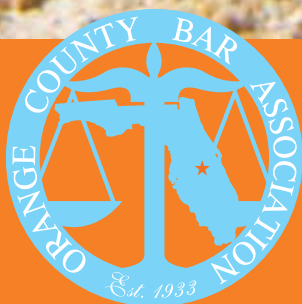


the Briefs

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August 2014
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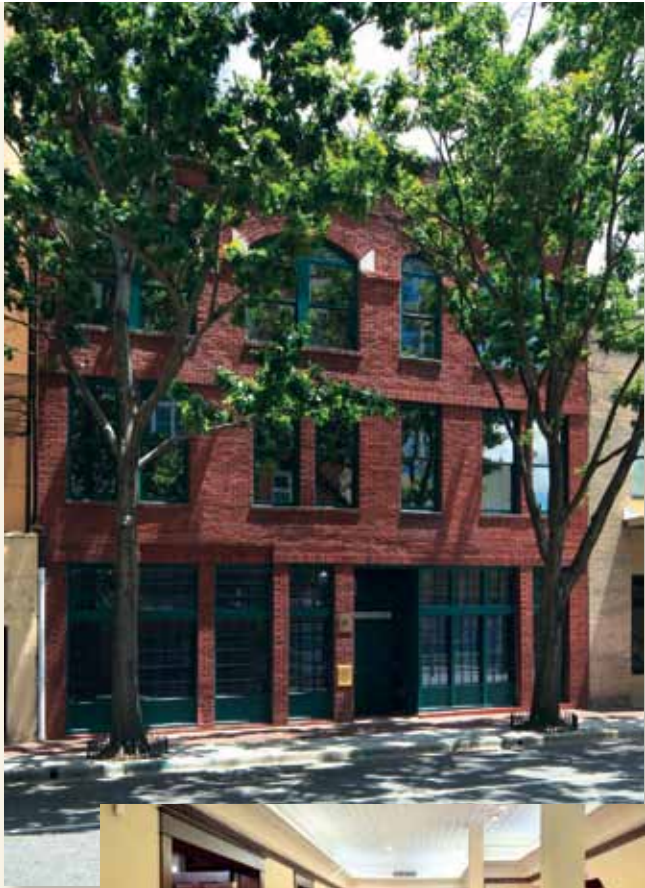
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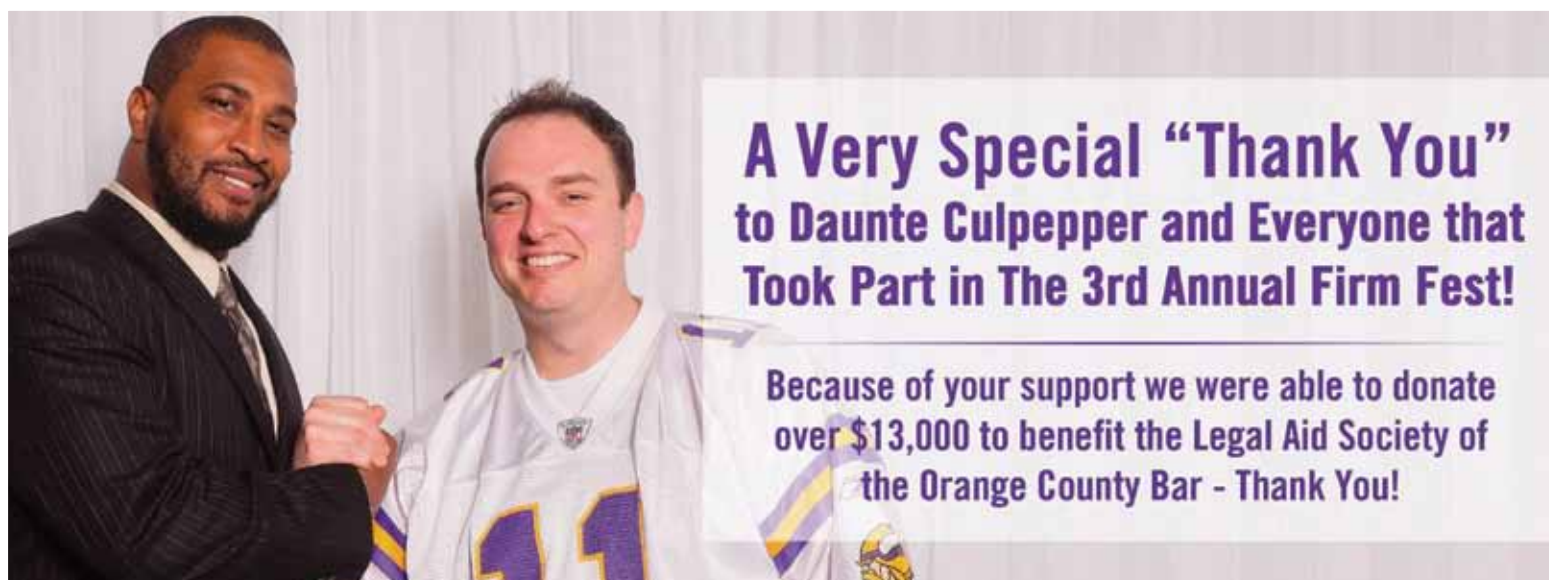


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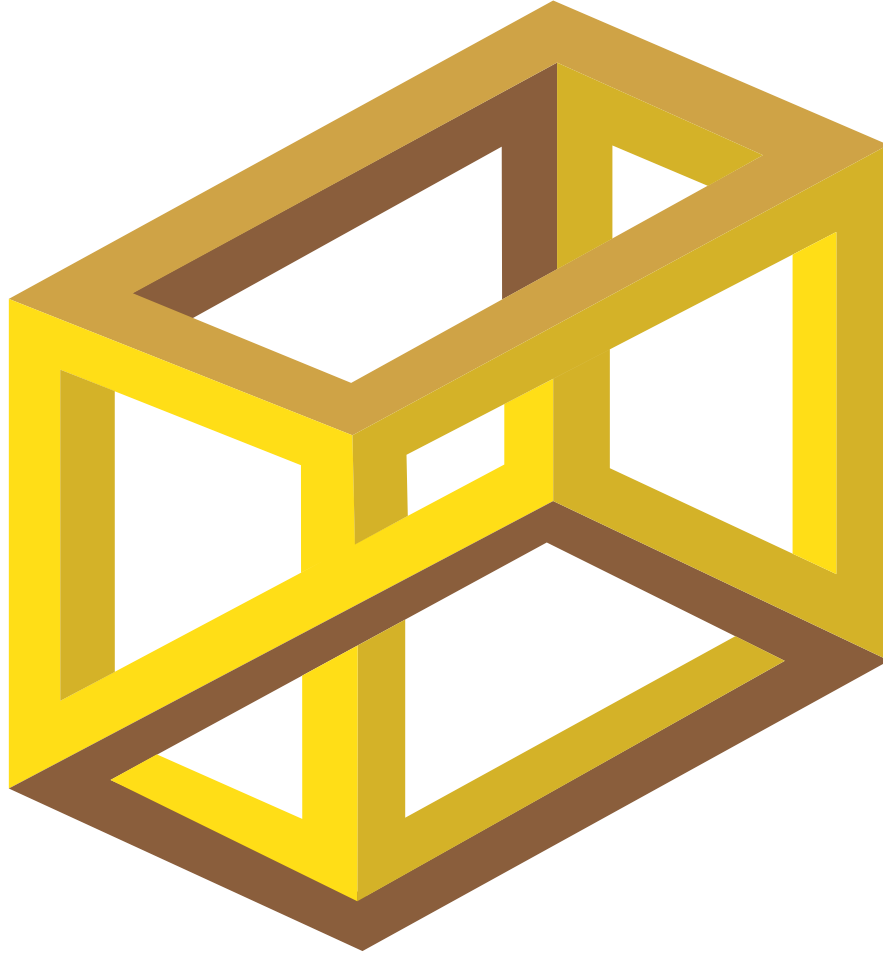
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Copy – 15th of the month six weeks prior to the month of publication

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President's Message

August 2014



Nicholas A. Shannin, Esq.

Interconnectivity: Bench and Bar

IHATE TERM LIMITS. Okay, what does that seemingly random text-shout have to do with my positive theme of interconnectivity?

Fair question, and one that I will get to. But first, a return to the title for this message: "Bench and Bar."

One of the best examples of the interconnectivity our bar is capable of came this April when we pulled off, under the able stewardship of Paul Scheck, Esq., the uber-successful Bench Bar Conference, with more than 60 breakout sessions and participation by more than 60 judges – county, circuit, appellate, federal – including a standing-room only session featuring three chief judges.

There were a number of heroes from our bar and amazing staff putting this together – but one previously unsung hero must now have the lyrics for his role penned. Chief Judge Belvin Perry, Jr., was instrumental in every possible way. How do you really get 60 judges to participate? Get the first one to be Belvin Perry. From there, the rest follows as surely as the day the night. An active and supportive chief judge means that other judges will follow the example, that other chief judges will heed the call to participate, that an entire courthouse will essentially close for the day to allow everyone, bench and bar, to be at the conference. That is leadership. And that is Belvin Perry.

Is the Bench Bar Conference the only example? Hardly. Support for the bar's professionalism programs, including supportive administrative orders? Belvin Perry. Our Residential Mortgage Foreclosure Program, helping thousands of struggling homeowners – and the lenders who would rather receive payments than underwater deeds? Belvin Perry. Countless times where the bench or bar needed support? Belvin Perry always answered the call.

But now we must look forward. You, dear reader, have an advantage over me. Writing for *The Briefs* involves time travel. My words must be cast weeks or months before they reach you, meaning you know which wise jurist has been selected by his or her peers to fill Judge Perry's shoes. And I am certain that the new chief judge

Strength in leadership

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Thank you, Judge Perry

– my selection to join our clerk of courts as September's speaker, sight unseen – will do a tremendous job with the role. I look forward to working with our new chief judge

to attack the issues that confront the bench and bar, interconnected entities that stand together for our profession.

