Avoid even the *appearance* of impropriety.

Recently I have noticed an increase in ad hominem attacks. These are personal attacks on other lawyers based on the failings of an adversary rather than on the merits of the case. Neither in pleadings nor in court should we ever attack an adversary on a personal basis. Consider our Creed of Professionalism, which states:

I will abstain from all rude, disruptive, disrespectful, and abusive behavior and will at all time act with dignity, decency and courtesy.

continued page 6

Law Week Luncheon Thursday, April 24, 2014

American Democracy and the Rule of Law: Why Every Vote Matters



Please join us as we acknowledge the work of outstanding students, parents, and community leaders during our annual Law Week Luncheon, hosted by the OCBA's Law Week Committee. Law Week at the OCBA spans several months and includes a Goldilocks Mock Trial, Pathways in Law, A Day in the Life of a Judge, DUI Mock Trials, a Poster and Speech Contest, the presentation of the Liberty Bell Award, and a Naturalization Ceremony.

One of our most cherished national ideals, expressed eloquently by Abraham Lincoln, is "government of the people, by the people, for the people." It is a principle enshrined in our Nation's founding documents, from the Declaration of Independence's assurance that governments derive their powers from the consent of the governed, to the opening three words of the

Preamble to the U.S. Constitution, "We the People."

The right to vote is the very foundation of government by the people. For this reason, striving to establish and protect every citizen's right to vote has been a central theme of American legal and civic history. Much of the struggle on voting rights began decades ago, but the work is far from complete, and a citizen's right to cast a ballot remains at risk today.

As we approach the 50th anniversaries of the Civil Rights Act of 1964 and the Voting Rights Act of 1965, the 2014 Law Day theme, *American Democracy and the Rule of Law: Why Every Vote Matters*, calls on every American to reflect on the importance of a citizen's right to vote and

the challenges we still face in ensuring that all Americans have the opportunity to participate in our democracy.



The Ballroom at Church Street

Co-hosted by the Law Week Committee

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

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**Please RSVP by Friday, April 18, 2014
RSVPs will not be accepted after April 18, 2014**

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**CANCELLATIONS must be received no later than
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The OCBA is happy to provide
10 luncheons as part of your member benefits,
but no-shows incur additional charges for the Bar
and walk-ins cannot be guaranteed a seat.

Abiding by this rule is critical to a practice of professionalism and civility. It is difficult enough for lawyers to practice law without having to endure the distraction of defending personal attacks. In addition, they will not further your client's cause and will never impress a judge.

Many law cases are adversarial in nature. It's important to remember courtesy and respect toward those against whom you are litigating. Do not ever publicly insult or question their honesty or good intentions. If you have a problem with them, deal with them with the court or in private rather than rudely using a public forum to advance your grievance. Not only is this the right thing to do, it'll reap benefits down the road as you garner respect from people you'll see again in other cases.

Conflict of interest is an area in the law that often requires judgment calls with ethical implications. You should always carefully examine whether, when representing multiple parties, there is the possibility of a conflict. Then you should identify early in the case whether a conflict actually exists. Obviously it is important that you not discuss the case with the potential clients until you have determined there is no conflict. Always err on the side of separating the case. All too often, fearful of losing a fee, lawyers are blind to a conflict and allow themselves to get too deep in a case before declaring it. If you allow yourself to stay too long in a case and then develop a conflict, you will have to remove yourself from the case entirely and bring in all new lawyers for each of the parties, losing all opportunity to participate.

On a personal note, from a kid who came to America from Cuba at age 12, speaking no English, who was provided the opportunity to study, to become a lawyer, to practice law in a free country with an independent judiciary, and who is today receiving this award, I say, "Only in America!"

Thank you and God bless our great country.

Rafael E. Martinez, Esq., McEwan, Martinez & Dukes, P.A., has been a member of the OCBA since 1987.

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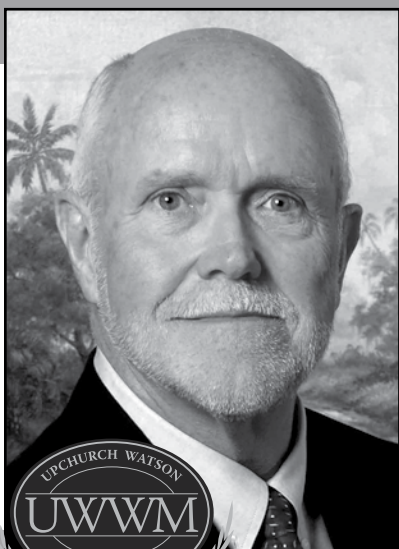
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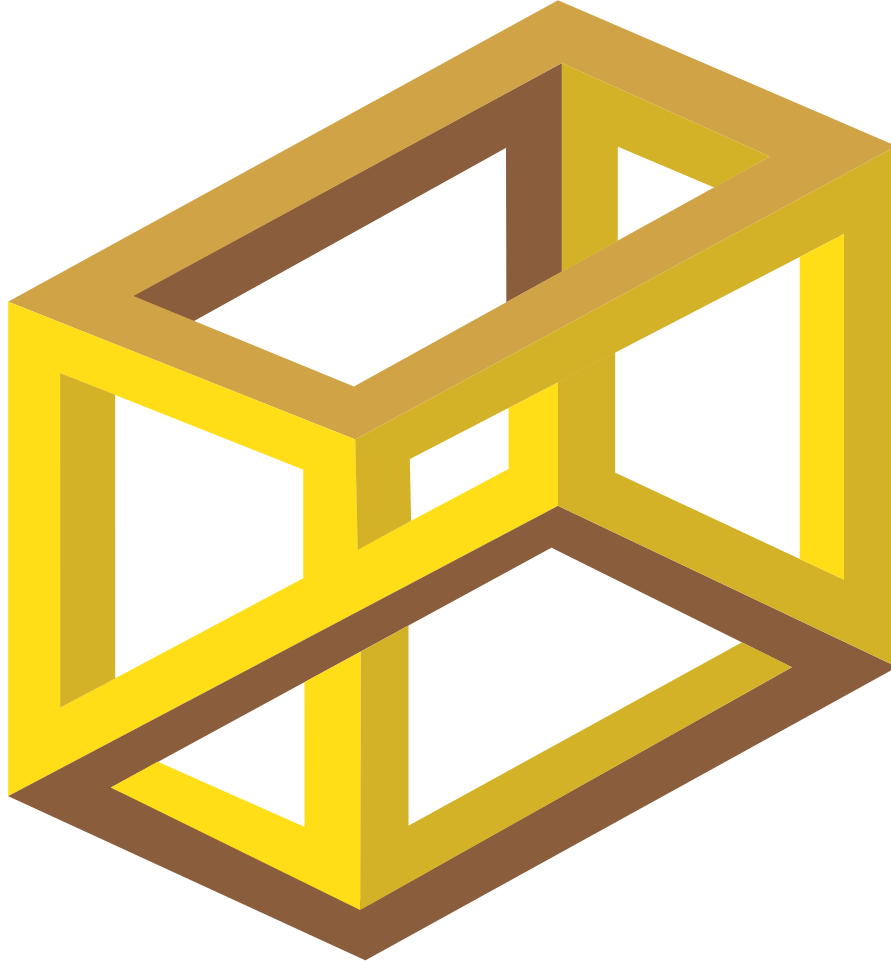
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Joseph L. Amos, Jr., Esq., Receives The Florida Bar President's Pro Bono Service Award

On January 30, 2014, The Florida Bar President Eugene K. Pettis, Esq. presented awards to 21 lawyers from throughout the state for their work on behalf of poor and indigent clients. The awards were presented during a ceremony at the Florida Supreme Court. The awards are intended to encourage lawyers to volunteer free legal services to the poor by recognizing those who make public service commitments and to raise public awareness of the

remarks upon receipt of the award, Joe described himself as “a realist who is hopeful; an optimistic realist,” and said, “You need to be a realist to work with over 160 children often lost in the dark and desperate side of our community and neighborhoods. You need to be an optimist to help children facing problems that are destructive and even life-threatening.”

For the past five years, recognizing the important connection between law, justice, and literacy, Joe has been a volunteer for the Adult Literacy League. The organization provides free education to adults and children who need help learning to read. He has also invested time and provided financial support to the First Presbyterian Church of Orlando's charitable foundation, Heart of the City.

In addition, Joe has served the Orange County Bar and The Florida Bar in many roles during the past twenty years, and has served on Legal Aid's board of trustees, including a term as president in 2002. He has also chaired Legal Aid's annual Breakfast of Champions fundraiser.

In the nominating letter, Mary Anne De Petrillo, Esq., executive director of the Legal Aid Society said, “Each year our program reviews the work of attorneys who have made a significant contribution to *pro bono* services. Because of the over 50-year commitment by the Orange County Bar Association to *pro bono* and Legal Aid, there are many attorneys who have a long history of service. When we make a selection, we look at an attorney's individual work, their advocacy of *pro bono* work by the profession, and other contributions to our community. Joe Amos' contributions over the past 23 years are outstanding; he is an outstanding example of the difference one attorney can make in the community with their *pro bono* commitment.”

substantial volunteer services provided by Florida lawyers to those who cannot afford legal fees.

Joseph L. Amos Jr., Esq., a shareholder with Fisher, Rushmer, Werrenrath, Dickson, Talley & Dunlap, P.A., received The Florida Bar President's Pro Bono Service Award for the Ninth Judicial Circuit.

Admitted to The Florida Bar in 1990, Joe soon joined the Orange County Bar Association and began providing *pro bono* services at the Legal Aid Society. He was quickly drawn to the Guardian ad Litem Program. Since 1991, he has helped 176 children, including 11 children he currently assists. He has donated more than 1,800 hours on his closed cases. In 1995, Joe received the New Lawyer Award from the Legal Aid Society, and in 2004 he received the Individual Award of Merit for his exceptional work for children. In 2012, the Legal Aid Society presented Joe its highest recognition for *pro bono* work – the Judge J.C. “Jake” Stone Distinguished Service Award. In his



The Florida Bar President, Eugene Pettis, Esq., presented the The Florida Bar President's Pro Bono Service Award for the Ninth Judicial Circuit to Joseph L. Amos Jr., Esq., a shareholder with Fisher, Rushmer, Werrenrath, Dickson, Talley & Dunlap, P.A.



David P. Hathaway, Esq.

Making Sense of E-Discovery: 10 Plain Steps for Producing ESI – Part 2

Have you ever been handed a detailed flowchart on electronically stored information (ESI) and wondered what to make of it? Have you read case law summaries about ESI and thought, “How do I actually apply this holding to my practice?” And when you do produce ESI, is there any concern about whether the methods you used would pass muster if critiqued by a federal judge?

In March’s issue of *The Briefs*, we discussed the necessity of having a plan to make sure you do everything right. The article below picks up where we left off, with the remaining five of the ten tips that will help increase your knowledge as you prepare to produce ESI.

6. Collect the Data. Collecting data is not the same as filtering or searching; here you are simply corralling all of the sources of ESI so that they can be searched later in their entirety. The key is to figure out where everything is located. For example, there may be servers in California holding data that one of the custodians inputs from time to time for a particular project involving the West Coast. If you are collecting old data, don’t confuse the term “backup” with “archive.” A typical backup application takes periodic images of active data, usually only for a few days or weeks, to provide a method of recovering records that have been deleted or destroyed, such as to facilitate a disaster recovery. An archive is designed to provide ongoing access to decades of business information. The collection of data should be fairly inexpensive, but communication is key. If a self-collection error is made, for instance by collecting in such a way that metadata is lost, the entire process will have to be restarted, which could be extremely expensive. One of the critical points in collecting data is to understand that this is your obligation as counsel; you cannot leave it entirely up to the client. Whether you use a vendor at this stage, later in the process, or not at all depends largely on the size of the document request. If you ask detailed questions about pricing plans and “scalability” of the process, you might find an affordable option with a vendor. However, no matter who is going to collect the data, the attorney must actively assist in the process. Your goal is to collect the entire universe of data from the sources that you have identified within your client’s network. Of course this raises concerns about personal information that may be captured as well. Be careful about taking physical items (e.g., thumb drives) and the chain of custody issues that follow; naturally you want to lessen the chance of having to be called to the stand as a witness. When the process

is complete, you should be able to check off every source from the outline you created and ensure that each was captured in its entirety.

7. Filter into Groups. This stage is sometimes called “culling” or “processing,” where you transfer all the collected data into a software program, such as Nuix or Symantec’s Clearwell eDiscovery Platform, so that you can filter it by keyword, data range, or some other way. You are not yet reviewing the documents themselves, but only running data sets to see how many hits come back. Courts have rejected attorneys’ requests for opposing parties to search the entire universe of collected data prior to filtering. When you think you have the right filters in place, you will need to get written confirmation with opposing counsel that the data sets you intend to search are acceptable, because you do not want to have to search the same material twice. Programs should have “deduplication” capabilities to eliminate duplicates and near-duplicates from the data set. When you filter into groups and then see the number of hits, you will need to get a sense of how many documents might be generated by those hits. One megabyte of email generally translates to around 60 pages of paper. Forty megabytes would be 2,400 pages, which is roughly one banker’s box. One gigabyte is 1,024 megabytes, which translates to 61,440 pages, or almost 25 banker’s boxes. There are a number of variables to these estimates, however, such as how many of the documents are emails versus word-processed documents, spreadsheets, presentations, PDF’s, images, text files, or other types of files. For example, one megabyte of email may be 60 pages, but one megabyte of spreadsheets may be 150 pages. Another issue to consider is whether any of the files have been compressed, such as in ZIP, RAR, or other formats (some types of files compress more efficiently than others). Whereas one megabyte of text email could be 60 pages, one megabyte of compressed email could be hundreds more. You may want to consult with an expert at this point because the page estimates will be important for budgeting. The review costs for relevancy and privileges are usually driven by the quantity of page equivalents.

8. Search for Relevancy. Now that you have a finite number of documents to search, you have two choices: either perform a “linear review,” which means going through them manually at your billable rate, or use technology assisted review (TAR) which will apply predictive coding to determine which documents are most likely to be relevant. You may notice that online retailers already use

predictive coding to offer products you are likely to purchase, based on past sales. Statistics indicate that TAR is actually more accurate than human review, and, in fact, some studies show that two attorneys who search the same data sets for relevancy end up with vastly different document productions. However, if a computer is going to search for relevancy, you will probably need a subject matter expert (SME) to provide the search strings, because a computer won't know the facts of the case or the applicable law. There is also the question of whether using one SME is enough and whether the SME created the right search strings. Linear review theoretically avoids those issues, but clients who choose linear review may find more than 70% of their e-discovery legal fees are spent on this step (more than all others combined). As a practical matter, if there are hundreds of boxes of documents to review, any human being is going to have trouble focusing for days or weeks on end, and there is an argument to be made that someone with a law degree should not be doing that kind of work. The same is true for reviewing documents that have been produced to you by opposing parties. Again, an e-discovery vendor can explain more about the pros and cons as to your particular case. It may be worthwhile to speak to a few different vendors on the phone, as some have very different approaches, and the material they post online can look like a physics report from NASA. Be sure to provide your client with enough information to make a reasoned decision, and confirm it in writing.

9. Audit Your Results. This is an important and often overlooked step, sometimes called "sampling" or "quality control sampling." It allows you to test a small, random set of documents to make informed decisions about the entire production. After searching based on relevancy, whether by linear review or through TAR, you will be left with a responsive set and a non-responsive set. You need to randomly sample the non-responsive set and ensure they don't include anything relevant. Document your findings carefully in your journal. If you find relevant information in your non-responsive set, you obviously need to revisit the previous step, improve your approach, and run another audit. Since the relevancy search can be such an expensive endeavor, you should think very carefully from the start about how to catch every potentially relevant document and thereby avoid failing the audit. The ultimate goal is to be sure your ESI production is defensible in the court of law, and a number of legal opinions around the country indicate that sampling and other quality assurance techniques must be employed to provide reassurance to the court. The party selecting the methodology must be prepared

to explain the rationale for the search method selected, demonstrate that it was appropriate for the task at hand, and show that it was properly implemented. Without an audit, you will never really know whether all your hard work paid off.

10. Review for Privileges. The final step usually requires human review. When you look over your responsive set of documents and get ready to produce them, you need to review them for privileges. This is not as simple as it seems; you will need to know how the case developed through time, when the legal problems started to occur, who was dealing with those problems from which locations, and how the issues morphed into litigation. At a minimum you will need a complete list of in-house and outside counsel who were communicating with your client during the entire time period. You cannot simply look at the "To," "From" and "Cc:" lines on an email, nor can you just search for attorney or law firm names, because you might find an email from your client's CFO to the CEO stating, "I spoke with our Orlando counsel yesterday and they told me..." You should also consider the actual elements necessary to claim the attorney-client privilege, in particular that the communication was for the purpose of securing legal advice, and consider whether it was waived by including outsiders on the communication or otherwise by disclosing it to others. If you pull every document between lawyer and client, such as "I'll meet you in the lobby of our building at 2 p.m.," your privilege log is going to be as thick as a dictionary. On the other hand, many lawyers will tell you that privileged documents are almost always inadvertently produced. As discussed above, there are clawback provisions in Federal Rule of Evidence 502 that can be incorporated into an order or court-approved agreement prior to the production. Rule 502 also limits a potential waiver to the particular issue that was the subject of the communication. When reviewing for privileges, also consider the work product doctrine, which is owned by the attorney, as well as the joint defense privilege/common interest rule and the accountant-client privilege under Florida law. You also need to be on the lookout for any potential trade secrets or other confidential business information that may be contained in the documents, but the older the documents are, the less likely they will divulge trade secrets. After you make your privilege log, Bates stamp the rest of the responsive set, and produce them as a proper, defensible production of ESI.

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Corporate Representative Testimony: When Corporations Speak

Because a corporation cannot speak for itself, a party wishing to depose such an entity must derive the testimony from one or more corporate representative(s).¹ Rule 1.310(b)(6), *Florida Rules of Civil Procedure*, addressing corporate representative deposition testimony, has been in existence since 1972.² Despite its usefulness, the pressures and demands of litigation, coupled with litigation strategies, often lead to its misapplication. Unlike a non-1.310(b)(6) deposition where the focus is on a deponent and his or her personal knowledge, the deposition of a corporation presents unique circumstances. Inquiring into a corporation's knowledge can be tricky because the corporation is comprised of several persons. In cases of large corporations, different departments may have different - and possibly even contradictory - knowledge about the same subject matter or set of facts.

In order to obtain testimony that binds the corporation, both parties have specific duties under the Rule. Common misapplications of these duties have been addressed over time by different commentators in efforts to fortify the Rule's purposes and procedures. More recently, the Fourth District Court of Appeal published *Carriage Hills Condominium, Inc. v. JBH Roofing & Constructors, Inc.*,³ outlining the Rule's procedures, applications, and purposes. This article addresses the *Carriage Hills* decision, common misapplications of Rule 1.310(b)(6), and the benefits of proper application.

Carriage Hills Condominium, Inc. v. JBH Roofing & Constructors, Inc.

Carrying Misapplications to the Finish Line

Carriage Hills was a contractual dispute between Carriage Hills, as the operating company of a condominium community, and JBH, a construction company hired to repair roof damage resulting from a hurricane.⁴ The lawsuit was filed by JBH shortly after Carriage Hills' Board of Directors terminated the contract.⁵

JBH noticed the deposition of Carriage Hills' corporate representative "with the most knowledge of the allegations contained in the complaint."⁶ Carriage Hills produced the member of its Board of Directors who executed the contract (the "Board Member").⁷ There was a division of opinions within the Board of Directors, however. The majority believed that JBH was at fault. The minority adhered to the opposite view.⁸ The board member was in the minority view.⁹ At deposition,

the board member repeatedly offered her "personal opinion" that JBH had performed appropriately, had not breached the contract, did not fail to exercise due diligence in the performance of the contract, did not perform any unauthorized or defective work, and possibly was owed money under the contract.¹⁰

Armed with this testimony, JBH filed a motion for summary judgment.¹¹ In response, Carriage Hills filed two affidavits from directors adhering to the majority view, asserting that JBH performed substandard work, had submitted duplicate charges, and improperly invoiced for work which had not been approved by the insurance carrier, and that Carriage Hills had been forced to hire another contractor to repair the faulty work.¹² Invoking the principle that an affidavit filed by the non-movant which contradicts earlier testimony of the non-movant can be disregarded,¹³ and further finding that the board member was Carriage Hills' corporate representative, the trial court struck the contravening affidavits.¹⁴ The trial court then granted JBH's motion for summary judgment based on the deposition testimony.¹⁵

The Fourth District Court of Appeal reversed the trial court's grant of summary judgment.¹⁶ Although reversal was based on the trial court's striking of the affidavits as improper,¹⁷ the district court took the opportunity to address the multiple misapplications of Rule 1.310(b)(6).

Fla. R. Civ. P. 1.310(b)(6)

Purpose and Application

The Rule and its application are straightforward. The Rule requires that the party seeking the deposition (the "Seeking Party") outline with reasonable certainty the matters regarding which it wishes to elicit testimony.¹⁸ In turn, the party responding to the notice (the "Responding Party") must designate one or more persons who will testify regarding the corporation's knowledge as to each subject matter outlined by the Seeking Party.¹⁹ These duties streamline litigation in two ways. First, the duties effectively remove the need to conduct onerous discovery just to identify which person(s) to depose for substantive testimony.²⁰ Second, the duties prevent a corporate representative from disclaiming knowledge regarding a requested area of inquiry, only to open the door for similar denials into perpetuity.²¹

The designated representative(s) must act as the voice for the corporation, and must testify regard-

ing the corporation's collective knowledge.²² It is acceptable if a corporation's collective knowledge regarding a subject matter is not known to the representative at the time of designation. Preparation of the representative is required, and can be accomplished through a review of applicable corporate records, or any other means available to be corporation.²³

At deposition, the representative testifies about matters known or reasonably available to the corporation,²⁴ instead of his or her personal knowledge. If the representative is unable to answer questions regarding the corporation's collective knowledge, the Responding Party has failed to comply with the requirements of the Rule, and may be subject to sanctions.²⁵

Disadvantageous Strategies

Often, counsel lose sight of the Rule's purposes and procedural requirements. Instead, counsel instinctively follow disadvantageous strategies, as was the case in *Carriage Hills*. The Seeking Party will prepare an overbroad notice of deposition, requesting the deposition of the person "with the most knowledge" regarding matters within a pleading. The Responding Party will have the urge to produce one person, instead of two or more, to bind the corporation with respect to the different subject matters. Often, the Responding Party will not have taken the opportunity to prepare the representative(s) through review of corporate records or other available sources. As a result, the representative will seldom have the required collective knowledge of the corporation. Personal knowledge testimony could be elicited, and in turn improperly used, to engraft testimony of the corporation.

At the outset, the Rule does not require production of a person "with the most knowledge" regarding a topic. A notice for production of a representative with the "most knowledge" would be properly met with objections or a motion to strike, to quash, or for a protective order for being overbroad, and vague, and for failure to comply with Rule 1.310(b)(6). As illustrated by *Carriage Hills*, the Responding Party may be well served not to produce the person with the most knowledge regarding a topic, as that person may not reflect the collective knowledge of the corporation.²⁶ Another common misconception is that where different opinions exist regarding a subject matter, the Responding Party has the duty to produce representatives to reflect each different view.²⁷ That is not the case. The Responding Party has the duty to produce someone with collective knowledge – it does not have a duty to produce a person for each different view.²⁸

The requirement that the subject matters be designated at first may seem like a disadvantage in that it restricts the scope of deposition. However, a Seeking Party's failure to make the subject matter designation will backfire when it results in the Responding Party not being capable of producing a representative who is prepared to speak for the corporation regarding the desired subject matters.²⁹ Similarly, the Responding Party may see its duty to designate which matters each of its representatives will testify to as a burden rather than a benefit. In reality, this requirement is beneficial in that it limits the scope of each Responding Party representative's testimony.

During deposition, objections to lines of questioning outside the designated scope made in an attempt at binding the corporation would be well founded. Similarly, attempts at using testimony outside of the designated scope to bind the corporation would fail.³⁰ Finally, the Responding Party may be well served to designate several representatives, rather than one, for the deposition. This would allow for preparation of each representative regarding only one or a few subject matters, thus minimizing the possibility of incorrect testimony, missed information, or the like.

Conclusion

When properly used, Fla. R. Civ. P. 1.310(b)(6) allows each party to benefit from certain imposed duties. As shown by *Carriage Hills*, litigation strategies which seem beneficial ultimately have the opposite effect.

The benefit gained from the Seeking Party's duty to outline subject matters to be elicited is that the Seeking Party can expect testimony capable of being imputed to the corporation. The benefit gained from the Responding Party's duty to designate representative(s) for different subject matter(s) is the chance to narrow the scope of testimony of each representative and properly prepare each representative regarding a narrow scope of testimony.

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¹Fla. R. Civ. P. 1.310(b)(6).

²Fla. R. Civ. P. 1.310 advisory comm. nn. (1972). Rule 1.310 was adopted after a 1970 amendment of Rule 30 of the *Federal Rules of Civil Procedure*.

³109 So. 3d 329 (Fla. 4th DCA 2013).

⁴*Id.* at 332.

⁵*Id.*

⁶*Id.*

⁷*Id.* at 333.

⁸*Id.*

⁹*Id.*

¹⁰*Id.*

¹¹*Id.*

¹²*Id.*

¹³*Id.* (quoting *Hyde v. Stanley Tools*, 107 F. Supp. 2d 992, 993 (E.D. La. 2000)).

¹⁴109 So. 3d at 333.

¹⁵*Id.*

¹⁶*Id.* at 338.

¹⁷*Id.* at 337-338.

¹⁸Fla. R. Civ. P. 1.310(b)(6).

¹⁹*Id.*

²⁰109 So. 3d at 337-338.

²¹*Id.* at 335.

²²*Id.* at 334.

²³*Id.* (quoting *Brazos River Auth. v. GE Ionics, Inc.*, 469 F.3d 416, 433 (5th Cir. 2006)).

²⁴Fla. R. Civ. P. 1.310(b)(6).