Which returns me to my opening line. Our bar has already taken a position, loud and clear, that the judiciary within the Ninth Judicial Circuit should be free to choose whomever they wish to be chief judge. This role is vital, not only for our bar, but for our bench as well. Chief Justice Roberts famously referred to the role of judge as being akin to an umpire, calling balls and strikes. That may generally be true for most judges – but not for the very different role of chief judge. The chief must be an advocate for an entire circuit, working with the powers that be throughout the executive and legislative branches. The third branch of government may be their constitutional equal, but maintaining that equality requires persistence and presence, qualities Belvin Perry brought to the office for nearly two decades.

Despite strong opposition by way of a resolution from our bar (crafted as though written by an appellate attorney) and the personal comments sent from myriad judges, the high court determined it best that term limits – requested by no committee or vote of any bar – should exist for chief judges. As a result, our judiciary no longer had the choice available to them to re-elect Belvin Perry.

Maybe I'm just jealous. Nearly every bar president for the last two decades has gotten to work with Belvin Perry. I do, however, get a fresh opportunity to work with a new chief judge, with the goal that the interconnectivity between bench and bar, so strong with Belvin Perry, is maintained or even strengthened now. To do so, I ask the bar to rise with me to support our new chief judge in the lofty work that lies ahead.

Nicholas A. Shannin, Esq., Board Certified Appellate Attorney at Shannin Law Firm, P.A., practices appellate and governmental law and serves as a Certified Circuit, Appellate, and Federal Mediator. He has been a member of the OCBA since 1994.

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Phil Rawlins is founder and president of Orlando City Soccer Club. He is responsible for all aspects of club performance and service.

The Orlando City Soccer Club is an American professional soccer team based in Orlando. They currently play United Soccer Leagues (USL) – the third tier of the American soccer pyramid – and have been announced as a Major League Soccer (MLS) expansion franchise for 2015. The club will be the first MLS franchise located in the state of Florida since the Miami Fusion Football Club and Tampa Bay Mutiny folded following the 2001 Major League Soccer season.

Originally from the United Kingdom, Phil has been living in the U.S. for more than 20 years and became a U.S. citi-

zen nine years ago. Before becoming involved in pro sports, Phil founded and developed a highly successful sales and marketing consulting company that worked with most of the world's leading hi-tech companies.

He has more than fifteen years of sports team management experience and was an owner and director of his hometown team, Stoke City Football Club, which played in the English Premier League (EPL).

Phil was voted Orlando's Downtowner of the Year in 2013 for his services in helping develop downtown and was honored by the Metropolitan Business Association of Orlando, Central Florida's LGBT Chamber of Commerce, as Community Champion 2014.

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The Hon. Faye L. Allen

Remarks upon Receipt of the 2014 James G. Glazebrook Memorial Bar Service Award

It is my distinct honor and privilege to have been selected as the recipient of the James G. Glazebrook Memorial Bar Service Award. I had the privilege to personally know Magistrate Glazebrook. Like many others in the legal community I had a great respect for the man he was and the legal professional he represented. Because I knew him, I am even more deeply humbled to have been selected for this award. This recognition is also significant to me because it is an award from my peers. There is no greater honor than to be recognized by the attorneys and judges who are my colleagues in this noble profession. My desire today is to live up to the merit that this award represents, as I believe that each one of us has a mandate to reflect positively on the profession.

I graduated from the Florida State University College of Law in 1990. As I reflect on the many years that have passed, I am grateful to have been so blessed on my professional journey. I believe that no one achieves success alone. I have stood on many strong shoulders while striving to make a difference, and I am not an example of professionalism because of my own actions. I surely stand here today as a direct result of the foundation that was laid before me and the support I have received from others.

I am grateful for the people who have shown me support and inspiration over the years. I would like to thank each one personally, but that is not possible. I am grateful for my family, especially my parents, who supported me even with no one for them to look to for guidance. I am profoundly grateful for my daughter who inspires me to continue working diligently for the future of this profession, as she has chosen to follow in my footsteps and become an attorney.

Thank you to the selection committee and to those who nominated me. I know the choice was difficult. I have many judicial mentors to thank, and I will name a few of them, including my first judicial mentor, Senior Judge John Adams, who has always provided counsel and guidance to me. I also thank others, like Judge Jose Rodriguez, Judge Alice Blackwell, Judge Deb Blechman, Judge Reginald Whitehead, and Judge John Kest. Each of these judges has provided valuable insight into how to do this job with professionalism and compassion.

I am absolutely grateful for my judicial assistant, Tanya Randall. Without Tanya my life as a judge simply would not be the same. She is, without exception, the most organized person I know and she is a blessing to me. Tanya diligently keeps me orga-

nized so that I can do my job on the bench as well as find time to serve in the community. It is only when I do not follow her sage suggestions on efficiency that I get into trouble.

I also want to thank others, including many attorneys with whom I have worked over the years. Our community is fortunate to have a prevalence of hardworking attorneys who give liberally of their time. I have worked with many of them on Law Week, Pathways-In-Law, Inn of Court, Justice Teaching, mock trials, and many other endeavors. Although they are too numerous to mention, I want to thank one attorney in particular, Richard Dellinger, Esq., former president of the OCBA Foundation. I am grateful to have worked with Richard on the Foundation and in other capacities. I particularly thank Richard for fostering the relationship between the Foundation and the Justice Teaching Program. Richard is truly a leader within the ranks of the legal profession and an inspiration to the next generation of attorneys.

The work that we do as legal professionals can be incredibly difficult. Many of you know me. You know that I serve as the Ninth Judicial Circuit Liaison for the Justice Teaching Program, that I have served many years on the OCBA Law Week Program Committee, and that I often go into schools and the community to educate others about the work we do. What you may not know is what motivates me and why professionalism is so important to me.

I have a deep and abiding respect for the legal and constitutional principles that our country stands upon, the strength of advocacy, and the belief that we are a nation of laws, not persons. My motivation in this profession stems from the truth that much has been given to me in order for me to be an integral part of the legal system. My desire is to be a good steward of the foundation that has been laid before me. I want to ensure that every person who desires to become a lawyer or judge has the opportunities I did. I am equally driven to the cause that all persons have equal access and a greater understanding of the courts and that there is diversity within the system.

Professionalism is defined by Merriam-Webster as the conduct, aims, or qualities that characterize or mark a profession. To me, professionalism for a judge in that context is simply endeavoring to leave a legacy of substance for lawyers and law students who are the future of this profession. This is not specific to one person. We can all have a positive impact if we are aware that we have much to of-

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fer and that each one of us is in the best position to offer it. Each day we have the opportunity to take what others may view as a negative, perhaps even the worst quality of the law, and shift the negative perception into a positive one. Also, we can all work in concert with our peers and colleagues to be civil and act professionally. We must maintain a consciousness that our practice and actions reflect on us today as well as on the future strength of the legal profession.

It was deposited within me to aspire to become an attorney at a very young age, and I never seriously considered any other professional course. Yet, as a young student, I had no mentor – no one to even tell me that I could not go directly to law school from high school. There was no attorney to advise me to prepare to take the LSAT and a prep class to increase my success on the LSAT. So, despite my commitment to this course, there were many opportunities for me to fail or deviate for lack of knowledge. I once heard a speaker who inspired me to think about why our youth do not understand that a legacy has been passed on to them. I am not really certain what the answer to that question is; however, I think adults, as mentors, have to at least question whether we are doing all we can to lay a foundation for the success of those who are still in the formative stages of their lives and careers.

There are so many opportunities for our youth to become misdirected or, in terms of the legal profession, for young attorneys to make errors in judgment. Perhaps the intensity with which we engage in our roles can disconnect us from those who are just starting out. Everyone can use a mentor and everyone here, at some point, has benefited

from having a role model. Now, perhaps it is we who are the images of knowledge and professionalism. We are the teachers. Although neither you nor I may have set out to become a role model, when others look to us for guidance that is what we become.

When speaking on the topic of becoming who you were meant to be, novelist and poet Maya Angelou stated:

[I] teach all the time, as you do and as all of you do – whether we know it or not, whether we take responsibility for it or not. I hold nothing back because I want to see that light go off. I like to see the children say, “I never thought of that before.” And I think I’ve got them!

One of the most significant moments in my life was when my daughter, Anika, told me that she wanted to become an attorney. Never before in my life had I experienced my heart physically swelling with delight. My heart literally expanded in my chest cavity not with hubris, but, rather it was an unexpected physical manifestation of being told by my beloved daughter, “I admire your work as an attorney and judge so much so that I want to be like you.”

My daughter and I are close. She knows that being an attorney and judge has not been easy. She imparted to me that *knowing* it was not easy, *knowing* of the obstacles – somewhere along the way she developed a respect and admiration for the work she saw in my life. This was an unforgettable moment for me.

Another profound moment occurred right here in this very room. A few years ago, after I had announced the winners of the Law Week poster and essay contest, a young 15-year-old boy, along with his grandparents, approached me. He told me he had

dropped out of school but that he was inspired to go back after seeing the program and seeing me as a model to whom he related in some way. As much as I may have inspired him that day, he inspired me more – to continue working in the community so that the positive stories of this profession are the lasting legacies I share with the next generation.

I believe that if people don’t understand how the justice system works, they won’t trust it, nor will they respect the courts. This is one reason that diversity is so important. With the number of attorneys in our country, no young child or teenager should have to dream about being an attorney or judge without having the benefit of meeting one.

I am so grateful for the faith of my parents, particularly my mother, who was unwavering in her faith and support, that somehow, I could accomplish the dream of becoming an attorney, and later on the faith of my father when I set my goal on becoming a judge. My parents taught me that there are two types of laws in this world – those that are made by a higher authority and those that are human-inspired. It was further instilled within me that each type of law was equally important.

I became fascinated with the intersection of the laws of God and man and how there are more similarities than disparities. I wanted and needed to explore that dynamic intersection of natural law and jurisprudence and philosophical and religious foundations upon which our laws stand. And my parents, as good parents should, encouraged me – that even though I was from a poor family of humble heritage, so poor that working in the fields of Quincy, Florida, was the staple of our existence – and neither my parents nor I had ever met anyone who could serve

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Judicial RelationsCommittee



Richard S. Dellinger, Esq.



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Report from the Orange County Bar Association's Judicial Relations Committee

On May 28, 2014 the OCBA Judicial Relations Committee met at the Orange County Courthouse, 23rd Floor Conference Room. During the meeting, the administrative judge for each division of the court gave a report on his or her division.

Judge Lisa Munyon provided the report from Circuit Civil. The caseload in her court has reduced. The total volume of residential foreclosures is down from 32,000 to 15,000. The judges are hopeful that the foreclosure backlog will be cleared by the end of the year. Historically, each circuit civil judge carries a caseload of around 5,000 cases per judge. Because of the high caseload per judge, Circuit Civil remains very busy and trials are being set approximately 1.5 years out. The limited amount of courtroom space is a factor in the backlog. The county has been working with the court to build out a few of the floors for backup courtrooms. This should increase the availability of courtrooms and more expeditiously bring cases to trial.

Judge Frederick Lauten presented the report from Circuit Criminal. This court recently welcomed the return of Judge Marc Lubet. He is replacing Judge Heather Pinder Rodriguez, who has been transferred from the Criminal to the Domestic Relations Division.

Judge Thomas Turner presented the report from the Juvenile Division. The court is seriously considering placing a service dog at the courthouse on East Michigan Street. This dog will be used to help put child victims at ease during forensic interviews. The courthouse dog will be donated by Canine Companions for Independence or Companions for Courage program. If implemented, the program would be modeled after similar programs in Tampa and Tavares.

Judge Steve Jewett presented the report from County Criminal. The Veterans Court is running well and will soon have its first set of graduates. The success at the Veterans Court is due in part to a streamlining of the referral process by the remaining judges. Judge Tanya Wilson has been appointed to the bench by the governor and will replace Judge Greg Tynan (who was elevated to the Circuit Court). County Court Judge Deborah Ansbro will retire later this year and the seat will be filled by election.

The report from the Clerk of Court was provided by the new chief administrative clerk, Kathy Balboa. On June 20th the clerk's e-portal was

updated, allowing orders signed by judges to be available for filing by judges and judicial staff.

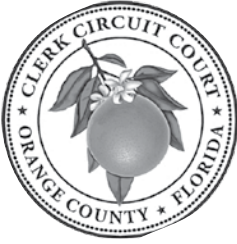
Assistant State Attorney Mark Wickstrum, Esq., provided the report by the Office of the Ninth Circuit State Attorney. Their office continues to implement a vertical process for handling cases and the results have been favorable. During the committee meeting, there were questions about the vertical process as applied to defendants who have multiple cases with multiple judges. The assistant state attorney reported that in those situations his office would try and move all related cases to the state attorney – with the lowest caseload – who is holding a related case. On an unrelated note, the office continues to have a high level of turnover, with approximately three to four resignations a month. This has been common in the office and presents a challenge for management in filling these open positions.

The committee welcomed a special guest from the Federal Court: Carlos Perez, Esq., the Chief Assistant U.S. Attorney in the Orlando office of the U.S. Attorney for the Middle District of Florida. Carlos first congratulated former AUSA Tanya Wilson, Esq., on her appointment to Orange County judgeship and stated that his office's loss is Orange County's gain. Carlos also reported to the group that federal prosecutors want to continue to cooperate when there are competing interests between state and federal prosecutions. Prosecutors and judges on the committee were advised that the U.S. Attorney would cooperate with state authorities in remanding potential defendants to federal custody for federal prosecution and vice versa. All present indicated willingness to work cooperatively for the sake of justice.

The Orange County Bar Association reported on various programs, including the New Lawyer Training Program, Orange County Bar Association Foundation programming, Legal Aid programming, the YLS Great Oaks Village Day, upcoming Orange County Bar Association and YLS lunches, the YLS Afternoon at the State Courthouse, and the Judicial Candidates Forum at the July 24, 2014 luncheon.

At the time this article was submitted, Eric Reed, Esq., was the Judicial Relations Committee chair; Camy Schwan-Wilcox, Esq., the vice-chair; Gisela Laurent, Esq., the treasurer; and Richard Dellinger, Esq., the secretary. Eric was recognized for

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Clerk Fernández Implements eRecording System

Orange County Clerk of Courts Eddie Fernández, Esq., recently worked with the Orange County Comptroller's Office to implement an eRecording system that will enhance the efficiencies of both offices.

The new process enables deputy clerks to electronically transmit official records to the comptroller's office. The process eliminates the laborious and costly process of copying and mailing hundreds of pieces of paper a day. Those records include final judgments, civil case dismissals, and marriage licenses, just to name a few.

"I'm very happy we were able to work with the comptroller's office to launch this much more efficient and cost-effective process," Eddie said.

In other good news, the Florida Department of Law Enforcement recently awarded the clerk's office a 100 percent accuracy rating following its Florida Computerized Criminal History (CCH) audit.

The clerk's office provided FDLE with samples of arrest affidavits, fingerprint cards, and final court dispositions, which were compared to the corresponding records in the CCH database. The purpose was to determine the percentage of errors and discrepancies. All of the records matched.

FDLE emphasized the importance of accurate criminal history information in making informed decisions regarding firearm purchase eligibility, concealed carry weapon permits, and certification and licensure for certain sensitive professions.

"We are pleased with the result of the FDLE audit," Eddie said. "A major responsibility of our organization is to be the keeper of the record. It is imperative that the records we manage are accurate and up-to-date."

Submitted by **Leesa Bainbridge**, director of communications and public affairs, Clerk of Courts office.

InnSider

The Judge William Wieland Inn of Court Formed

The workers' compensation attorneys of Central Florida and Workers' Compensation Committee of the Orange County Bar Association are proud to announce the formation of the Judge William Wieland American Inn of Court. Approximately 30 - 40 workers' compensation attorneys have been nominated to become members of the Judge Wieland Inn of Court, and the inaugural meeting was held on June 3, 2014, at Doc's Street Side Grill. Workers' compensation attorneys were nominated for membership based on their character, legal skills, and reputation for legal excellence and ethics.

The America Inns of Court – which is America's oldest, largest, and fastest-growing legal mentoring organization – is rooted in the 800-year-old tradition of the Inns of Court in England. The American Inns of Court was founded in the late 1970s by U.S. Supreme Court Justice Warren Burger to promote increased civility, ethics, professionalism, and training among American attorneys. Currently there are more than 350 recognized Inns throughout the United States of America. The Judge Wieland Inn of Court is only the second Inn of Court for workers' compensation practitioners in the state of Florida, following Jacksonville.

The Inn is named after Orlando judge of compensation claims, William Wieland, who during his lifetime exemplified the highest ethical and professional standards of the workers' compensation community. Judge Wieland was a highly-respected workers' compensation practitioner and

judge of compensation claims, serving the Central Florida workers' compensation legal community from the 1970s through the 1990s. We are proud to have our Inn of Court named after Judge Wieland, who exemplified honor, professionalism, and ethics within our workers' compensation bar.

Judge Neal Pitts has been named the president of the Judge Wieland Inn of Court with Anna Marie Kim, Esq., being named vice president, Glen Wieland, Esq., treasurer, and Clint Lavender, Esq., recording secretary. The Judge Wieland Inn of Court received its charter in January 2014 and held its inaugural formation dinner on March 25, 2014. The Inn of Court plans to hold 4-5 dinner meetings per year with a speaker giving a presentation on a current workers' compensation hot topic and CLE credit being provided. The Inn also plans a mentoring program wherein experienced workers' compensation practitioners are paired with younger workers' compensation attorneys to assist in developing professionalism and the ethical practice of law. Membership in the Inn is by nomination and invitation only, and additional workers' compensation practitioners will be considered for membership on a regular basis.

The Judge William Wieland American Inn of Court is proud to begin its service to the workers' compensation community of Central Florida while embodying the values of its namesake judge of compensation claims.



Lawrence H. Kolin, Esq.

Nuances in Commercial Mediation

In “Practice Tips on Commercial Mediation,” published in July’s issue of *The Briefs*, I shared some practical tips on commercial mediation. This article – a continuation of last month’s topic – will explore the subtle distinctions in mediating business disputes as opposed to other types of litigation.

Relationships

Most business disputes result from the breakdown of a relationship. Commercial mediators with persistence are often able to ascertain the root of that breakdown. Just as in family law cases, there are typically underlying relationship issues. While it is conventional wisdom to try and separate the personal from the business issues, it is often the interpersonal that needs to be overcome to get to a satisfactory resolution.

Demeanor is also important to the process, and greeting adversaries without hostility goes a long way toward getting the ball rolling. Although parties through their counsel do present positions persuasively, it is best to avoid emotionally charged language or theatrics. For commercial litigation, the atmosphere at mediation should be more like negotiating a complex business deal than making closing arguments. Competitors may even end up becoming partners at the end.

Businesspeople typically view the financial aspects of a case in dollars and cents. However, commercial mediators often succeed by exploring creative, global, nonmonetary resolutions in cases that may seem to pursue only monetary claims. Communication can bring business relationships back to life. Parties might even agree to continue doing business on new, mutually acceptable terms. It is common for parties in intellectual property cases to enter into win-win licenses or royalties, or agreements not to challenge the validity of such rights in the future.

Strategy

Determining opening postures based on the result a business client seeks for a joint session can be dangerous. While probably the first opportunity in the mediation to convey to the opponent he or she faces a formidable adversary capable of litigating the case to conclusion, there are benefits to both parties acting sensibly at the outset of a commercial mediation. Whether clients say anything during the joint session should really be decided in advance. A sophisticated and well-prepared party may appear reasonable, convincing, and even speak better about a particular point than counsel. A sharp

mediator will encourage the parties to save nothing for trial. It is also important to acknowledge weaknesses where they exist and explain why anticipated weaknesses might not really exist. Reasonableness and willingness to listen must prevail if a mutually acceptable outcome is to be had from the process.