²⁵109 So. 3d 329 (Fla. 4th DCA 2013) (quoting *King v. Pratt & Whitney, a Div. of United Techs. Corp.*, 161 F.R.D. 475, 476 (S.D. Fla. 1995)).

²⁶109 So. 3d at 333-335.

²⁷The trial court also had this misconception in *Carriage Hills*. *Id.* at 333-336.

²⁸*Id.* at 336.

²⁹This point has been clearly illustrated by *Carriage Hills*. *Id.* at 333.

³⁰Although attempts at eliciting or using testimony outside the designated scope to bind the corporation would fail, the Seeking Party is generally free to elicit testimony within the deponent's knowledge and use such testimony for purposes allowed under the rules. See *Id.* at 337 (quoting *Falchenberg v. New York State Dep't of Educ.*, 642 F.Supp.2d 156, 164 (S.D.N.Y.2008)); see also *King*, 161 F.R.D. at 476.



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Richard A. Culbertson, Esq.

The Commissioner of Social Security's Policy of Nonacquiescence, and How it May Affect You if You Become Disabled

When you pay your Federal Insurance Contributions Act (FICA) payroll tax, you are not just paying into a retirement program – part of your payment is allocated to Social Security Disability Insurance (SSDI). The SSDI pays up to \$2,642 per month to disabled workers, plus up to \$1,321 per month for eligible dependents. In order to qualify for SSDI benefits, you must pay FICA tax over a sufficiently long period, and you must provide medical documentation acceptable to the Commissioner of Social Security proving that you are no longer able to perform any substantial gainful activity for at least twelve continuous months. “Any substantial gainful activity” includes any low-stress, low physical demand, minimum wage job that exists in significant numbers anywhere in the country. It does not matter how much you were earning before you became disabled, and it does not matter whether there are any job openings. If an easy, low-pay job exists somewhere that you can still perform in spite of your medically documented impairments, you will not be considered disabled even though you may actually be disabled.

The Commissioner contracts with each state to operate disability offices to make recommendations as to who is disabled and who is not, but the Commissioner makes the ultimate decision based on the information provided by the state disability offices. Claimants who believe the state disability office decision is incorrect can request reconsideration of that decision. Based on the Commissioner's own data, most of the people who are denied eligibility at the state disability office level are ultimately found to be disabled if they pursue their administrative and federal appeals¹.

The first step of the appeals process is to request an administrative hearing before one of the Commissioner's 1,500 administrative judges. The Commissioner maintains strict control over the form and substance of the decisions of her administrative judges through Chief Judge Bulletins, Emergency Messages, Social Security Rulings, a Program Operations Manual, a Hearings, Appeals, and Litigation Law Manual (HALLEX) and other internal memos and communications. The Commissioner's Rulings are binding on all of her administrative judges² and cover topics from how to determine the date of when the disability started³ to the weight to be given to different types of medical evidence.⁴ The Commissioner even provides her administrative judges with tem-

plates to use in all decisions⁵ that include standard language to be included in each decision.

If your claim is rejected, you can appeal the administrative judge's decision to the Commissioner's Appeals Council in Falls Church, Virginia, and then to the United States District Court where you reside if the Appeals Council refuses to grant review, which it does in eighty percent of cases. However, the scope of the district court's review is limited to determining whether the ALJ applied the correct legal standards and whether the findings of fact are supported by substantial evidence.⁶ The Commissioner's findings of fact are considered conclusive if supported by substantial evidence.⁷ Even though the administrative judge may have complied with all of the Commissioner's many policies and directives, the district court may determine that the decision conflicts with the Social Security Act or the duly promulgated regulations, and this is where the Commissioner's Policy of Nonacquiescence comes in to play.

The Commissioner has directed her administrative judges to disregard all district court and court of appeals decisions unless a specific court orders the specific administrative judge to take some specific action.⁸ In other words, there is no doctrine of stare decisis in the area of Social Security administrative law. In 1996, there were only 9,347 Social Security appeals filed in federal court,⁹ and this number represented 3.4 percent of all civil cases filed in the federal courts. The year after the Commissioner's Policy of Nonacquiescence was set forth in Social Security Ruling SSR 96-1p in 1996, the number of Social Security appeals to federal court jumped by 45% to 13,605, which represented 5% of all civil cases filed in the federal courts that year. The number of Social Security cases and their percentage of all civil cases have increased to 18,261 and 6.8% respectively in 2012.¹⁰

The drastic increase in the number of Social Security appeals to federal court is an expected result of the Commissioner's Policy of Nonacquiescence, because administrative judges continue to apply the incorrect legal standard again and again even after clear and cogent federal court decisions are issued that interpret one or more of the Commissioner's policies as a deprivation of disabled claimants' benefits. This results in continued appeals of the same issue. The Commissioner reserves the right to acquiesce to a particular court of appeal decision by notifying her administrative judges of

her decision to allow them to apply the finding in that particular decision, but the Commissioner has only acquiesced to one court decision in the last seven years.¹¹ That decision dealt with a narrow issue dealing with the calculation of the amount of benefits for a member of the National Guard in Nebraska.¹² Meanwhile, if a circuit court of appeal determines the Commissioner's administrative judges are applying an incorrect legal standard, only the specific administrative judge in the specific case before the court is required to take corrective action, because the Commissioner has ordered every other administrative judge in that circuit and every other circuit to disregard the court's ruling and to continue applying the same incorrect legal standard. Of course, this results in litigation of the same issue in each circuit¹³ and repetitious appeals of the same issues within each circuit.¹⁴

Even though the total number of civil court filings in federal court has gone down significantly over the last three years,¹⁵ the number of Social Security filings has continued to increase from 14,632 in 2010 to 15,745 in 2011 to 18,261 in 2012.¹⁶ At least part of the reason for this increase is the extension of the Commissioner's Policy of Nonacquiescence to federal laws, and even her own rules and regulations. For example, in December 2011, the Commissioner adopted what became known as the "Secret Judge" policy. She directed all of her judges and hearing office staff across the county to keep the identity of the administrative judge assigned to each case secret from the claimants and their attorneys until they walked into the hearing. This policy, which appeared to be a pretty clear violation of the Freedom of Information Act, caused difficulty in preparation of the case by the attorneys who knew different judges had different expectations, and it caused unnecessary increased stress on the claimants who did not know what to expect. Multiple Freedom of Information Act requests were filed seeking the release of judges' names, which resulted in litigation after the Commissioner refused to release the information.¹⁷ After litigating the issue, and receiving advice from the Department of Justice as to the propriety of her decision not to acquiesce to the Freedom of Information Act, the Commissioner eventually rescinded the "Secret Judge" policy.

Closer to home, in 2013 the Commissioner's administrative judges in her Jacksonville Hearing Office were instructed to ignore the Commissioner's own regulations and HALLEX rules, which provide

for a good cause determination and right to have an in person hearing (as opposed to a video hearing) with an administrative judge in the hearing office nearest the claimant's home.¹⁸ As a result, homeless, destitute, and disabled residents of Volusia County are now being told they have to find their way over a hundred miles to Jacksonville when there is a hearing office in Orlando which is on a public transportation line and is within about thirty miles of where they live. So far, seven Social Security recipients and claimants who have been denied their right to an in person hearing have filed appeals to the Middle District of Florida seeking relief from the Commissioner's decision not to acquiesce to her own rules and regulations. If the Commissioner will not allow her judges to acquiesce to her own rules and regulations on something as simple as where the hearing will be held, you may not be able to count on the correct legal standards being applied to the determination of whether you are disabled. Of course, you still have the right to appeal a wrongful denial of your claim to federal court if you can show the administrative judge applied an incorrect legal standard in spite of the standardized language in the decision template which may say otherwise.¹⁹

The problem with all this is that it takes about two years from the time you apply until the time you receive the original administrative law judge decision. If the administrative judge intentionally applies an incorrect legal standard to deny your claim as required by the Commissioner's Policy of Nonacquiescence, you can expect another eighteen months until the Appeals Council tells you they will not review the incorrect denial. You can rely on the federal courts, which reverse and remand the Commissioner's decisions denying benefits in a majority of the cases they decide,²⁰ but count on almost another year in federal court. If you are disabled and you need your Social Security Disability Insurance benefits, be prepared to face a possible four-year gauntlet before you have the opportunity to obtain a decision based on the correct legal standards. If it is any consolation, it could always be worse. You could be one of the many disabled people who die during the process or do not have the ability or resources to pursue their claims.

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¹Available at <http://www.ssa.gov/foia/resources/proactivedisclosure/FY12%20Workload%20Data-Total.pdf>.

²See 20 C.F.R. § 402.35(b)(1).

³Social Security Ruling 83-20.

⁴Social Security Ruling 06-03p.

⁵Available at <http://www.lb7.uscourts.gov/documents/11-24223.pdf>.

⁶*McRoberts v. Bowen*, 841 F.2d 1077, 1080 (11th Cir. 1988).

⁷42 U.S.C. § 405(g).

⁸Social Security Ruling 96-1p.

⁹Available at <http://www.uscourts.gov/Statistics/JudicialBusiness/archive.aspx>.

¹⁰Available at <http://www.uscourts.gov/Statistics/JudicialBusiness/archive.aspx>.

¹¹Available at http://www.socialsecurity.gov/OP_Home/rulings/rulfind1.html.

¹²Available at http://www.socialsecurity.gov/OP_Home/rulings/ar/08/AR2012-01-ar-08.html.

¹³See, e.g., *Winschel v. Commissioner of Social Security*, 631 F.3d 1176 (11th Cir. 2011), *Ramirez v. Barnhart*, 372 F.3d 546 (3d Cir. 2004), *Kasarsky v. Barnhart*, 335 F.3d 539 (7th Cir. 2003), and *Newton v. Chater*, 92 F.3d 688 (8th Cir. 1996).

¹⁴See, e.g., *Parker v. Commissioner of Social Security*, 2014 WL 172078 (M.D. Fla. Jan. 15, 2014), *Hommell v. Commissioner of Social Security*, 2013 WL 787181 (M.D. Fla. Mar. 4, 2013), *Olsen v. Commissioner of Social Security*, 858 F.Supp.2d 1306 (M.D. Fla. 2012), and *Cannon v. Astrue*, 2011 WL 4346566 (M.D. Fla. Sept. 16, 2011).

¹⁵293,352 in 2010, 289,967 in 2011 to 267,990 in 2012. Available at <http://www.uscourts.gov/Statistics/JudicialBusiness/archive.aspx>.

¹⁶Available at <http://www.uscourts.gov/Statistics/JudicialBusiness/archive.aspx>.

¹⁷See, e.g., *Hoagland v. SSA*, Civil No. C12-05750—RBL, (W.D. Wash.).

¹⁸See 20 C.F.R. § 404.936(e)-(f), HALLEX I-2-3-10 available at http://www.ssa.gov/OP_Home/hallex/I-02/I-2-3-10.html, and HALLEX I-2-0-70 available at http://www.ssa.gov/OP_Home/hallex/I-02/I-2-0-70.html.

¹⁹2 U.S.C. 405(g).

²⁰In fiscal year 2012, 9% of all Social Security appeals were dismissed and not decided on the merits of the case. Of the remaining cases that were actually decided, 52.7% were either remanded for further administrative proceedings or for an award of benefits. Available at <http://www.ssa.gov/foia/resources/proactivedisclosure/FY12%20Workload%20Data-Total.pdf>.



Donna Anne Haynes

“I’m Just A Little Bit Feisty”

Marilyn Caswell was one of the three 2013 Breakfast of Champions speakers. A resident of Orange County, she is a sweet, feisty woman who happened to be a client of the Legal Aid Society, reminding me of my Aunt Muriel. Below is Marilyn Caswell’s presentation at our 2013 Breakfast of Champions fundraiser:

My name is Marilyn Caswell. I am a product of the Great Depression. I was born in 1933. I am 80 years old and still going strong! You don’t know me very well, but I’m “a little feisty.” Just ask my attorney, and I know he will tell you so!

I was married once to the love of my life. However, he passed away in 1965. I never found someone else to take his place. I never found the need. Ever since my husband’s

passing, it has been “all me,” and just me. No one else has helped me survive except me.

I have lived in the same home in Orlando since 1968. That’s a long time to live in one home, but I wouldn’t think of living anywhere else.

In 2006, my home, like all homes, was worth a lot of money. Because of rising home prices, I wanted to

“tap into” the equity in my home so that I could live a better life than just living on my Social Security. By obtaining a special kind of loan called a “reverse mortgage,” I would be provided with cash to make repairs to my house so that I could do some of the things that I wanted to do but could not because of lack of money.

However, my mortgage broker told me that I could not get a reverse mortgage until I was 74 years old (I was 73 at the time). My mortgage broker lied to me. I only later found out from my Legal Aid attorney that I only needed to be 62 (and not 73). As a result of this lie by my mortgage broker, I was provided a loan that I could not afford. However, I didn’t know that or understand that at the time. As a result of this lie by my mortgage broker, I was provided a loan that was doomed for failure since I would not have the

monthly income in my later years to make the monthly payments on my new loan.