The goal is to create movement, albeit sometimes through subtle changes in position, toward a settlement. Tracking the progress of the negotiations in terms of time and money can be useful, but there is an overemphasis on midpoints that often sabotages what otherwise might be a good deal, despite where it appears the settlement is heading. Skilled mediators make regular pulse checks and remind clients that negotiation takes time. They are always working in one room or the other, continuing the process and getting decision makers to consider the next move. As the mediation progresses, creative solutions can arise as information and documents are authorized for sharing with the other side. Additionally, in some commercial cases, there may be a point in the mediation where the lawyers acquiesce to the two principals meeting by themselves, reaching a deal without counsel being present.

Multi-party Cases

Commercial cases can have many participants, and not visiting those participants frequently can lead to frustration and aggravation directed to the process and even the neutral. Crucial to maintaining the trust of the parties during negotiations is the feeling that the parties are having their position heard and transmitted to the others involved in negotiations. Though some litigants may have deeper pockets or are alleged to be more at fault, the smaller players deserve attention as well. After all, they are in a lawsuit and have appeared to help extricate themselves from it, just like the rest of the parties seeking finality.

Impasse

Of course, there are many effective strategies to break an impasse, but they have become overused and gimmicky. The bracket, the mediator’s proposal or silver bullet, have all been seen. Creativity is case-specific, and recognizing that a good settlement is probably one with which neither party is delighted, but that both parties can accept (even for very different reasons), is still a good rule of thumb. Value in a case can be affected by many factors beyond the merits, such as the expense and disruption of litigating all the way to trial, insurance coverage, personal exposure of a party’s representative, reputation concerns, publicity, reported

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Michelle Jernigan, Esq.

How Clients Think: The Brains Behind Decision Making – Part 3

We will shift away from cognitive biases and explore the impact of emotion and mood on decision making, but, first, a few words about reasoning by analogy and intuition. So far, in parts 1 and 2 appearing in the June and July issues of *The Briefs*, we have concentrated on multiple cognitive biases that play a part in decision making, but now we must acknowledge the key influences of our “feelings.”

Reasoning by Analogy

Reasoning by analogy occurs when we assess a situation and then liken it to a similar situation we have seen in the past. It can be a very powerful tool in that it saves time, since we are not starting from scratch. There is a cognitive trap with this technique – we tend to focus on similarities and ignore differences.

Two business examples will prove illustrative. Prior to the 1980s, most office-supply stores were small mom-and-pop businesses. Then, Tom Stemberg, Staples founder, created his well-known office super stores, analogous to the evolution from grocery stores to supermarkets. In the 1990s, after more than a decade of success, Staples created a dry-cleaning business, Zoot, based on belief in a parallel between the office supply business and the dry-cleaning business.

Staples saw a fragmented dry-cleaning industry, with multiple mom-and-pop dry-cleaning businesses.

Staples analogized the centralized distribution in the office-supply business to the centralized production in the dry-cleaning business, assuming that centralization would work well in dry cleaning, just as it had in office supply. Zoot folded in 2008 and was sold off in pieces. Staples had failed to take into account that dry cleaners customize locally to suit the particular needs of the customer. The two business models were not analogous.¹

To combat the detrimental effects of these biases, Richard Neustadt and Ernest May recommend that we create two lists – one for describing all the likenesses between two situations and one for describing the differences.² Then indicate whether the items on the list are known, unknown or presumed. Examine these lists, and they will assist you in determining whether the analogies are appropriate and whether they are based on known facts or assumed facts.

Intuition

Intuition is nothing more than pattern recognition and pattern matching based on our past experience.

People use intuition all the time. Nurses employ intuition when a patient doesn't meet certain criteria for cardiac arrest, but something “just didn't feel right.”³ Firefighters do not have time to explore all alternatives before selecting a specific course of action. They base their decision making on certain cues that are available to them. With intuition, we assess a situation and identify certain cues. From those cues, we recognize patterns based on our past experiences. Then we match the current situation to past patterns. Intuition is a helpful tool, but it can lead us astray when we move outside of our experience base. We can fall prey to a misuse of analogies. Sometimes the complexity of a situation obscures our pattern recognition ability. Other times we use outdated mental models, and occasionally we fail to question well-established rules of thumb when we should.

Consider the following example of a firefighter who used his intuition. He appeared on the scene of a situation that presented as a kitchen fire. Certain cues or aspects of the situation did not line up with this firefighter's prior patterns of experience in fighting fires of that type. He knew that something did not “feel right.” Based on his intuition he ordered his men to leave the residence. Thereafter, the floor collapsed. The firefighter's intuition proved correct, as this was not a simple kitchen fire. Rather, the fire emanated from the basement and was much more serious and comprehensive than a kitchen fire.⁴

Lawyers should trust their intuition when something about their case doesn't “feel right.” Use this intuition to prompt you to further examine or explore. Is a witness lying? Is there a case out there that supports or rebuts your position? Is your theory of the case going to “sell to a jury”? Most of the time when something “just doesn't feel right” there is a reason for it – our intuition is informing our cognition.

Emotion and Mood

What is the impact of emotion and mood on decision making? Anger triggers a biological fight or flight (fear-driven) reaction that impairs rational decision making. Yet, emotion plays a role in almost all decision making. The amygdala, which consists of two almond shaped sets of neurons in the brain, processes emotions and acts as radar for the brain, calling attention to stimuli that are either pleasurable (reward) or threatening (fear). The amygdala has a high level of connectivity with other parts of the brain and renders its conclusion of fear or reward rapidly and unconsciously through feelings, not thinking.

Daniel Coleman, in his book *Social Intelligence*, describes this as the “low road” and distinguishes it from cortical thinking, which he describes as the “high road.” “The low road can be seen as ‘wet,’ dripping with emotion, and the high road as relatively ‘dry,’ coolly rational. The low road traffics in raw feelings, the high in a considered understanding of what’s going on.”⁵ The lesson to be gleaned is that there is no way to separate emotion from rational decision making.

Emotions should be considered in negotiation and mediation. They need to be acknowledged and then directed to the task at hand. In mediation, we view the expression of emotion prior to “getting down to business” as venting. Emily Fusting, in her article titled *Making the Brain a Friend Not a Foe: What Interventionists Should Know about Neuroscience*,⁶ suggests there should be sufficient space in terms of time between venting and rational decision making in mediation. This is because venting can induce the emotion of fear, which is extremely powerful in the neural network, and can inhibit rational thinking. Experienced mediators recognize this and give parties the opportunity to work through emotions prior to engaging in the actual decision making. Experienced lawyers recognize that emotion will play a role in their client’s decision making. A sufficient amount of patience is required by lawyers to shift clients from emotional (reptilian) to rational (cortical) thinking and decision making. Rushing this process may cause the client to move further into fear mode, which will encourage a “fight or flight” response. Calming interventions may be helpful at this juncture: A walk outside for fresh air, something tasty to eat, reassurance or a hug from a friend, or taking the pressure off by informing the client that they do not have to make a decision at this point in time.

Likewise, mood affects decision making. Researchers have discovered that positive moods are associated with better negotiation results and yield more joint gain. Mood scientist Clark Freshman suggests three ways that mood may affect negotiation: “(1) the setting of goals in negotiation, (2) the nature of the relationship between the negotiators, and (3) the strategies the negotiators use.”⁷ Positive moods can be generated by providing food, exchanging pleasantries, injecting humor (when appropriate), increasing cooperativeness, and defusing anger.

Left Brain/Right Brain

The differences between the right and left sides of the brain have been documented by neuroscientists for quite some time. The left hemisphere is the sequential logical side, which processes “facts, details, comprehension, strategies and patterns.”⁸ The right hemisphere is the more emotional and creative side of the brain and processes feelings, goals, risks, imagination, and the big picture. The right hemisphere is also more active in matters of cooperation, empathy, and the types of problem solving associated with collaboration.

One strategy negotiators and mediators can utilize to activate different parts of the brain is to control how information is presented. Consider the following experiment:

Horizontal Math Problem	Vertical Math Problem
75-50=25	75
	<u>-50</u>
	25

Horizontal v. Vertical Math Problems

Female students were presented with the negative bias that women generally perform worse on math tests than men. Then they took two separate math tests, one in which the problems were presented horizontally and one in which the problems were presented vertically, as in the graphic above.

Subjects did, in fact, perform worse when the problems were presented horizontally, but not when the problems were presented vertically. Scientists discovered that this is because the horizontal problems are

processed in the left prefrontal cortex, the area of the brain that is associated with anxieties and is thereby distracted by anxiety. The right prefrontal cortex is responsible for processing the vertical problems and is not distracted by the anxiety of the negative bias.⁹ Since the presentation of information can affect which side of the brain is used to process that information, negotiators and mediators can present information in a way that activates the right brain, the more cooperative side of the brain. It also is thought that the “left brain needs certainty and needs to be right,” whereas the right hemisphere can “hold several ambiguous possibilities in suspension together without premature closure on one outcome.”¹⁰ When a lawyer or mediator wants to elicit a cooperative problem-solving approach it would be wise to present information in a way to engage the right hemisphere of the brain. This can be accomplished in a number of ways. As the above example suggests, when making decisions regarding numbers, utilize vertical problem-solving. Use words that encourage mutuality, understanding, and empathy for one another. Finally, emphasize the joint gains of collaborating, rather than the win-lose of competing.¹¹

Conclusion

Law professor Richard Birke identifies at least thirty-five distinct principles from the fields of cognitive and behavioral psychology that impact the way lawyers negotiate.¹² In this series, we have only touched on a sampling of those that tend to affect and alter rational decision making. We will never be completely rational decision makers because we are human. The more research that is conducted in neuroscience, psychology and sociology, the greater the number of biases and other factors we will discover that influence decision making. We must also recognize that cognitive biases, emotion and mood, and left brain/right brain processes can and will interact with one another.