In 2009, I was no longer able to pay my monthly mortgage payment and my bank filed a foreclosure action against me. I tried the absolute best that I could to make my payments and save my home, but I couldn’t do it any longer. I only live on \$741 in Social Security benefits. And that’s when I came to the Legal Aid Society for help with my financial problems. For four years, Mike Resnick from the Legal Aid Society has been my attorney in my foreclosure case; and for four years, we both fought to save my home. I have probably called the office a thousand times over the past four years!

And, through it all, they gave me comfort and guidance.

Mike would tell me:

“Just hang there.”

“Everything will work out oaky.”

“Just enjoy life the best you can.”

And I listened to him.

I *always* listen to Mike!

And, what do you know?

On July 30, 2013, I received a loan modification from my bank that will allow me to live in my home for the rest of my life.

We fought the battle, and we *won*!

I am so grateful to the Legal Aid Society for all of their help on my behalf!

Without the Legal Aid Society, I would have lost my home several years ago.

Without the Legal Aid Society, I would have been living on the streets, or worse.

So, *please*, support the Legal Aid Society in every way that you can.

Our lives depend on it.

Thank you.

Like most seniors, Marilyn thought that foreclosure could never happen to her. The reality is that many of our senior neighbors are struggling financially and are a step away from homelessness. In 2013, the Florida Department of Elder Affairs reported that:



Marilyn Caswell

continued page 31



Angel Bello-Billini, Esq.

Mediation: Tips for Pro Bono Attorneys New to Family Law

Parental dispute cases are frequently time consuming and emotionally draining. It is therefore necessary to manage disputes, reduce arguments, and encourage workable, mutually convenient solutions, usually through mediation. This can be done privately, pre- or post filing. Court-ordered mediation in *pro bono* cases is done through the office of dispute resolutions, post filing. This article will not cover the scheduling rules and fees governing this process as they are available through the court's website, together with the necessary forms. Exceptional cases involving domestic violence, mental health issues, and child abduction, etc., may not be successfully mediated without introducing additional resources, such as mental health professionals, and may not be suitable for this process. Any need for special arrangements must be communicated to the mediation office well in advance.

Success in mediation requires investment of time and preparation, but less so than continuing litigation. Attempts at negotiations "on the fly" will likely result in failure. Success requires a comprehensive knowledge of the situation and of your client's views and plans. This begins with thorough discussions with your client, a review of the facts and evidence, an objective assessment of the merits of your client's positions, and a clear understanding of what the legal system can and cannot do under the circumstances. You must then communicate this to your client and manage his/her expectations. The next step is adjusting attitudes and skill utilization: Mediation is a negotiation, not an adversarial, opponent-bashing court hearing, and the skills needed for the former differ from those used at the latter.

Although mediation can be temporary or permanent, the preference is to plan for a permanent result. Sometimes the situation needs a quick resolution of certain issues, mostly child related, and either a temporary or bifurcated mediation is conducted, with other issues left for later resolution. The parties can attend as many sessions as they desire.

In negotiations, in order for you to get something, you must give something up, regardless of your certainty of a trial victory, if only because the cost of "winning" may be prohibitive, and success before the bench is never guaranteed. Savings in cost and aggravation will likely be significant, and you must thus approach this process with the aim of doing whatever is reasonable to achieve success, so long as it falls within the parameters of your mediation plan.

Preparation for mediation must include:

1. A thorough client discussion as to the purpose of mediation and the role of the participants, emphasizing the non-adversarial, negotiation aspect of it, and an agreement as to a mediation plan. **You must not conduct mediation without a clear, written, mediation plan**, preferably one signed by the client. See 2-5, below. This will assist you in preparing the plan;
2. Homework for the client to include the preparation of a list of essential issues that must be discussed at mediation and a summarized time-sharing plan. Duly edited down to approximately one and two pages each, this information will form the basis the mediation plan;
3. A thorough review and modification of the client's previously prepared parenting plan, and of the opposing party's;
4. Review of all necessary documents, including those related to financial disclosures and affidavits, child support worksheets, etc.;
5. Preparation of the client in order to be able to explain the plan and engage in a give and take. Attorneys must avoid the temptation to take over the discussion and must allow the mediators to facilitate parental communications. The parents need to be vested and they should do the talking as they will need to continue the ongoing discussion regarding their children, probably for life, without the presence of lawyers and judges. Parties with certain personalities may require sequestered sessions (i.e., the parties in separate rooms with a commuting mediator);
6. Careful preparation of the client for potential distractions will prevent emotional reactions to opposition statements or plans. An emphasis on the importance of the opening statement as an atmosphere-setting tool must be emphasized, with a caution to ignore occasional, snide remarks. The client should also be advised not to be disheartened if an impasse is reached. Later litigation, aggravation, and additional expenses frequently convince parties to return to mediation with a more open mind.

Time and space prevents further discussion of many other relevant aspects of this process, but the guidelines above should help you to better understand and conduct mediation.

Angel Bello-Billini, Esq., is the Litigation Director, Legal Aid Society of the Orange County Bar Association, Inc. He has been a member of the OCBA since 1986.

Florida Supreme Court Honors Orange County Attorneys

The Florida Supreme Court, The Florida Bar's Young Lawyers Division and the Florida Pro Bono Coordinators Association announced the attorneys who were recognized for their 2013 pro bono work. The annual project is funded by YLD and was established to encourage participation with local organized *pro bono* programs. Each year attorneys who contribute 20 or more hours receive a letter from the Chief Justice and a pin recognizing their contribution. The donation of time is based on the hours on cases

closed during 2013 and project work in 2013. Only attorneys who close a case with 20 or more hours or provide 20 or more hours in a project are included on the list. This year the letter from Chief Justice Ricky Polston and the pin will be distributed at the May OCBA Installation of Officers and Pro Bono Awards Dinner to the 305 attorneys who participated through Legal Aid.

The attorneys recognized are listed below:

Adams, Glenn A.	Branham, Jeffry J.	DeGailler, Brian D.	Geismar, Clifford J.
Adler, Marshall S.	Brewer, Trevor K.	Delahunty Jr, Terence	Gendzier, Lawrence S.
Alexander Jr, Edward R.	Brown, Michael S.	Dell-Powell, Denise D.	Giacone, Margaret C.
Alfonso, Roberta	Brown, Roger C.	Dennis, Thomas L.	Gibbs, Jon M.
Allen, Herbert L.	Brown, Shaunda L.	Desai, Tushaar V.	Gilchrist, Brian R.
Amos, Jr., Joseph L.	Budowski, Susan M.	DeVoe, Michael P.	Gluckman, Kenneth S.
Angell, Derek James	Caldwell-Carr, Lori M.	DeYoung, Lorraine E.	Goldstein, Joseph I.
Antoine, Marc J.	Callahan, Jane Dunlap	Diebel, Tami L.	Gordon, Charles E.
Appleton, Michael J.	Carbone, Sandra	Dietz, Robert	Gottlieb, Daryl P.
Arango, Eduardo D.	Carlos, Paige L.	Dill, Kimberly Lacey	Gridley-Hetz, Shannon C.
Badgley, Jeffrey Scott	Carmona-Sánchez, Omar	Dimayuga, Edward	Hale, Maria DiBlasio
Ball, Stephen T.	Carolan III, Joseph P.	Dobrev, Cara M.	Hall, Tenesia C.
Ballentine, Chris M.	Caron, Richard M.	Dodge, Heather K.	Hamilton, John R.
Bankowitz, Frank J.	Castillo Ward, Dina M.	Doppelt, Ava	Hammond, Mark L.
Barrett, Richard Lee	Chacoa, Daniella P.	Downs, Mayanne	Hancock, Christopher P.
Bartholomew, Krista M.	Channell, Warren T.	Draves, Allan C.	Hankins, Dana H.
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Baxa, Edmund T.	Choufani, Jaafar	Eaton, Nicole	Haque-Bolet, Sultana L.
Beaman, Ashley M.	Cipparone, Erica M.	Edwards, Ted B.	Hillary, Sunny A.
Belbeck, Jennifer E.	Cocotas, Vivian P.	Eichenblatt, Steven S.	Hoch, Jessica
Bello-Billini, Angel M.	Collins, Viktoria	Ellerson, Tracey L.	Holland, Allen D.
Benton, Alvin F.	Combs, Jr., Edward C.	Etzler, Mary Ann	Holmes, N. Diane
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Bloom, Gwen D.	Crampton, Seliena K.	Feinberg, Ryan	Hunchuck, Joseph P.
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Bonus, Philip F.	D'Aniello, Phil A.	Ford, Stacy J.	Jeffery, Jerry H.
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Susan Khoury, Esq.

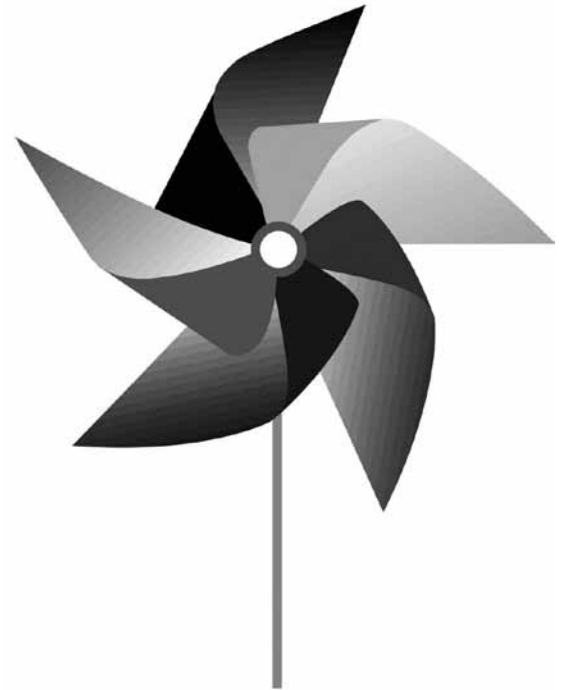
Pinwheels for Prevention: A Child Abuse Prevention Project

This year, Children's Week in Florida is April 6 through the 11. It is an annual, week-long effort to raise awareness about critical children's issues and programs. A variety of activities are scheduled in Tallahassee from breakfasts, dinners, and tours of the Capitol, to advocacy workshops designed to improve communication among advocates, legislators, and policymakers. The Hanging of the Hands dedication ceremony on Tuesday, April 8 in Tallahassee brings together thousands of non-profit partners, policy makers, faith-based leaders, and advocates to recognize the efforts of teachers, parents, and children and dedicate the children's hand art display to the Florida Legislature.

This year, Children's Week welcomed the Guardian ad Litem Program as a 2014 Partner and gave its support to the organization's efforts in bettering the lives of Florida's children. Across the state, Guardian ad Litem programs can either join in local Children's Week activities or create their own. This year, the Legal Aid Society's Guardian ad Litem Program has chosen to take part in a nationally recognized child abuse prevention activity known as Pinwheels for Prevention.

Pinwheels for Prevention began as a grassroots campaign among the Prevent Child Abuse America chapters in Georgia, Florida, and Ohio. Prevent Child Abuse America, founded in 1972 in Chicago, works to ensure the healthy development of children nationwide. A major organizational focus is to advocate for the existence of a national policy framework and strategy for children and families while promoting evidence-based practices that prevent abuse and neglect from ever occurring.

Their success and desire to create a national symbol for child abuse and neglect prevention led to taking the pinwheel effort nationwide in 2008. The pinwheel was selected as a reminder of child-like notions and stands for the chance at the



healthy, happy, and full lives all children deserve. The pinwheels are blue to represent child abuse prevention.

The Legal Aid Society purchased pinwheels and distributed them to law firms and businesses in downtown Orlando and surrounding areas for display during Children's Week. Our thanks to all those who helped support this effort and raise awareness about child abuse prevention and to the hundreds of Volunteer Advocates for Children and Orange County Bar members who, for more than 40 years, have donated their time to the Guardian ad Litem Program to serve as advocates for dependent youth.

Susan Khoury, Esq., is the Guardian ad Litem Program Coordinator at the Legal Aid Society. She has been a member of the OCBA since 1985.



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FAMU College of Law Commemorates Dr. King's Legacy Through Community Partnerships and Events



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Students and faculty at the Florida A&M University (FAMU) College of Law joined with organizations in the Central Florida area to present educational programs and provide service in commemoration of the Dr. Martin Luther King Jr. holiday. The activities took place at the law school campus and

in the Parramore neighborhood of downtown Orlando.

The College of Law partnered with the Orange County School Board and the African American Council of Christian Clergy for "Spread the Dream." Designed to reach middle school students, the program promoted a broader understanding of history and the law, while fostering an appreciation for academic achievement, diversity and community involvement.

Evening programs entitled "A Celebration of America's Civil Rights History," were held at area churches over a three-day period and featured keynote speakers, community discussion panels, special guests, and live entertainment. The College of Law twice hosted "*Brown v. Board of Education* Reenactment" as a second component of "Spread the Dream."



FAMU College of Law students preparing to paint during the Parramore Clean-Up Service Project

The reenactment program centered on the landmark "Separate but Equal" case, but also highlighted other milestone events, legislation, judicial rulings, as well as people associated with the Civil Rights Movement. On Thursday, January 16 and Friday, January 17, 2014, four Orange County middle schools bussed more than 250 students for the two-hour program at the College of Law's Ceremonial Moot Courtroom.

Program participants included FAMU College of Law students, with associate professors Deleso Alford and Patricia Broussard reenacting the transcript of the arguments by attorney Thurgood Marshall and attorney Robert Carter, respectively. The transcript of the justices' response was reenacted by the Honorable Alicia Latimore, Ninth Judicial Circuit; the Honorable Faye Allen, Ninth Judicial Circuit; and the Honorable Glenda Hatchett, famed judge from television's *Judge Hatchett* show. Additional remarks were offered by Barbara Jenkins, Superintendent of Orange County Public Schools; Dr. Larry Mills, Mt. Sinai Missionary Baptist

Church, President AAACC; Pastor Kevin Cobaris of the Impact Church; Dr. Mark Crutcher, Pastor of Mt. Olive AME; and Pastor Roderick Zak of Rejoice in the Lord Ministries.

In addition to recognizing the Civil Rights Movement and the *Brown* case, the College of Law partnered with the Orlando Alumni Chapter of Alpha Phi Alpha Fraternity, Inc., and the FAMU Chapter of the Black Law Students Association on Thursday, January 16, 2014, to present a forum entitled "The Journey to Justice: How the School to Prison Pipeline is Affecting Young People of Color."

The group's 10th Annual MLK Leadership Forum was hosted for the third consecutive year at the College of Law, with an interactive program featuring experienced attorneys and law professors who served as panelists. The panelists included Alicia Adamson, Esq., HAWM Law; Shayan Modarres, Esq., The Modarres Law Firm; and Maritza Reyes, Associate Professor, FAMU Law.

Following weekend appearances in the Southwest Orlando Jaycees 30th Annual Dr. Martin Luther King, Jr. Parade and the Town of Eatonville's annual MLK Parade and Celebration, the College of Law continued its partnership with the Orlando Mayor's Martin Luther King, Jr. Commission as a Dr. King Supporter on the MLK Day of Service.

On Monday, the King Holiday, students and faculty joined with various community groups on the steps of the law school campus to embark on the beautification of the surrounding community. The seventh annual Parramore Clean-Up Service Project provided an opportunity for individuals and groups to give back through collecting trash and other debris, painting signs and designated houses, and clearing overgrowth in select ditches and along sidewalks. The event was initiated with the Commission in 2008 by Professor Broussard and has steadily grown each year. More than 150 individuals took part in this year's project.

Submitted by **Robin Holmes** and **Kanya Stewart**, Information/Publications, FAMU College of Law.



FAMU College of Law students and faculty



Michael M. Brownlee, Esq.

Interview with the Honorable Mary S. Scriven

Mr. Brownlee: *Describe your path to the bench.*

Judge Scriven: I attended undergraduate college at Duke University, graduating with honors in 1983. I received my law degree with high honors from Florida State University College of Law in 1987. I began my legal career at Carlton Fields in Tampa and became a partner there, practicing corporate litigation from 1987 through 1996. That practice placed me almost exclusively in federal court. I was also active in voluntary bar associations and The Florida Bar, as well as community and civic work. I also served as an associate professor of law at Stetson University College of Law from 1996 through 1997, where I taught contracts, remedies, banking law, and legal malpractice. In 1997, I was appointed as a magistrate judge in the United States District Court for the Middle District of Florida. I was very active on the national level in the Federal Magistrate Judges Association and was elected as president-elect. I was, however, never sworn in as president because I became a district judge before I undertook the office. In 2008, I was appointed by President George W. Bush to fill the district judge vacancy when then Chief Judge Fawcett assumed senior status.



The Hon. Mary S. Scriven

I guess I would add that many people see the end result of my being a federal judge, but few know that I applied twice to be a magistrate judge and three times before I became a district judge. So I would say my road to the bench was paved with preparation, patience, and perseverance.

Q: *Describe a moment during your legal career that made an impression on you – good or bad.*

A: I have had many moments in my career that have impacted me. The first that comes to mind took place when I was a young lawyer. I had a six-week jury trial before Judge Ralph Nimmons. I was so impressed with his demeanor. He was respectful, patient, and ran the trial very efficiently. But, during one of my arguments, I said something to the effect of, “The opponent is playing games with the court.” Judge Nimmons called me over for a sidebar, peered over the top of his glasses, pointed at me, and said, “Ms. Scriven, you will not speak in the vernacular in this court.” Today I do not think many lawyers would hesitate to use that kind of informal language, but it left an indelible impression on my mind about respecting the formality of courtroom proceedings. In fact, my experience in front of Judge Nimmons left an

overall impression about the qualities of a judge that I try to emulate in many ways today.

The second experience that made an impression on me was a *pro bono* case I handled during my time with Carlton Fields. I represented a woman who was caring for the child of her former foster child. The state placed the child with her after concluding that neither the child’s biological parents nor grandparents were up to the task of caring for the child. By the time I came into the case, the woman had cared for the child for 15 years, but she contended that the state had refused to provide her with any financial assistance. Ultimately the case was resolved amicably among the parties. This experience reminded me that a lawyer can make an enormous and positive impact on someone’s life. It impressed upon me the true meaning of that part of the oath by which lawyers promise:

“I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay anyone’s cause for lucre or malice. So help me God.”

Q: *What surprised you most when you joined the bench?*

A: The isolation! I love what I do, but I miss socializing with other lawyers and being as active in the bar as I once was. While I believe judges should stay involved in the bar, it is important, I think, to maintain a level of decorum and separation to avoid even the appearance of bias or influence.

Q: *What do you consider the greatest strength of the American legal system?*

A: I believe that the foundation of the American legal system on the preservation of a fair and impartial judiciary – with attendant checks and balances – it is its greatest strength.

Q: *What do you consider the greatest weakness of our judicial system?*

A: The cost of accessing our judicial system is probably the greatest weakness or flaw in the system. At one time this was considered to be an issue just for individuals, but it is now so expensive to litigate a case effectively, especially in federal court, that even large corporations often cannot afford to take a case to trial. Many litigants are forced to settle simply because the cost of taking a case to trial with the attendant risks and inevitable appeals is so daunting. That can leave people feeling ill-served by the judicial system because they may not think their cases were properly heard or fairly resolved.

Q: *What do you wish attorneys would do better?*

A: I really wish lawyers would listen more to each other and to the court. My mother taught me long ago that the reason God created us with two ears and one mouth was so that we could listen twice as much as we talk. I am convinced that if lawyers listened more, they would have fewer petty disagreements and would be able to address the issues that the court is struggling with in resolving their clients' disputes.

Q: *What is your favorite movie?*

A: I love "chick flicks." My favorites are *When Harry Met Sally* and *You've Got Mail*. Curiously, I also love *The Lion King*. I watched it so often when my daughter was young that I have memorized many of the lines. One of my favorites in encouraging young kids to move beyond their past mistakes are the ineloquent but proverbial words of Pumbaa, "You've got to put your behind in the past."

Q: *What do you like to do in your spare time?*

A: I like to read, and I love to cook, entertain, and spend time with my family.

Q: *If you weren't a judge or lawyer, what would you be doing?*

A: I would be teaching high school English. Ask any of my clerks - I love to teach.

Q: *What is your favorite vacation destination?*

A. Barcelona, Spain. It's a beautiful city with all imaginable modern amenities, but it has preserved the old-world feel that gives it depth and character, steeped in history.

Q: *If you could turn into any animal what would it be?*

A: An eagle or a hawk - any flying animal. In my dreams, I am always flying.

Michael M. Brownlee, Esq., Brownstone Associates, P.A., has been a member of the OCBA since 2009.



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YLS on the move



Jill D. Simon, Esq.

In February and March, the YLS participated in **OCBA's Law Week 2014**, themed **American Democracy and the Rule of Law: Why Every Vote Matters**. YLS members starred along with OCBA members in the *B.B. Wolf v. Curly Pig Mock Trial*, a civil matter following the story line of "The Three Little Pigs," in which the B.B. Wolf claimed that Curly Pig tried to cook him. The educational mock trial was performed to second grade students at Orange County elementary schools, including Audubon, Rock Lake, and Lake Silver. The students served as the jury, and at the conclusion of closing arguments, the students engaged in a brief deliberation and announced their decision. The YLS thanks **C. Andrew Roy, Esq.**, and **Jamie Blucher, Esq.**, for coordinating the YLS' participation in this Law week activity.

On February 7, 2014, the Young Lawyers Section partnered with **Oakridge High School** for a mentoring program and presentation to encourage and motivate students to pursue higher education. The event featured presentations on how to write a resume and personal statement, financing a college education, and a discussion of why students should go to college. Thank you to the Oakridge Project chairs, **Kelli Murray, Esq.**, and **Stephen Oakley, Esq.**, for organizing this great event.

On February 13, 2014, **Judge John Marshall Kest** presented his **February Brown Bag Lunch**, addressing "Pretrials: Uses, Requirements and Expectations." **Circuit Judge Donald Myers** assisted Judge Kest with the presentation. Brown Bag Lunches are held in the Judicial Conference Room on the 23rd Floor of the Orange County Courthouse from 12:00 pm - 1:15 p.m. While not required, an RSVP to Judge Kest's judicial assistant, Diane Iacone (407-836-0443 or ctjadi1@ocnjcc.org), will assist in allowing for sufficient copies of the outlines, chairs, and bottled water. Please feel free to bring your lunch and eat while you learn. Please note that electronic copies of all 35+ of the prior Brown Bag Lunch outlines are available by emailing Diane at the above email address. The **April Brown Bag Lunch** will be held on **April 10, 2014**, and the topic will be Trials: "The Rest of the Store - What to do after Closing is Done."

The YLS February Luncheon was held on February 21, 2014. The YLS welcomed guest speakers **Orange County Sheriff Jerry Demings** and former Orlando Police Chief **Val Demings**, who spoke about their paths to the tops of their respective fields and their many accomplishments. They

offered advice on how to overcome racial barriers and how young professionals can be more proactive in promoting diversity. As a bonus, the power couple provided their perspectives on balancing a positive marriage with a successful career. As always, the YLS would like to thank its luncheon sponsors: **BMO Harris Bank, Cross, Fernandez & Riley LLP, Florida Lawyers Mutual Insurance, ProServe USA, Raymond James, Ricoh Legal, Smith Group Investigative Services, US Legal, and Westlaw.**

On February 26, 2014, the YLS hosted a happy hour at **Elixir**. Attendees braved the rain to enjoy cold libations and warm appetizers and had a great chance to mix and mingle with their fellow OCBA members. A special thanks goes out to Elixir for their amazing setup and **Adam Hartley, Esq.**, and **Brett Renton, Esq.**, for putting this event together.

The **April YLS Luncheon** will take place on **April 18, 2014**, at the Citrus Club from 11:30 a.m. to 1:00 p.m. Casual attire is perfectly appropriate. For a three-course meal, the cost is only \$10 for all young lawyers and for judges. Please RSVP to yls.ocba@gmail.com **no later than April 16, 2014**. When you RSVP, please provide a practice area or hobby to be included on your nametag. A late charge of \$4 will be added for all RSVPs made after the deadline. YLS is charged for anyone who RSVPs, so show up if you RSVP, or let us know if you cannot make it. We look forward to seeing you at the luncheon!

Many thanks to those of you who joined us for the annual **YLS Evening with the Judiciary** on March 4, 2014, at the **Orlando Museum of Art**. Approximately 450 people attended the event, including more than 65 local judges. The YLS would especially like to thank **Jennifer Smith, Esq.**, for doing such a great job of planning this very successful event. The YLS would also like to thank YLS board member **Karen Persis, Esq.**, who acted as the board liaison, and our gracious host, the Orlando Museum of Art.

Jill D. Simon, Esq., Lowndes, Drosdick, Doster, Kantor & Reed, P.A., has been a member of the OCBA since 2009.



Kim Homer, Esq.



Candice Disorbo, CP, FRP

Everything You Always Wanted to Know About the OCBA Foreclosure Mediation Program But Were Too Afraid to Ask

In April 2012, Chief Belvin Perry issued Administrative Order 2012-06¹ for Orange County, appointing the Orange County Bar Association as program manager for the court's foreclosure mediation program. This order mandates all homestead foreclosure cases filed in the Ninth Judicial Circuit be automatically referred to the Foreclosure Mediation Program.² The Foreclosure Mediation staff helps both plaintiffs and defendants navigate program deadlines and procedures. Homeowners have 40 days to opt in to the mediation program once the paralegal team determines the case is in compliance. We make multiple attempts to contact the homeowners within the 40-day period, including sending emails, mailing letters, and making phone calls. Some homeowners learn about their option to mediate by reading the letter from Judge Perry explaining the mediation program that is included in the summons packet (Exhibit 2 of Administrative Order 2012-06). Homeowners may opt in to participate in mediation by paying their half of the mediation fee before the 40-day deadline. Homeowners may pay with cash or by money order at the OCBA office, or via the OCBA website using PayPal (www.orangecountybar.org). Click on the "Facing Home Foreclosure" button).

What should you do if your client has a homestead foreclosure filed against them?