Our awareness is the key to our understanding. “Understanding will guard you”¹³; “whoever has understanding keeps a straight course.”¹⁴ As we gain more insight into the thoughts and feelings of our clients, we will be in a better position to help them navigate the mediation process. If we come to understand the various decision-making traps that could snare our clients, we can guard against these traps and help our clients make better judgments and decisions.

Lawyers occupy a position of great trust and responsibility; they often hold their clients’ futures in their hands. With this new understanding we will not find perfection, but we may be able to avoid catastrophe.

Michelle Jernigan, Esq., of Upchurch Watson White & Max, was one of the first mediators to be certified by the Florida Supreme Court 26 years ago. She has used her experience to collect and summarize what lawyers need to know about how their clients – and parties who oppose them – make decisions. She has been a member of the OCBA since 1995. This article is being republished with permission of the author.

¹Michael A. Roberto, *The Art of Critical Decision Making*, 26 (2009); Michael A. Roberto, *The Art of Critical Decision Making*, lecture series, tracks 7-12 (2009).

²Michael A. Roberto, *The Art of Critical Decision Making*, at 26 (2009).

³*Id.* at 21-22.

⁴*Id.* at 21.

⁵Daniel Coleman, *Social Intelligence*, at 16 (2006).

⁶Emily Fusting, *Making the Brain a Friend Not a Foe: What Interventionists Should Know about Neuroscience*, Am. J. of Med. 45 (2012).

⁷*Id.* at 52.

⁸*Id.* at 49-50.

⁹*Id.* at 51.

¹⁰See Iain McGilchrist, *The Master and His Emissary* 167 (2009).

¹¹Daniel Weitz, *The Brains Behind Mediation: Reflections on Neuroscience, Conflict Resolution and Decision-Making*, 12.2 Cardozo J. of Con. Res. 486 (Spring 2011).

¹²Richard Birke, *Neuroscience and Settlement: An Examination of Scientific Innovations and Practical Applications*, 25 Ohio St. J. on Dispute Resolution at 478 and 493-496 (2010).

¹³Proverbs 2:11.

¹⁴Proverbs 15:21.

Professionalism Committee

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as a mentor, they believed in me. Even after my mother was rendered a quadriplegic in a horrible accident just two weeks after I graduated from law school, she faithfully directed me to sit for the bar exam and continue on my journey when her life lay in a shattered state.

They had faith that I was smart enough and, even more so, that I was driven enough to exceed the boundaries of poverty and find that a place existed for me in a different world – a world of education, a world of the application of laws and statutes, and judges and attorneys.

They saw in me the positive force that could be a champion for justice, a future public defender, a future civil attorney, and a future judge. They believed I would stand for upholding our human laws to benefit all humanity. They believed I could be a present voice for minorities and that I could stand as a representative of the people they felt most needed a seat at the table so that questions of justice could be asked and answers understood.

So ultimately, it became important to me to foster a positive perception of the courts and the legal system. In doing so, my objectives were realized in that my family has a more positive perception of the courts and the legal system. They do not accept the misconception that all attorneys are interested in financial gain or winning without conscience or scruples. This was an important component to professionalism for me.

The truth is some of us don't understand all of the intricacies of every legal area. A probate or a medical malpractice attorney does

not have the same knowledge of a criminal case as a prosecutor or criminal defense lawyer. A family law attorney does not have the specialized knowledge to handle a foreclosure or landlord tenant case, and absolutely no one understands PIP litigation cases except for PIP attorneys. Because I am very concerned about how our community views the justice system, I believe it is important work to foster a greater knowledge of the courts among lay persons. I sincerely believe that through education and enlightenment, cooperation and consensus, we strengthen the framework of the judiciary and the legal system as a whole.

As of May 5, 2014, according to The Florida Bar website, there were 98,585 members of The Florida Bar. In 2012, according to the American Bar Association, there were over 1.2 million licensed attorneys in the United States. The reason I share these figures is to highlight the incredible opportunity that we, as members of the legal profession, have to impact our community and communities all over this country. Even though there is strength in numbers, numbers are not enough. Our profession is only as strong as we make it. I believe that we do an excellent job of maintaining that strength in Orange County. We will only grow stronger as we continue to grow more diverse and because of the selfless acts that each of you engages in every day.

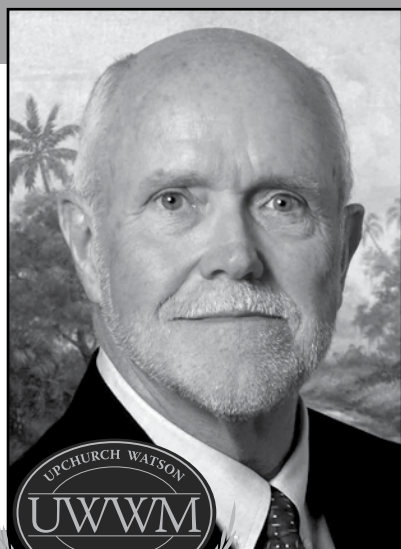
As lawyers and judges, our knowledge, skill, and reputation are our greatest asset. If we do not excel in and nurture these areas, we diminish our individual market value. Even so, I know many attorneys and judges who unselfishly share knowledge with colleagues and those in training to become attorneys. This is professionalism. Moreover, it is the

complete antithesis of the misconception that everyone is for only himself or herself. Helping our contemporaries to become successful is a high mark of professionalism.

Our jobs can be demanding and difficult. All of us are extremely blessed to be a part of the Orange County judiciary and legal community that is well-known for a high level of camaraderie and professionalism. Within the judiciary we have judges who are willing to support their colleagues when needed. It has been said that a chain is only as strong as the weakest link. The legal community in Orange County is stronger because, if there are weak links, the strong are willing to serve as a bedrock and foundation by mentoring and teaching others.

I am proud that I have stood on the strong shoulders of some wonderful people who care about the legal profession. Today, I feel a personal pride in being a part of this profession that gives so much to so many. I cherish the opportunity to make a difference in the lives of others, and I will continue to work with each of you to benefit our noble profession.

The Honorable Faye L. Allen, Ninth Judicial Circuit, serves on the OCBA Foundation Board, has dedicated nearly ten years of service to the OCBA Law Week Committee, is co-founder of the Pathways-In-Law program for youth, and has served on the committee that developed the community outreach program, Leadership Law. She has been an OCBA member since 2003.



Howard R. Marsee

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Hon. Emerson R. Thompson Jr.

Senior Judge Emerson R. Thompson, Jr. Takes Office as President of The Florida Bar Foundation

Senior Judge Emerson R. Thompson, Jr. took office July 1, 2014, as president of The Florida Bar Foundation, a statewide charitable organization whose mission is to provide greater access to justice.

Judge Thompson has been on the Foundation board since 1995 and previously served from 1991 to 1993. He has chaired or been active on numerous Foundation committees, including the executive, investment, Medal of Honor Award, finance and audit, legal assistance for the poor/law student assistance, and improvements in the administration of justice committees.

Prior to his retirement in 2008, Judge Thompson served as a county, circuit, and appellate judge. He was appointed to the Fifth District Court of Appeal in 1993 and served as chief judge from 2000 to 2003. Before his appointment to the appellate bench, he was a trial judge in the Ninth Judicial Circuit and was elected chief judge of the

Ninth Judicial Circuit by his colleagues, serving in that capacity from 1989 to 1991. In 1994, he was one of three finalists whose name was submitted to Gov. Lawton Chiles for appointment to the Florida Supreme Court.

Judge Thompson received his law degree from the Florida State University College of Law and his bachelor's degree from the University of Florida. He is a founder and former president of the First Central Florida American Inn of Court. He is an active lecturer and former adjunct professor at Valencia College in Orlando and an alumnus and former faculty member of the National Judicial College.

Judge Thompson is a Fellow of The Florida Bar Foundation and a member of its Bronze Society for lifetime giving.

Submitted by **Nancy Kinnally**, Director of Communications, The Florida Bar Foundation.



Matthew G. Brenner, Esq.

Orlando Attorney Matthew Brenner, Esq., to Serve as Second Vice President of The Florida Bar Foundation

Orlando attorney Matthew G. Brenner, Esq., took office July 1, 2014, as second vice president of The Florida Bar Foundation, a statewide charitable organization whose mission is to provide greater access to justice.

Matthew was first appointed to the Foundation's board in 2008 and has served on the its development, finance and audit, executive, and Improvements in the Administration of Justice Grant Program committees.

A partner with Lowndes, Drosdick, Doster, Kantor & Reed, P.A., where he has practiced for 29 years, Matthew specializes in the areas of real estate and banking litigation. He is a graduate of Colgate University and earned his law degree from the College of William & Mary. Through the Legal Aid Society of the Orange County Bar Association, Matthew has been involved in a variety of *pro bono* cases, most re-

cently assisting as a Guardian ad Litem attorney for abused and neglected children. The Orange County Bar Association has recognized him for his *pro bono* service several times. In 2006, Matthew received The Florida Bar President's Pro Bono Service Award for the Ninth Judicial Circuit, and in 2012 the Orange County Bar Association recognized him with the William Trickle, Jr. Professionalism Award.

Matthew is admitted to practice in all three U.S. District Courts in Florida; the U.S. Court of Appeals, 11th Circuit; and the U.S. Supreme Court. He is a Florida Bar Foundation Fellow.

Submitted by **Nancy Kinnally**, Director of Communications, The Florida Bar Foundation.



Donna Anne Haynes

Education 101: One Child at a Time

Tenesia C. Hall, Esq., is a staff attorney with the Legal Aid Society of the Orange County Bar Association. She currently works in the Guardian ad Litem (GAL) program as an educational advocate educational advocate for abused, abandoned, or neglected children in Orange County's juvenile dependency system.

Tenesia comes from a family of public servants that include social workers, ministers, and teachers. As a result, the importance of public interest work was instilled in her at a very young age. When I asked why she wanted to practice law,



Tenesia C. Hall, Esq.