- The Administrative Order requires you to send the program manager a copy of your Notice of Appearance. The Foreclosure Mediation Program is not a party to the case, and we are not notified when a NOA or Answer is filed. As a courtesy, we check the docket periodically to confirm whether counsel has been retained. We send you an email that includes the opt-in deadline for that homeowner if we find out that you are representing a homeowner who is eligible to participate in the mediation program.
- If your client has received a Notice of Non Participation, you can request reinstatement either by contacting plaintiff's counsel to obtain their consent in writing (email is fine) or by filing a Request to Participate (Exhibit 3 of Administrative Order 2012-06). To find out more information regarding the reinstatement process, contact the Foreclosure Mediation office at 407-515-4330.

- If you have a foreclosure case that is not automatically referred to the Foreclosure Mediation Program, such as a non-homestead foreclosure or lien foreclosure, you can file the Exhibit 3 Request to Participate and the court may order the case to mediation with the OCBA OCBA Foreclosure Mediation Program.

What happens after your client opts in to the mediation program?

- After your client opts in to the mediation program by paying their half of the mediation fee, the OCBA paralegal team will contact you to confirm your client's goal at mediation, i.e., loan modification, short sale or deed-in-lieu of foreclosure.
- We contact plaintiff's counsel to request the appropriate list of documents your client will need to provide based on their goal at mediation.
- We provide you with the deadline for your client to submit the requested documents to the Foreclosure Mediation office when the list of requested documents is transmitted to your office.
- Our office confirms that you have received the information and sends periodic reminders of approaching deadlines. These deadlines are part of the Administrative Order and cannot be extended, so it is important that the documents are submitted on time.

What happens after you have submitted all of your client's documents for mediation?

- We check the documents to ensure that every requested item has been addressed.
- We transmit those documents to plaintiff's counsel and coordinate the mediation date between the parties.
- We work with all parties to select a date that is best for everyone and follows the Administrative Order deadlines for mediation scheduling.
- We send out the Notices of Mediation to all parties and manage all requests for rescheduling or cancelling the mediation.

What happens at mediation?

- All mediations are held at the Orange County Courthouse. A mediator is select-

continued page 39



Elliott Wilcox, Esq.

How to Yell at the Courthouse (A Primer)

It's a shame that we don't have any people yelling on the courthouse steps each morning.

I never see anybody standing on our courthouse steps, yelling and shouting as jurors, lawyers, and litigants pass by. Mornings are *much* more interesting when you start your day listening to people rant and rave about system-wide corruption and how your soul is in jeopardy.

Ever since I limited my practice exclusively to handling DUI cases, I've had the opportunity to travel around the state, so I've been fortunate to see some of the best courthouse yellers that Florida has to offer.

Two of the best yellers that I've seen are regulars outside the Tampa and Clearwater criminal courthouses.

They're hard workers. They start early in the morning, yelling at all the people stuck waiting to go inside the courthouse for arraignments and pre-trial hearings. Rain or shine, summer or winter, it doesn't matter, they're always there. Sometimes they use microphones, sometimes they use megaphones, and other times they just yell at the top of their lungs.

They're *always* there, and they're *always* yelling.

They yell about the problems they perceive in the justice system and the wages of sin. They yell with passion and intensity, the likes of which we rarely see inside the courthouse anymore.

But here's what's interesting...

Despite all the words they've yelled, the intensity of their convictions, and the sheer volume that they bring to their presentations, almost *everything* they've ever yelled has probably bounced off the courthouse walls and fallen upon deaf ears.

How is that possible? How could someone spend morning after morning yelling at a captive audience, and yet never be heard?

The answer is simple: It's because they only yell about what matters to *them*.

Like most courthouse yellers, these guys only yell about what *they* care about. That's why **nobody cares**, and nobody listens.

Which is unfortunate, because with one simple change, these courthouse yellers could be passionately inflaming a captive audience.

Take a second to think of the people who are stuck in line waiting to get inside for pre-trial

conferences and motion hearings and arraignments. They're captive. They can't get away. So if a speaker could speak to them in a way that grabs their attention and mesmerizes them, well then maybe, just maybe, they'd convert a few of them to a new way of thinking, commit them to a new action plan, or even lead them down the path to salvation.

The only tweak necessary is to change the radio station that the speaker dials into. You've probably heard about it... The radio station I'm talking about is "WIIFM" – "**What's In It For Me?**"

For example, the reason you're reading this article is because of the benefit you hope to receive. Maybe you're hoping to improve your presentation skills to judges, jurors, and clients. Or maybe you hope to improve your persuasive skills. Or maybe you just want to be entertained and enjoy a moment of distraction from the serious articles. Whatever your reason, you're hoping to get some type of benefit out of the article. Without that promise of a payoff, there's no reason to keep reading.

Let's go back to our courthouse audience. Why are they at the courthouse at 8 o'clock in the morning? It's probably not for a happy reason. Usually, it's because they or someone they care about is involved in a lawsuit, accused of a crime, or a victim of crime. If our courthouse yellers would stop yelling about *their* obsessions, and instead talk to the audience's hopes, fears, needs and desires, they would have captive audiences.

But because they don't, they get ignored.

And there lies an important lesson for your presentations. If your audience doesn't see the benefit from listening to you, they will tune you out. But tune your presentation to "WIIFM" so you speak to their wants and needs, and not only will your audience tune in, they'll crank up the volume so they can hear everything you say.

That's why your message should never be about you or what you want. It should be about your audience and what they'll get out of the deal. What is the payoff of listening to you? When you speak to judges, jurors, or anyone you want to persuade, craft your message so it yells, "Hey, there's something in this for you!"

For example, when that potential client walks in your office, don't talk about your diplomas and the committees that you're on and all the other

wonderful things about you. They don't care about that. Instead, climb inside that potential client's head. What is the pain that brought them into your office? What is the promise of a payoff that they hope you can deliver? It may not be that they want the case to go away (although everybody wants that). Maybe all they want is to know that they're going to be treated with compassion and dignity. Maybe all they want is to know that they'll be in a safe spot because you're there to protect them. Speak to those desires and you'll have a client signing on the dotted line.

Get inside your judge's mind. Get inside your client's mind. Get inside your opponent's mind. Tune your speaking dials to "WIIFM." Frame your presentation in terms of what you can offer them, and script your message in such a way that every single statement you make resonates with that "What's in it for me?!" philosophy. When you do that you'll be amazed at how much more receptive everyone will be to your ideas and how much more persuasive you become.

Elliott Wilcox, Esq. has been an OCBA member since 2001.

Inside the Courts

Inside the Courts is a free four-week class that gives you a behind-the-scenes look at the court system,

providing the public with an up-close examination of the workings of the judicial branch.

Inside the Courts is taught by a team of more than one dozen judges. Participants will gain a greater understanding of the court system and the importance of the judicial process. Participants who complete the four-part program will receive certificates recognizing that achievement.

Inside the Courts is held in the Jury Assembly Room on the first floor of the

Orange County Courthouse, 425 North Orange Avenue, in downtown Orlando. It is available to the general public and there is **NO CHARGE** to attend.

The 2014 program will be held on four consecutive Tuesday evenings from 6:30 p.m. to 8:30 p.m. The free four-week class that will give you a behind-the-scenes look at the court system will be offered on the following dates:

April 8th, April 15th, April 22nd, and April 29th. Please mark your calendars.

Register online at: www.ninthcircuit.org/programs-services/inside-the-courts/

LAS What We Do... continued from page 16

- 17% of Florida seniors face the threat of hunger
- 1 in 7 seniors live in poverty
- 1 in 4 seniors is employed
- 14% of elders have been diagnosed with depression.

In 2013, the Legal Aid Society received 275 applications from senior citizens. Of the 275 applications, approximately one half of them were for housing-related issues. One of the goals of our community education coordinator is to reach out to vulnerable senior citizens and to educate them about the legal remedies available to them in a housing crisis such as Marilyn's. Our community education coordinator, Larri Thatcher, Esq., states, "Most senior citizens do not know their legal rights, and many of them do not know that we are here to help them."

Imagine a day without the Legal Aid Society. Do we want our 80-year-old neighbors living on the street? Luckily, Marilyn took the most important step and came to the offices of the Legal Aid Society for legal assistance and was provided one of our housing attorneys who gave her the help she needed. Happily, for us, there is one less homeless senior on the streets of Orange County.

Because of your donations of time and money, you are the "brick and mortar" of our community. You allow us to serve these seniors. You build the foundation of our society right here in Orange County, Florida. For that, we thank you.

For more information about how you can donate to the Legal Aid Society, contact Donna Anne Haynes at dhaynes@legalaiddocba.org. For information about how to help with *pro bono* legal services, contact Cathy Tucker, Esq., at ctucker@legalaiddocba.org. For information about intake and community education, please contact Larri Thatcher, Esq., at lthatcher@legalaiddocba.org, and for information about homeless and housing issues contact, Michael Resnick, Esq., at mresnick@legalaiddocba.org.

Donna Anne Haynes, Development Manager at the Legal Aid Society of the OCBA, Inc., has been a member of the OCBA since 2008.



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Michael Hammond, Esq.

What Drives Our Decisions – Reason or Emotion? Part 2

Last month in Part 1 of this article, we debunked the Aristotelian myth that logic and reason are the best ways to persuade people. Recent developments in neuroscience have demonstrated that our emotions actually rule our decision making process; that, in fact, we make emotional decisions and then justify them with logic and reason. As a result, using logic to persuade others is like taking the long way around the block. As Richard Restak, neuropsychologist and author of the recent book, *The Life of the Brain* said: “We are not thinking machines; we are feeling machines that think.”

The Seven Triggers

Part 1 also introduced author Russell Granger and his book, *The Seven Triggers to Yes*, which makes the case that rather than using a logical approach to persuade others, we should instead tap into specific emotional cues or “triggers” as Granger calls them. Granger goes on to explain that with the new technology of real-time brain imaging, neuroscientists have been able to pinpoint seven of these emotional triggers. He defines a trigger as a “decision shortcut” – an internal navigation aid that taps into our own personal emotional database of experience to ensure that we make day-to-day decisions quickly and efficiently. Granger says: “Remember that the triggers lie within the other person. We evaluate each of the seven triggers and then determine which triggers are most likely to activate the other person’s decision making process.” Part 1 concluded after outlining the first two triggers: The Friendship Trigger and The Authority Trigger. In this article we will discuss the remaining five Triggers to Yes from Granger’s book.

The Consistency Trigger

The simple truth is that we are slaves to consistency and conformity. Thrifty people don’t go for all the bells and whistles. Savers save and spenders spend. The stock market may want you to believe that “past results are not indicative of future performance,” but the opposite is true for human beings. Consistency is acting in consonance with one’s past experience, values, feelings, and perceptions. Being consistent with our past experiences makes us comfortable; we are confident that we are making the right decision. So to activate the Consistency Trigger, find out how your client or prospect has acted previously on issues like those you’re discussing with them. Do your homework – learn what they value, believe in, take pride in, and then frame your proposal to meet those criteria.

The Reciprocity Trigger

One of the strongest, most universal internal triggers is the law of giving and receiving. The reciprocity trigger has roots early in human development; social scientists have determined that virtually every human society shares the rule of reciprocity. Reciprocity is the universal psychological requirement that if you do something for me, then I should reciprocate. One reason the reciprocity trigger works so effectively is that it is an amygdala-based limbic response – it’s automatic. If you spend a weekend at the resort, you go to the time share sales presentation. Charities send small gifts – colorful stamps, address labels, calendars – to create a quid pro quo with the recipients. Statistically these small gifts have been shown to increase the response rate by more than 100%. To activate the reciprocity trigger, simply ask yourself, “What can I give the person I’m dealing with that would be appropriate and appreciated?” It doesn’t have to be a tangible gift – take a client to lunch or invite a referral source to play golf. How about a service? Can you provide some useful information, a helpful bit of advice, or links to web sites that provide valuable data? A small gift, even a gesture, thoughtfully considered and sincerely offered, can have a powerful persuasive effect.

The Contrast Trigger

We can be very persuasive when we can demonstrate that our proposition is better than the alternatives. Think about it; lawyers do this all the time. The proper framing of contrasts enables people to see that one approach is clearly more desirable than another. To be persuasive, the framing of your proposal is critical. Your challenge is to arrange your communication to take full advantage of the contrast trigger. For example, present the most onerous or the most complicated approach first, followed by your proposed approach. Once you’ve set the contrast, show how your proposal is better than the other options. You must know the frame of reference of the person you’re trying to persuade. If they’re risk-averse, show how your proposition will minimize risk; if they’re cost-conscious, demonstrate how your approach will save – or even make – money. When you frame your presentation in the right order, you activate the contrast trigger by magnifying the differences, thus persuading the person to make the decision you seek.

The Reason Why Trigger

One of the easiest ways to persuade is to simply give someone a reason to agree with you. The

Reason Why Trigger is activated when the amygdala quickly accepts the reason given as a decision shortcut to avoid the time-consuming process of logical thinking. Let's say you're waiting in a line and someone comes up to you and says, "Can I get ahead of you?" Your answer would probably be "No!" But, given a reason, such as, "I'm double parked" or "my meter's about to run out – can I get in front of you?" the answer would probably be "OK." The Reason Why Trigger is activated when the amygdala simply accepts the reason given and the request receives immediate, non-thinking compliance. Do enough up-front research and homework to know what reason would be honest, plausible, or persuasive, and the amygdala will do the rest!

The Hope Trigger

Hope motivates virtually all human activity, and it's a powerful trigger that automatically helps determine our decisions and actions. Charles Revson, the famous founder of the giant Revlon Corporation and a genius at persuasion, built his dynasty on a single concept, stated simply: "In the factory we make cosmetics; in the store, we sell hope." The Hope Trigger is one of the easiest to activate – we are easily persuaded by those who understand our wishes, our dreams, and by those who help us to fulfill our hopes. Against all logic, reason, and common sense, we are persuaded to follow and act on our hopes and dreams. Once we perceive an opportunity to realize our hopes, we seldom rely on reason and logic before we act. Learning what someone hopes for is simple – you just ask. Once you have gathered enough informa-

tion from your listener to understand their hopes, you can frame your proposal to show how it can help meet the hopes they expressed. The key is not to simply make the right points to them, but to clearly demonstrate how they tie back directly to fulfilling their hopes.

Persuasion

Persuasion is a powerful process for gaining agreement – for getting the decisions we want, for getting to "Yes." Jay Conger, Director of the Leadership Institute at USC, adds: "Effective persuasion becomes a process by which the persuader leads colleagues to a problem's shared solution." By understanding how the brain really makes decisions, persuasion can work in concert with our human, internal guidance systems, not against them. Striving for a shared solution is the opposite of manipulation or deception. Persuasion is partnering with people to achieve mutual goals and benefits.

Michael Hammond, Esq., is a "founding father" of Atticus and is a Certified Practice Advisor. A licensed attorney since 1983, he has spent his entire career either practicing law or supporting and promoting the practice of law. Michael has a depth of experience in lawyer marketing, one-on-one business coaching, and strategic planning. He is currently a featured writer 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.

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Mediator Arbitrator

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- J.D., University of Florida College of Law
- Order of the Coif, Florida Law Review (Articles Editor and Title Standards Editor)
- Florida Supreme Court Certified Circuit Civil Mediator
- Certified U.S. District Court Mediator, Middle District of Florida
- Florida Supreme Court Certified Appellate Mediator
- Qualified Florida Arbitrator
- Martindale-Hubbell rating of AV Preeminent

MEMBERSHIPS, PUBLICATIONS:

- Fellow, Academy of Court Appointed Masters (ACAM)
- Director, Professional Mediation Institute, Inc.
- Member, Dunn-Blount Chapter of American Inns of Court
- Author of articles for the National Business Institute and Florida Civil Practice Before Trial



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Sunny Lim Hillary, Esq.

Your local voluntary bar associations have been doing great things! Read on to find out what's happened and what's happening, and get involved!

GOAABA

On February 9, 2014, the Greater Orlando Asian American Bar Association (GOAABA) co-sponsored the **Central Florida Dragon Parade**, the only large-scale celebration for the Lunar New Year (January 31, 2014) in the state of Florida. To welcome the Year of the Horse, *Asia Trend Magazine*, Mills 50—Orlando Mainstreet District, REACH of Central Florida, and Y.E.S.S. co-hosted another celebration, featuring cultural performances, delicious Asian food, and unique Asian arts and crafts. The festival started at 11:00 a.m. with a community parade followed by a fair, which took place in the parking lot of Colonial Photo & Hobby. Thank you to all who joined us!

On February 19, 2014, **Sunny Hillary, Esq.**, president of GOAABA, along with **Paul C. Perkins, Jr., Esq.**, and **Ana Tangel-Rodriguez, Esq.** participated in a panel discussion entitled "Minorities in the Law" at Barry Law School. The attorneys shared their personal and professional experiences about practicing law as a member of a minority group.

On February 22, 2014, GOAABA went to the **Ronald McDonald House** to prepare a delicious meal for the residents. The Ronald McDonald House provides a home away from home for families with children receiving treatment at hos-

pitals and medical facilities in Orlando. Before the opening of the Ronald McDonald House, parents were sleeping in their cars or in chairs in the waiting room, eating out of vending machines, or bearing the expense of impersonal hotel rooms. Special thanks to Community Service chair, **Denise Kim, Esq.**, for organizing this event.

We are in the process of planning a **Karaoke Night** and a **Speed Networking** event! For more information, please contact Social chair, **Lisa Gong Guerrero, Esq.**, at LGongGuerrero@sao9.org.

We are always welcoming new members and sponsors! To join our email list, or see how you can get involved with GOAABA, please email goaaba@gmail.com.

Remember, SideBar is for you! If you belong to a voluntary bar in Central Florida, please send me your news and photos with IDs – we're happy to publish pre-event information and post-event news. If your bar has an upcoming event, please send information to me at sunny@hillarylaw.com at least 10 weeks prior to the event date. I'm looking forward to hearing from you!

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

Ronald McDonald House



Minorities in the Law



Central Florida Dragon Parade



Sunny Hillary, Esq., Kim Nguyen, Esq., and Lisa Gong Guerrero, Esq.

**OCBA's 10th Annual Texas
Hold 'em Charity Poker
Tournament & Happy Hour
February 27, 2014**

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Sean Olenek, Esq. (first man out!)
Camy B. Schwam-Wilcox, Esq.

Camy B. Schwam-Wilcox, Esq.
Bryan Laffermam (BMO)
Susan Sherman (BMO)



Wiley Boston, Esq.
Shane Fischer, Esq.
Amy Guy Calandrino
LaShawnda Jackson, Esq.



Jamie Billotte Moses, Esq.
Eric DuBois, Esq.
Eric Reed, Esq.

Congratulations to:

1st Place: Nick Primrose, Esq.

2nd Place: Bill Umansky, Esq.

3rd Place: Josh Adams, Esq.



Back row: Jessica D. Thomas, Esq., Susan Sherman (BMO)
Front row: Tiffany Wax, Esq., Ginger R. Cooper, Esq., and
Tara Maloney, Esq.

MICHELLE JERNIGAN



*Mediator
Arbitrator*

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- B.S. (Political Science),
Stetson University
- Post Graduate Studies /
Psychology, Nova University
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Mediator
- Certified Family Court
Mediator
- Certified U.S. District Court
Mediator, Middle District
of Florida
- Certified Florida 5th DCA
Appellate Mediator

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6th Annual Bard's Board Barristers Mock Trial

Kimberly Ashby, Esq., a shareholder at Akerman Senterfitt LLP, and John Hamilton, Esq., a partner at Foley & Lardner LLP, served as the advocates in the 6th Annual Bard's Board Barristers Mock Trial at the Orlando Shakespeare Theater (OST) on February 25, 2014. The interactive mock trial, based on Charles Dickens's *The Life and Adventures of Nicholas Nickleby*, pitted prosecutor Ashby against defense attorney Hamilton on behalf of Nicholas Nickleby, who was charged with the assault and battery of Headmaster Wackford Squeers.

The audience rendered an advisory verdict (in favor of Nickleby), before a panel of four judges announced the final ruling. Judges included James A. Beckman (Department Chair/Associate Professor, University of Central Florida Department

of Legal Studies); LaFontaine Oliver (President/General Manager, WMFE 90.7 News); and Julie Wolf (Senior Vice President, Legal Specialty Group at Wells Fargo).

To great effect and laughs, a communication glitch between the "stage manager" and the attorneys caused our sharp and "with it" attorneys to dress in attire appropriate to the 1970s instead of those of the Dickensian 1870s!

Special thanks go to Kim and John, the OST's professional actors and theater company staff, OST artistic director Jim Helsinger, and our own Keith Hesse, Esq., immediate past president of the OST board of directors, for another successful event.



Kimberly Ashby, Esq.
John Hamilton, Esq.



Jamie M. Blucher, Esq.
Christopher Andrew Roy, Esq.



Julie Wolf, Esq., James A. Beckman, Esq., LaFontaine Oliver

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David A. Monaco

David A. Monaco is an honors graduate of the University of Florida Levin College of Law. He served as a Circuit Court Judge from 1997 - 2003 and a District Court Judge of the Fifth District Court of Appeal from 2003 - 2011, and was Chief Judge of the Fifth District from 2009 - 2011.



John N. Bogdanoff

John N. Bogdanoff is an honors graduate of the University of Florida Levin College of Law. He served as a Staff Attorney at the Fifth District Court of Appeal for more than 25 years and as a Senior Staff Attorney during his tenure.

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ed from our panel of approved and qualified mediators. Mediators are rotated and selected by a random computer rotation to ensure neutrality.

- At mediation, the plaintiff is required to certify that they have full settlement authority and that they have received and reviewed all documents provided to their counsel by our office.
- The mediation is rescheduled at plaintiff's expense if they do not have settlement authority or have not reviewed the documents.
- After the mediation, the OCBA paralegal team provides copies of the mediation report and files the report with the Orange County Clerk's office. Our staff is also available to make copies, send faxes, or scan and email documents as needed before, during, or after the mediation.

The Orange County Bar Association has served as the exclusive program manager for Orange County exclusive program manager for the Orange County Foreclosure Mediation Program since July 2010. The OCBA takes pride in providing consistent, friendly and neutral mediation services to all parties to foreclosure mediation. Please contact us at 407-515-4330 if you have further questions.

Kim Homer, Esq., OCBA Foreclosure Mediation Program Director/Assistant Executive Director of the OCBA, has been a member of the OCBA since 2010.

Candice Disorbo, CP, FRP, Paralegal/Compliance and Scheduling Manager of the OCBA Foreclosure Mediation Program, has been a member of the OCBA since 2011.

¹*In re* Residential Foreclosure Mediation Procedures, Orange County, Fla. Admin. Order No. 2012-06 (April 12, 2012) (on file with Clerk, Fla. 9th Cir. Ct.)

²The Osceola County Foreclosure Mediation Program is governed by *In re* Residential Foreclosure Mediation Procedures, Osceola County, Fla. Admin. Order No. 2012-07 (May 1, 2012) (on file with Clerk, Fla. 9th Cir. Ct.)

PhotoOp

The Real Property Committee, which had been dormant for some time, came to life on February 25, 2014, under the direction of committee chair, Jay Small, Esq. Jay kicked off the inaugural meeting with nearly 60 attorneys and other legal professionals attending. It promises to be a busy year for the committee!



Nick Shannin, Esq., Phil Calandrino, Esq.,
Amy Guy Calandrino, Jay Small, Esq.

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John G. DeLancett, Esq. – *Shuffield, Lowman & Wilson, P.A.*

Speaking Engagements

Lance O. Leider, Esq., The Health Law Firm, spoke to the family medicine residents and medical students at Florida Hospital East. The lesson focused on tips for physicians working in a medical practice.

Andrew P. Rock, Esq., the Rock Law Group, P.A., presented an update on Florida Property Insurance Law at the 15th Annual Windstorm Insurance (WIND) Conference in January 2014.

Jill S. Schwartz of Jill S. Schwartz & Associates, P.A., recently spoke at The Florida Bar Labor & Employment Law Section's 14th Annual Labor and Employment Law Update and Certification Review. The topic was *Common Law Employment Claims*.

David H. Spalter of Jill S. Schwartz & Associates, P.A. recently spoke at The Florida Bar Labor & Employment Law Section's 14th Annual Labor and Employment Law Update and Certification Review. The topic was *Fair Labor Standards Act*.

Published

Dennis J. Wall, Esq., of Winter Springs, recently had his article addressing the American Law Institute's Principles of Liability Insurance Law Project, "Fiduciary in Settlement," published in *Insurance Litigation Reporter*.

Events

April 5 - 17th Annual OCBA Gala, 7:00 p.m.-11:00 p.m. The Alford Inn, Winter Park. For details, go to <http://ocba2014gala.brownpapertickets.com>.

April 8, 15, 22, & 29 - Inside the Courts - Ninth Judicial Circuit. Annual four-session educational program for the public. 6:30 p.m.-8:30 p.m. Orange County Courthouse, Jury Assembly Rm., 425 N. Orange Ave., Orlando, FL 32801. Cost: Free, but registration is required. For more information, contact Julio Semino at ctads1@ocnjcc.org.

May 29 - OCBA Installation & Awards Banquet. 5:30 p.m.-8:30 p.m. Ballroom at Church St., 225 S. Garland Ave., Orlando, FL 32801. Mark your calendar!

Seminars

Apr. 8 - 2013 Intellectual Property Law Update. Intellectual Property Committee **Major Seminar**. 12:00 p.m.-4:00 p.m. OCBA Center. Speakers: Michael Colitz, III, Esq.; Amber N. Davis, Esq.; Julee Milham, Esq.; Cian O'Brien, Esq. CLE: 3.5. Cost: \$35 for OCBA members; \$50 for non-members. Registration deadline: April 4. Sponsored by D4 eDiscovery. For more details and to register, go to the OCBA Store.

Apr. 8 - Dissolution of Marriage Part 1. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Marks St. Senior Recreation Complex, 99 E. Marks St., Orlando, FL 32803. Speaker: Angel Bello-Billini, Esq. CLE: pending. To register, contact Marilyn Carbo at mcarbo@legalaiddocba.org

Apr. 10 - Trials: The Rest of the Story - What to do after Closing is Done. Brown Bag Lunch with Judge John Kest. 12:00 pm.-1:15 p.m. Orange County Courthouse, 23rd Flr. Judicial Conf. Rm. 425 N. Orange Ave., Orlando, FL 32801. Please feel free to bring a sandwich; water will be provided. To register, contact: Diane Iacone at ctjadi1@ocnjcc.org, or 407-836-0443.