Tenesia recalls, "At 8 years old, as I watched an episode of *The Cosby Show*, I decided I wanted to be an attorney. To me, it was a well-rounded show with a strong family unit that provided insight on life's issues while being both comedic and poignant. Phylicia Rashad, portraying Clair Huxtable, taught me wisdom beyond my years and, as a role model, was an example of a good mother and successful attorney."

Eight-year-old Tenesia recalled that, as a lawyer in a show, Clair Huxtable was fair and rarely lost any arguments. This has been the example Tenesia set for herself.

Tenesia began her Legal Aid career as a Florida Bar Foundation Legal Services Fellow. After law school, she came back as an Equal Justice Works Fellow. In that role, she gathered, researched, and evaluated current family law issues, recommended improvements to Legal Aid's family law delivery model, and developed plans for their implementation. For ten years, Tenesia worked with various domestic violence and other community service agencies to provide much-needed family law representation, community education, and outreach services.

For the past three years, Tenesia has been working in our GAL program, advocating for the best interests of dependent children, providing support services to *pro bono* attorneys, and conducting community education and outreach. Her goal is to assist Orange County foster children overcome barriers to educational success. The scope of Tenesia's education work involves preventing future homelessness, criminality, drug abuse, and/or unemployment, thereby leading to greater self-sufficiency for dependent children when they

leave foster care. Florida's high school graduation rate is among the lowest in the nation. Children aging out of Florida's foster care system are less likely to graduate or to obtain a college degree than other students. A majority of foster children are in need of special education services.

Children's basic needs in foster care are addressed immediately. They are clothed and fed. They visit a doctor, dentist, and psychiatrist, if needed. The bruises of the soul or body are what propel the "system" into action through its first-round responders. While many look at the emotional and physical trauma that brought these children into care, the education attorney looks at the children's potential.

As Legal Aid's education attorney, Tenesia collaborates with GALs, school districts, dependency case managers, and caregivers to secure the services necessary to improve educational outcomes for foster children. She helps by securing educational decision makers, obtaining effective special education services, responding to school discipline matters, assisting with school enrollment, and advocating for school stability. Annually, her educational advocacy helps more than 600 of Orange County's dependent children.

Tenesia reviews the education records for all LAS-appointed children in foster care. "Mike" was placed into foster care because his adoptive mother passed away. Mike had severe mental health and behavioral issues. No one, not even a family member or friend, was able to care for 12-year-old Mike. Can you imagine the grief of losing a parent coupled with the feeling that no one wants you? Mike entered foster care and was continuously moved from home to home and school to school. While conducting a routine review of Mike's file, Tenesia discovered that Mike's foster parent was having problems enrolling 15-year-old Mike in a school for children with special needs. Tenesia notified the GAL and, after collaborating with everyone involved, Mike was enrolled in an appropriate school.

Every child is in need of an educational decision maker. Usually that is a parent. Since Mike didn't have a parent, his GAL became his court-appointed educational surrogate parent. She advocated for the necessary special education services. Today, at 16 years of age, Mike's life has changed. For the first time in four years, Mike attended

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Catherine A. Tucker, Esq.

Legal Aid Honors Pro Bono Attorneys

In 2013, volunteer attorneys provided free legal services to over 1,100 new clients. They handled a variety of cases – bankruptcy, evictions, divorce, immigration, housing foreclosures, and guardianships. They served as a Guardian ad Litem for over 1,300 children. Besides casework, volunteer attorneys provided services through 10 projects and helped with wills, taxes, Teen Court, alternative dispute resolution, teen parents, and homelessness. Attorneys also contributed \$421,000 through the in lieu of service contribution and over \$100,000 in contributions to the Breakfast of Champions.

The Judge J. C. “Jake” Stone Distinguished Service Award is the highest *pro bono* recognition from Legal Aid. It is named for the late county judge, and winners must

have made outstanding contributions over their careers primarily through casework. Edward R. Alexander, Jr., Esq., received the award this year. Ed, of the Entrepreneurship Law Firm, P.L., has been a Guardian ad Litem for over 20 years. He has handled 58 cases and donated over 700 hours on closed cases. He is known for his desire to look beyond the minimum and at the quality of life issues for his children.



Edward R. Alexander, Jr., Esq.

The **Law Firm Award of Merit** is presented to the firm whose firm members have provided significantly

during the past year and over the firm’s history. This year we recognize GrayRobinson, P.A. For over 30 years the firm has supported Legal Aid. As the firm grew and merged with others, each successive entity continued the tradition of joining the OCBA and supporting Legal Aid. The firm and individual members have supported the Breakfast of Champions, and members have supported LAS on management and administration issues and legislative issues important to our clients and children. R. Lee Bennett, Esq., accepted the award on behalf of the firm.

Individual Awards of Merit are presented in three groups and acknowledge the exceptional contributions and unique work associated with each group. Awards are given to Guardians ad Litem, case handlers of other cases, and project attorneys. The awards recognize the attorney’s individual contributions and unique work.

Awards of Merit for Guardian ad Litem were presented to Harold E. Morlan II, Esq., and Gregg A. Page, Esq.

Hal, with Fisher Rushmer, P.A., and Gregg, with Page Eichenblatt & Bennett, P.A., have each served as a GAL for over 25 years.

“Pro Bono Champions” are recognized for their outstanding work on cases in other areas. Aubrey Harry Ducker, Jr., Esq., and Michael E. Morris, Esq., were recognized for their work in family law and housing.

Attorneys who work with one of the *pro bono* projects were recognized. Three attorneys, Greg McMahon, Esq.; Frank H. Killgore, Jr., Esq.; and P. Thomas “Tommy” Burroughs, Esq., were presented with an Award of Merit.

Greg McMahon, Esq., with Koleos, Rosenberg & McMahon, PLLC, was recognized for his work with the Citizen Dispute Settlement Program (CDS). Frank H. Killgore, Jr., Esq., with Killgore, Pearlman, Stamp, Ornstein & Squires, P.A., was recognized for his work with Teen Court. Tommy Burroughs, Esq., with Holland & Knight, LLP, was recognized as the primary force behind the creation of the OCBA’s Veterans Committee, the opening of the Veterans Court in the Ninth Judicial Circuit, and the creation of the VALOR Project of Legal Aid.

The **New Lawyer Award** is presented to an attorney within the initial five years of his or her practice in Florida who has made an outstanding commitment to *pro bono* work. Jamie Blucher, Esq., and Kelli Murray, Esq., were recipients of the award. Jamie, with Zimmerman, Kiser & Sutcliffe, P.A., has served as a GAL since joining the bar in 2010. Kelli, Barry University School of Law, has handled family law and GAL cases since joining the bar in 2010.

The **Volunteer Advocate for Children Award** is presented annually to a lay volunteer in the Guardian ad Litem (GAL) Program. VACs work with GALs on individual cases. This award recognizes the VAC who has demonstrated their dedication to serving abused and neglected children in our community. Patricia A. Cannon received this year’s award.

A **Law Student Award of Merit** is given to acknowledge the wonderful work of law student volunteers at Legal Aid. The winner is recognized

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Tenesia C. Hall, Esq.

School Enrollment: A Primer

When the Department of Children and Families suspects that a child has been abused, abandoned, neglected, or threatened with immediate harm by a caregiver, that child is taken out of the home and “sheltered.” Within 24 hours of the child’s initial removal, a shelter hearing is held for the court to determine whether probable cause exists to keep a child in shelter status pending further investigation of the case. Once an affirmative determination is made, the court inquires about the child’s current placement, parental visitation, child support, services, and counseling. Unless the child has an ongoing truancy case as a result of excessive school absences, the trauma that led to the shelter occurred at the school, or it is standardized testing time, dependency parties rarely address the child’s educational status at shelter. Permission is granted for all parties to have access to the child’s education records. Even though the dependency system exists to rehabilitate parents and heal any trauma to the child, rarely is it asked whether the child is going to remain in the same school or whether the child’s transition between schools requires special attention. Fortunately, Guardians ad Litem (GALs) may advocate for *all* of the child’s best interests, including educational needs.

Once appointed, the GAL program reviews any possible issues that the child might have. As the education attorney for Legal Aid’s GAL program, I review educational records for all new dependency court appointments for all children currently residing in foster care. I look for school stability, appropriate school placement, an identified education decision maker, any special educational services, grade-level performance, standardized test scores, attendance records, school discipline issues, and whether the child has a defined education and/or career path.

Prior to conducting education evaluations, we need to know which school the child attends. Unfortunately, we sometimes find children who have trouble enrolling in school, face difficulties remaining in their current school, or have not attended school in a significant amount of time.

Educational stability is critically important for children. Research shows that children lose an average of four to six months of educational attainment each time they change schools. Children should be enrolled in school within 72-hours of placement. Foster children are entitled to expedited record transfers and a school foster care liaison. GALs should note that a school cannot delay a child’s enrollment because of a lack of records, but cannot

enroll a child until that child has been withdrawn from his or her previous school.

We can often use the federal McKinney-Vento Act to allow homeless children or those in foster care placement transition to remain in their school of origin. Under McKinney-Vento, the school district also provides transportation to the school of origin, assistance with obtaining school supplies, case management, and other services as needed. The child is entitled to an immediate enrollment and up to 30 days to provide proper documentation.

The Fostering Connections to Success and Increasing Adoptions Act of 2008 applies to every child in out-of-home care. This act provides for the child welfare and education agencies to work together to ensure that the child can remain in his or her school at the time of placement if it is in the child’s best interest. The child is still entitled to an immediate enrollment, but must have all of the required documents upon enrollment.

As GALs, we strive to achieve what is best for our children’s present and future well-being, including educational success. We work to make certain school records follow children from school to school as quickly as possible so schools can immediately employ all the supports needed to provide children with a free and appropriate public education.

The enrollment process is expedited when the school is notified that the child is in foster care. The GAL program can assist GALs in obtaining access to the dependent child’s school information, upon request. GALs should work to ensure that case managers or caregivers provide the following documents to the school as soon as possible: current placement/custody order, Guardian ad Litem Appointment Order and Oath of Acceptance, child medical needs, and the child’s most recent Individual Education or Section 504 Accommodations Plan. Immediately sharing the above information with the school increases the child’s ability to have a smooth educational transition and stable placement. Education is the key to success.

For more information about educational advocacy for foster children, please contact: Tenesia Hall at tchall@legalaidocba.org.

For information about becoming a Legal Aid Society donor, please contact: Donna Haynes at dhaynes@legalaidocba.org or by calling 407-841-8310 extension 3130.

Tenesia C. Hall, Esq., is a Guardian ad Litem attorney with the Legal Aid Society of the OCBA, Inc. She has been a member of the OCBA since 2001.

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Law Week & Awards Banquet

May 29, 2014

The Ballroom at Church Street

2014 Law Week Poster & Speech Contest winners receive their awards from Bill Sublette, Esq., Orange County School Board chairman and past OCBA president; Woody Rodriguez, Esq., Orange County Public Schools and past OCBA president; Dr. Barbara Jenkins, superintendent for Orange County Public Schools; and Tony Sos, Esq., co-chair, Law Week.



Grand Prize winner, John Nguyen, 9th grade, Olympia High School



Helen Machado, Second Place, 7th grade, Arbor Ridge



Lovelene Charlitte, First Place, 9th grade, Olympia High School



Noah Gooch, Third Place, 7th grade, Arbor Ridge



Melinda Cheatham, First Place, 4th grade, home schooled



Jessica Kramer, Third Place, 3rd grade, Lake Silver Elementary



Trey Oldham, Third Place, 4th grade, Lake Silver Elementary



Adam Lindner, Second Place, 12th grade, Timber Creek High School



Riley Mae Kelly, Second Place, 5th grade, Lake Silver Elementary



Chloe Smiles, First Place, 3rd grade, Lake Silver Elementary



Easton Bonnett, First Place, 2nd grade, Lake Silver Elementary



Alfredo Munoz, First Place, 12th grade, Timber Creek High School

Photos: Flo Boehm



Bill Sublette, Esq.



Nikki Rodeman, FRP, co-chair, Law Week, presenting Tony Tamborello with an appreciation award for DUI video production.



Dr. Barbara Jenkins



Jannexy Reyes, Third Place, 9th grade, Oak Ridge High School



Lauren McCorvie, Esq., YLS past president



Michael Dippy, executive director, IDignity 2014 Liberty Bell Award recipient



Eddie Fernández, Esq. Orange County Clerk of Courts

Leadership Law2014

Leadership Law is a fantastic way to learn about both our local & federal judicial systems. However it is so much more than that! You have the ability to talk to judges in a relaxed setting, get behind-the-scenes tours of some of the most amazing buildings in Orlando, and make lifelong friends during the class sessions. It is by far one of the best priced Leadership programs in the United States. I would give it my highest recommendation. – Stephen Alexander, New York Life

Celebrating Another Successful Year!

The OCBA's 2014 Leadership Law program completed its third season.

The award-winning, innovative leadership course developed specifically for business men and women, offered this year's participants five full days of learning, meeting once a month from January to May. Participants gain a unique perspective of the Orange County legal system as they go behind the scenes and learn about the legal system and how it impacts their everyday decisions. Each session is full of topics ranging from arbitration in Florida, trademarks and copyrights, estate planning, and more.

As with every year, some of the most popular sessions included a presentation by Dr. Jan C. Garavaglia, M.D., (Dr. G) at the ME's office; a lively exploration of "Delinquency Court and Dependency" by the Honorable Jose Rodriguez; meeting the Honorable Faye Allen and the Honorable Alicia L. Latimore's at the Thomas S. Kirk Juvenile Justice Center; and "Read the Tales of Deception: Body Language Boot Camp for Professionals" forum with Susan Constantine.

Thank you to all the judges, attorneys, and individuals who were present and who make this program a

success year after year, with a special shout-out to Mary Ann Ertler, Esq., program facilitator and moderator. This program would not be possible without her enthusiasm, leadership, and dedication!

Applications are being accepted for Leadership Law 2015. Please inform business and community leaders who you know about this program and the value that is in it for them! If you know a friend, neighbor, or young adult who wants to learn more about our legal system in an engaging, hands-on way, please have him or her contact the OCBA marketing and sponsorship coordinator, Amanda Nethero, at 407-422-4551 ext. 244, or visit the OCBA website: www.leadershiplaworange-countybar.org for details.

Leadership Law is the recipient of the 2012 National Association of Bar Executives/Lexis Nexis Community & Education Outreach Award.



(L to R) Karla Starkey
Pam Volkman
Dr. Aileen Trivedi
Judge Frederick J. Lauten
Jason Toll



Jamie Billotte Moses, Esq.



Judge A. Thomas Mihok
Judge Margaret Schreiber



Mary Ann Ertler, Esq., Judge Bob LeBlanc,
Davis Helsby



Nick Shannin,
Esq.
Judge Schreiber
Stephen
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Mary Ann Ertler,
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Judge Jose Rodriguez



Dr. Jan
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Judicial Relations Committee



Shane E. Fischer, Esq.

Interview with the Honorable Marc Lubet, Circuit Judge

Judge Lubet began his career as an assistant public defender before opening his own law practice and handling criminal defense and domestic cases. He was elected judge, unopposed, in 2007. He was unopposed the last time he was up for reelection, which was a testament to the respect he has of the attorneys who practice in front of him.

Q: *What are the strengths of the legal system in America today?*

A: The system still gives people the opportunity to settle their differences in a non-hostile, non-physical manner. Everyone has a fair shake in court, theoretically.

Q: *What are the weaknesses of the legal system in America today?*

A: We are overburdened with cases, which results in excessive delays. Additionally, too many people look to the system to solve their problems without attempting to resolve them outside of the courts.



Hon. Marc Lubet

Q: *What do you know now that you wish you knew before you became a judge?*

A: Good judges really struggle over very difficult decisions.

Q: *Tell me about a memorable moment in your life; a time you will never forget.*

A: When Jennifer Davis (now Judge Davis) called me from Tallahassee to say that nobody was filing to run against me, which meant that I would be elected unopposed.

Q: *Who is/was the biggest influence in your career?*

A: Jay Cohen (not Judge Cohen), a partner with the law firm of Levine & Cohen. Jay taught me how to be a trial lawyer and the true meaning of being a trial lawyer. He is one of the finest trial lawyers I ever watched or worked with.

Q: *What is the hardest thing about being a judge?*

A: Having to make a decision that will have a huge impact on a young person's life; in other words, sending a young kid to prison.

Q: *What is your biggest pet peeve in the courtroom?*

A: Attorneys not being prepared and trying to "wing it."

Q: *What do you wish attorneys would do more of, or better, in your courtroom?*

A: More caselaw preparation and a better understanding of the facts of their case. Additionally,

lawyers need to think more about their clients and less about the desire to win.

Q: *What advice would you give today's young lawyers?*

A: Don't think you're going to come out of law school making \$100,000/year. Be prepared to commit yourself to working 50 - 60 hours a week.

Q: *To what extent did you really understand the role of the judiciary before taking the bench? Has your prospective changed?*

A: Because I was a trial lawyer for 32 years, I had a pretty good understanding of the judiciary before I became a judge. I understood that a judge must be neutral, and that occasionally he or she must take lawyers aside and help them understand their role in the system.

Q: *What is the worst conduct you have seen from attorneys?*

A: Attorneys arguing with each other in court, refusing to accept a judge's ruling, and continuing to argue after I've made my ruling.

Q: *Please provide some examples of the pinnacles of professionalism you have witnessed since taking the bench.*

A: When an attorney stands to make an argument and says, "Judge, the law is against me; however, we ask that you consider a ruling in opposition to the current law, and here's why..." Additionally, when a prosecutor stands up and says, "Judge, we can't prove this case so we're going to dismiss it." That's professionalism.

Q: *What is your favorite movie?*

A: My favorite movie is *The Conspirator*.

Q: *What is your favorite restaurant?*

A: Mitchell's Fish House in Winter Park Village.

Q: *Where did you go to law school and undergrad?*

A: The University of Florida and Ole Miss School of Law.

Q: *What is your favorite sports team?*

A: The University of Florida Gators.

Q: *If you are not originally from Central Florida, why did you move here?*

A: I am originally from Tampa. I moved here because of a woman I was dating at the time.

Q: *What is your favorite movie/book?*

A: *The Sand Pebbles*.

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Hearsay...



Christine A. Wasula, Esq.

Wow, there is so much to talk about this month that I have no room to say anything in my introduction other than I am truly impressed with all the hard work our members are doing. (And that the kids went back to school on August 11 and I am very glad about that.)

First up, our very own **Bethanie Barber, Esq.**, who is the GAL litigation director for the **OCBA's Legal Aid Society**, has been named as one of the top 55 Governmental & Non-Profit lawyers in Florida by *Florida Trend* magazine. She is listed on page 22 of the July 2014 Legal Elite section. Congratulations, Bethanie!

Robert L. Dietz, Esq., a longtime OCBA member, has been appointed as a judge of compensation claims by Governor Rick Scott. Starting in early July, Judge Dietz will be assigned to the Sebastian/Melbourne District office, hearing cases for Brevard, Indian River, and Okeechobee counties, as well as statewide cases as needed. Judge Dietz has been a Florida Bar Board Certified Workers' Compensation Lawyer since 1992 and an adjunct professor at Barry University College of Law. Throughout his career, Judge Dietz has focused his practice in the area of workers' compensation law, so it sounds like he is well-qualified for the position.

Ernest DeLoach, Esq., with **Young DeLoach, PLLC**, has been named as the new vice chairman of the City of Orlando Nominating Board. I have to confess that I did not know what the Nominating Board does, so I looked it up on the Internet, and I found out that the board is responsible for receiving and processing applications for other city boards and then making recommendations to the mayor. Sounds like a pretty cool job.