Apr. 11 - OCBA Bench Bar Conference. 8:00 a.m.-5:30 p.m. Loews Royal Pacific Hotel at Universal, 6300 Hollywood Way, Orlando, FL 32819. More than 60 sessions, 50 judges, and up to 7.0 CLE. Registration fee: \$300 (OCBA members and non-members). All meals and post-conference included. For more information about the conference and to register, go to the OCBA Store.

Apr. 17 - Billing Do's and Don'ts: Ethical Concerns. Paralegal Section Lunchtime Seminar. 12:00 p.m.-1:00 p.m. OCBA Center. Speaker: Jamie Billotte Moses, Esq. CLE: pending. For more information, go to the OCBA web calendar.

Apr. 22 - Legal Issues Involving Children with Disabilities - Day 2. LAS Lunchtime Training. 11:00 a.m.-4:30 p.m. Marks St. Senior Recreation Complex, 99 E. Marks St., Orlando, FL 32803. See the OCBA web calendar for topics and speaker details. CLE: pending. To register, contact Marilyn Carbo at mcarbo@legalaiddocba.org.

Apr. 23 - What You Need to Know Now in Employment Law. Labor & Employment Law Committee **Major Seminar**. 8:30 a.m.-12:00 p.m. OCBA Center. CLE: 3.0 (pending). Speakers: Heather Kozlowski, Esq.; Ryan Morgan, Esq.; Mark Van Valkenburg, Esq.; Kristyne Kennedy, Esq.; Nathan McCoy, Esq. Cost: \$35 for OCBA members; \$50 for non-members. For more details and to register, go to the OCBA Store.

Apr. 25 - Trial Techniques & Practices. Criminal Law Committee **Major Seminar**. 11:30 a.m.-4:30 p.m. Orange County Courthouse, Jury Assembly Rm., 425 N. Orange Ave., Orlando, FL 32801. CLE: 4.5 pending. Cost \$35 for regular OCBA members; \$25 for OCBA government and law student members; \$50 for non-members. Lunch sponsored by FindLaw. For more details and to register, go to the OCBA Store.

April 29 - Treasury Department New Market Tax Credits. Real Property Committee Seminar. 12:00 p.m.-1:00 p.m. OCBA Center. CLE: none. Speaker: Owen M. Beitsch, PhD., FAICP, CRE Real Estate Consultants. Cost: Free. Register by April 25, 2014. Go to the OCBA Store.

Apr. 30 - Advanced Legal Writing in the Paperless, Digital Age. Appellate Practice and Professionalism Committees Joint **Major Seminar**. Sponsored by Wicker Smith, Attorneys at Law. 11:30 a.m.-6:00 p.m. OCBA Center. CLE: 4.0 pending. Cost \$35 for OCBA members; \$50 for non-members. Lunch and reception included in registration fee. Registration deadline: April 28, 2014. For more details and to register, go to the OCBA Store.

May 6 - Representing Survivors of Human Trafficking. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Marks St. Senior Recreational Complex, 99 E. Marks St., Orlando, FL 32803. Speaker: Camila Pachon Silva, Esq. CLE: pending. To register, contact Marilyn Carbo at mcarbo@legalaiddocba.org.

May 8 - Topic TBA. Brown Bag Lunch with Judge John Kest. 12:00 p.m.-1:15 p.m., Orange County Courthouse, 23rd Flr. Judicial Conf. Rm., 425 N. Orange Ave., Orlando, FL 32801. Please feel free to bring a sandwich; water will be provided. To register, contact: Diane Iacone at ctjadi1@ocnjcc.org, or 407-836-0443.

May 13 - An Overview: VA's Disability Appeals Process & U.S. Court of Appeals for Veterans' Claims. Veteran's Committee **Major Seminar**. 12:45 p.m.-6:00 p.m. OCBA Center. Speakers: Everett McKeown, Esq.; Ryan Casson, Esq.; Al Tetrault, Esq.; and Jodee Kayton, Esq. CLE: 3.0 pending. Reception sponsored by Veteran's Legal Advocates, P.A. Cost: \$35 for OCBA members; \$50 for non-members. Register through the OCBA Store.

May 16 - Pick Your Battle: A Brief Comparison Between Family and Dependency Court. Family Law Committee Seminar. 12:00 p.m.-1:00 p.m. OCBA Center. Speakers: Hon. Alicia L. Latimore and Hon. Heather Higbee. CLE: pending. Cost: Free. Registration is required. For more information and to register, go to the OCBA Store.

May 20 - Best Interest Advocacy for Babies and Drug-Dependent Newborns: Dependency and Drug Court. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Marks St. Senior Recreation Complex, 99 E. Marks St., Orlando, FL 32803. Speakers: Sally McArthur, Esq. and Kavita Sookraj, Esq. CLE: pending. To register, contact Marilyn Carbo at mcarbo@legalaiddocba.org.

Announcements

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Calandrino Law Firm, P.A.	Provencher & Simmons, P.A.
Camy B. Schwam Wilcox, P.A.	Ringer Henry Buckley & Seacord, P.A.
Carr Law Firm, P.A.	Sawyer & Sawyer, P.A.
Chaires, Brooderson & Guerrero, P.L.	SeifertMiller, LLC
Cole, Scott & Kissane, P.A.	Snure & Ponall, P.A.
Colling Gilbert Wright & Carter, LLC	Southern Trial Counsel
Cullen & Hemphill, P.A.	Stanton & Gasdick, P.A.
DeCiccio & Johnson	Stovash, Case & Tingley
Dellecker Wilson King McKenna Ruffier & Sos, LLP	Swann Hadley Stump Dietrich & Spears, P.A.
Dewitt Law Firm	Tangel-Rodriguez & Associates
Faddis & Faddis, P.A.	The Aikin Family Law Group
Fassett, Anthony & Taylor, P.A.	The Arnold Law Group
Fishback, Dominick, Bennett, Ardman, Ahlers, Langley & Geller, LLP	The Brennan Law Firm
Fisher, Rushmer, Werrenrath, Dickson, Talley & Dunlap, P.A.	The Draves Law Firm, P.A.
Frank A. Hamner, P.A.	The Elder Law Center of Kirson & Fuller
Frank Family Law Practice	The Johnston Law Firm
Giles & Robinson, P.A.	The Law Offices of Terry Bledsoe
Grossman & Grossman P.A.	The Law Offices of Trevett & Bonham, P.L.
Harris, Harris, Bauerle & Sharma	The Llabona Law Group
Higley & Szabo, P.A.	The Marks Law Firm
Hilyard, Bogan & Palmer, P.A.	The McMahon Law Group, P.A.
Hornsby Law	The Skambis Law Firm
Infocus Family Law Firm, P.L.	The Smith Family Law Firm, P.A.
James H. Monroe, P.A.	The Tech Law Firm
King, Blackwell, Zehnder & Wermuth, P.A.	Troutman, Williams, Irvin, Green & Helms, P.A.
Korshak & Associates, P.A.	Walton Lantaff Schroeder & Carson, LLP
Kosto & Rotella, P.A.	Warner & Warner, P.L.
Law Offices of Thomas H. Justice, III, P.A.	West, Green & Associates, P.L.
Law Offices of Walter F. Benenati	Wicker, Smith, O'Hara, et al.
Lawyer Today.Com	Wieland, Hilado & DeLattre, P.A.
Legal Aid Society of OCBA	William G. Osborne, P.A.
Lewis & Crichton	Wilson McCoy, P.A.
Lynn B. Aust, P.L.	Winderweedle, Haines, et al.
Marcus & Myers, P.A.	Wolf, Hill, McFarlin & Herron, P.A.
Mark Lang & Associates	Wooten, Kimbrough & Normand, P.A.
Mark M. O'Mara, P.A.	Yergey & Yergey, P.A.
Marshall, Dennehey, Wamer, Coleman & Goggin	Young DeLoach, PLLC
McClane Partners, P.A.	

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

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To reply to BRIEFS box number, address as follows:
Briefs Reply Box # _____
c/o Orange County Bar Association
Orlando, FL 32801

EMPLOYMENT

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OCBA Calendar

APRIL – MAY

OCBA April Luncheon

April 24, 2014

Co-hosted by the OCBA Law Week Committee

Law Week Program

RSVP by April 18, 2014 to

www.orangecountybar.org/store

April

- 1 Professionalism Committee**
12:00 p.m. • OCBA Center
- 2 Business Law Committee**
12:00 p.m. • OCBA Center
- 8 Intellectual Property Committee Major Seminar**
2013 Intellectual Property Law Update
12:00 p.m. • OCBA Center
- LAS Lunchtime Training**
Dissolution of Marriage – Part 1
12:00 p.m. • Marks St. Senior Center
- 9 Lawyers Literary Society**
12:00 p.m. • OCBA Center
- Veteran's Committee**
12:00 p.m. • OCBA Center
- Executive Council Meeting**
4:30 p.m. • OCBA Center
- 10 Brown Bag Lunch with Judge John Kest**
Trials: The Rest of the Story – What to do after Closing is Done
12:00 p.m. • Orange County Courthouse
23rd Flr. Judicial Conf. Rm.
- Social Security Committee**
12:00 p.m. • OCBA Center
- 11 OCBA 2014 Bench Bar Conference**
8:00 a.m. • Loews Royal Pacific Hotel at Universal
- 14 Estate, Guardianship & Trust Committee**
12:00 p.m. • OCBA Center
- 15 Social Committee**
11:45 a.m. • Contact Chair
- Solo & Small Firm Committee**
12:00 p.m. • OCBA Center
- 17 Paralegal Section Seminar**
Billing Do's and Don'ts: Ethical Concerns
12:00 p.m. • OCBA Center
- Law Week Committee**
12:00 p.m. • OCBA Center
- 18 ADR Committee**
7:30 a.m. • Gray/Robinson
- YLS Luncheon**
11:40 a.m. • Citrus Club

- 22 LAS Lunchtime Training**
Legal Issues Involving Children with Disabilities – Day 2
11:30 a.m. • Marks St. Senior Center
- 23 Labor & Employment Law Committee Major Seminar**
What You Need to Know Now in Employment Law
8:30 a.m. • OCBA Center
- 24 OCBA Law Week Luncheon**
11:30 a.m. • Church St. Ballroom
- 25 Criminal Law Committee Major Seminar**
Trial Techniques & Practices
11:30 a.m. • Orange County Courthouse
Jury Assembly Rm.
- Bankruptcy Committee**
12:00 p.m. • OCBA Center
- 29 Real Property Committee Seminar**
Treasury Department New Market Tax Credits
12:00 p.m. • OCBA Center
- 30 Appellate & Professionalism Committees Joint Major Seminar**
Advanced Legal Writing in the Paperless, Digital Age
11:30 a.m. • OCBA Center

May

- 6 Paralegal Section Membership Meeting**
12:00 p.m. • OCBA Center
- LAS Lunchtime Training**
Representing Survivors of Human Trafficking
12:00 p.m. • Marks St. Senior Center
- Professionalism Committee**
12:00 p.m. • OCBA Center
- 7 Business Law Committee**
12:00 p.m. • OCBA Center
- 8 Brown Bag Lunch with Judge John Kest**
Topic: TBA
12:00 p.m. • Orange County Courthouse
23rd Flr. Judicial Conf. Rm.
- Social Security Committee**
12:00 p.m. • OCBA Center
- 9 Criminal Law Committee**
12:00 p.m. • OCBA Center
- 12 Estate, Guardianship & Trust Committee**
12:00 p.m. • OCBA Center
- 13 ADR Committee**
7:30 a.m. • Dean, Ringers, Morgan & Lawton, P.A.
- Veteran's Committee Major Seminar**
An Overview: VA's Disability Appeals Process & U.S. Court of Appeals for Veterans' Claims
12:45 p.m. • OCBA Center
- 14 Lawyers' Literary Society**
12:00 p.m. • OCBA Center
- Executive Council Meeting**
4:30 p.m. • OCBA Center
- 15 Technology Committee**
12:00 p.m. • OCBA Center
- 16 YLS Luncheon**
11:40 a.m. • Citrus Club
- Criminal Law Committee**
12:00 p.m. • OCBA Center
- Family Law Committee Seminar**
Pick Your Battle: A Brief Comparison Between Family and Dependency Court
12:00 p.m. • OCBA Center
- 20 LAS Lunchtime Training**
Best Interest Advocacy for Babies and Drug-Dependent Newborns: Dependency Court and Drug Court
12:00 p.m. • Marks St. Senior Center
- 26 Memorial Day Holiday**
OCBA Office Closed
- 28 Appellate Practice Committee**
12:00 p.m. • OCBA Center
- Judicial Relations Committee**
12:15 p.m. • 23rd Flr. Judicial Conf. Rm.
Orange County Courthouse
- 29 OCBA Installation & Awards Banquet**
5:30 p.m. • OCBA Center