Matthew J. Devine, Esq., with **Burr & Forman LLP**, has been named to the Central Florida Young Professionals Advisory Council for a two-year term. The group was formed by the Central Florida Partnership to ensure the inclusion of young professionals when discussing regional issues impacting the Greater Orlando area. Matthew and 49 other young business leaders will engage in public policy debate and provide input on issues before community and government agencies.

Michael L. Smith, Esq., with **The Health Law Firm**, was recently named a 2013 Pro Bono Champion by the American Health Lawyers Association for the second consecutive year. Attorneys honored with the Pro Bono Champion title are chosen for the impact their work has on improving the lives of those who are least able to afford necessary legal services, but who need it the most. Michael also has secured a position on The Executive Council in the Health Law Section of The Florida Bar, which governs the divisions and standing committees of the Health Law Section. He's a double threat!

Laura Kristin Sundberg, Esq., a shareholder

with the law firm of **Zimmerman Kiser Sutcliffe, P.A.**, received the John Arthur Jones Annual Service Award for 2013-2014 from The Florida Bar's Real Property, Probate and Trust Law Section at the section's annual convention. Laura served as 2014 chair of the convention and will also co-chair the 2015 event.

FordHarrison LLP, a national labor and employment firm with multiple OCBA members, is a 2014 recipient of the Women in Law Empowerment Forum's "Gold Standard" award. The "Gold Standard" certification process focuses on whether women are represented in positions of power and are among the top-earning attorneys. Only 46 firms nationwide met the criteria for 2014, and only seven firms met all six of the criteria. To receive this award, firms must fulfill at least four of the following six standards: Women account for at least 20% of equity partners; women represent at least 10% of firm chairs and office managing partners; women make up at least 20% of the firm's primary governance committee; women represent 20% or more of the firm's compensation committee; women make up at least 25% of practice group leaders or department heads; and/or women represent at least 10% of the top half of the most highly compensated partners. FordHarrison has been certified four times and has met all six of the criteria the last two times.

Miranda "Randi" Fitzgerald, Esq., a partner at **Lowndes, Drosdick, Doster, Kantor & Reed, P.A.**, has been elected to the Coalition for the Homeless of Central Florida's board of directors. Randi has been involved in the community for many years and has previously served on the board of directors of Health Care Center for the Homeless, Inc. The Coalition for the Homeless is a nonprofit organization dedicated to transforming the lives of homeless men, women, and children in the local community by providing crucial services to end their crisis of homelessness. Other services include job skills training, counseling, educational opportunities, and daycare.

Charlie Egerton, Esq., a founding shareholder at the law firm of **Dean Mead Egerton Bloodworth Capuano & Bozarth P.A.**, is the new chair of the YMCA Metropolitan Board. Charlie has been involved with the YMCA for more than 30 years, most recently in leading its \$3.2 million annual support campaign. A Y member since 1981, he previously served as board chair and scholarship chair of the Downtown YMCA and led the annual support campaign for the Phillip & Peggy Crosby YMCA in Winter Park.

Kevin Shaughnessy, Esq., a partner at **Baker-Hostetler**, has received the Tom Ahlers System Building Award from the National Association of Workforce Development Professionals for his service and leadership of the CareerSource Central Florida Board of Directors.

Tad A. Yates, Esq., managing shareholder of **The Law Offices of Tad A. Yates, P.A.**, has been appointed by Chief Judge Belvin Perry, Jr. to serve as one of three at-large members of the Ninth Judicial Circuit Local Professionalism Panel. As I mentioned last month, the purpose of this newly formed local panel is to receive, screen, and act upon complaints of unprofessional conduct and to resolve those complaints informally, if possible, or to refer to The Florida Bar if necessary. The panel for the Ninth Judicial Circuit will be headed by **Jeffrey Keiner, Esq.**, with **GrayRobinson**, and will be comprised of Tad and several other OCBA members.

Finally, The Florida Bar has honored 203 attorneys, including nine attorneys from the Ninth Judicial Circuit, for 50 years of dedication to the practice of law. These attorneys attained their 50th anniversary of admittance to the practice of law in 2014 and were honored at a luncheon at The Florida Bar's Annual Convention, where Florida Supreme Court Justice Harry Lee Anstead, a 50-year honoree, was the featured speaker. These at-

torneys are: **G. Robert Arnold, Esq.**; **Seymour Benson, Esq.**; **James C. Dauksch Jr., Esq.**; **Jesse Eugene Graham, Esq.**; **William E. Kreuter, Esq.**; **William Thomas Lovett, Esq.**; **Thomas P. Moran, Esq.**; **Joel Herbert Sharp, Jr., Esq.**; and **Winifred J. Sharp, Esq.** Congratulations and thank you to all of these members for their long and distinguished careers.

The next column is going to be even bigger and better because it won't be published until October. (*The Briefs* is switching to 9 issues instead of 11, so there will not be an issue published in September). But I will always find room for you if you have something important to announce. So please continue to send your newsworthy items to communications manager, Peggy Storch, peggys@ocbanet.org, and I will make sure they get published. (No one ever sends anything to me directly, so I'm going to stop asking.) See you in two months!

Christine A. Wasula, Esq., Law Offices of Tad Yates, P.A., has been a member of the OCBA since 2003.

Judicial Relations Committee

continued from page 25

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

A: I enjoy shooting (target practice), deep-sea fishing, and watching movies.

Q: *What is your favorite vacation destination?*

A: The Amalfi coast of Italy.

Q: *What is on your iPod or in your car stereo right now?*

A: The Grateful Dead.

Q: *What would you have done if you were not a lawyer?*

A: I'd be a sailboat charter captain in the South Pacific.

Q: *Who is your favorite lawyer-fictional or real?*

A: Richard "Racehorse" Haynes.

Q: *Why did you want to become a judge?*

A: I'd done very well practicing for 32 years and I wanted to give back something to the community that had been so good to me.

Q: *If you could trade jobs with any one person, who would it be and why?*

A: Tim Tebow, because I think it'd be fun to be an NFL quarterback.

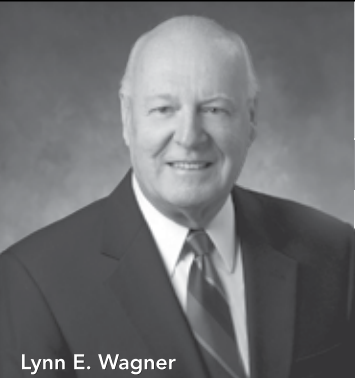
Q: *Which case has stretched the longest during your tenure as a judge?*

A: *State v. Eduardo Gonzalez*, a death penalty case that lasted 5 years, including a week-long trial.

Q: *If you could have any superpower, what would it be?*

A: The ability to read minds.

Shane E. Fischer, Esq., is a solo practitioner handling criminal defense and personal injury cases. He has been a member of the OCBA since 2001.



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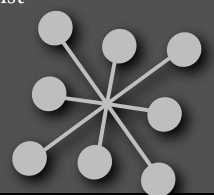
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LAS What We Do...

continued from page 16

the same school for an entire school year. As his education stabilized, and so did his behavior. Mike's grades have improved, and he has found the "forever family" that will soon adopt him!

For the past 15 years, the Legal Aid Society and its corps of volunteer attorney GALs have taken a "whole child" approach to representing abused and neglected children in dependency court. With a staff of attorneys in the GAL department who are all focused on providing supportive services to our 325 volunteer attorney GALs in the areas of education, mental health, developmental disabilities, independent living, permanency, delinquency, and appeals, we strive to provide holistic legal services to the over 1,200 children we represent. The goal is for the children to emerge from their dependency experience as happy, healthy, young people who can have successful futures in the community. Without the financial support and time given by Orange County Bar Association members, Legal Aid would not be able to do the work that it does. We have seen example after example of the great strides young people in the dependency system can make when GALs focus their

efforts on factors that increase educational success. By maintaining school stability, encouraging parents and custodians to take an active role in the child's school life, or having an educational surrogate parent appointed to ensure that educational testing is conducted when indicated, all contribute to a child's success. Additionally, encouraging positive adult and peer connections through extracurricular school activities increases a youth's sense of well-being. Our foster children are just that... children! They cannot advocate for themselves. We are the voice for the voiceless, championing educational changes and saving lives – one child at a time.

For more information about educational advocacy for foster children, please contact: Tenesia Hall, Esq., at tchall@legalaidocba.org.

For information about becoming a Legal Aid Society donor, please contact: Donna Haynes at dhaynes@legalaidocba.org.

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

Judicial Relations Committee

continued from page 9

his service as committee chair during 2013-2014. The Judicial Relations Committee officers for 2014-2015 are: Camy Schwam-Wilcox, Esq., chair; Gisela Laurent, Esq., vice-chair; and Richard Dellinger, Esq., treasurer.

The Judicial Relations Committee provides a valuable forum for interaction between the bench and the bar through the mutual exchange of information.

Richard S. Dellinger, Esq., Lowndes, Drossick, Doster, Kantor & Reed, P.A., has been a member of the OCBA since 2000. **Eric C. Reed, Esq.**, Shutts & Bowen, LLP, has been a member of the OCBA since 2000.

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Bethany Gibson, FRP



Lorraine Hernandez

The Story of Everybody, Somebody, Anybody, and Nobody

There was an important job to be done and Everybody was asked to do it.

Everybody was sure that Somebody would do it.

Anybody could have done it, but Nobody did.

Somebody got angry because it was Everybody's job.

Everybody knew that Anybody could do it, but Nobody realized that Somebody wouldn't do it.

And it ended up that Everybody blamed Somebody because Nobody did what Anybody could have done.

—Author Unknown

The working relationship between the paralegal and the legal secretary is essential to the productivity of an attorney's practice. Though each team in each firm is built differently, these relationships are still present and can be improved to help productivity and efficiency. Regardless of your firm's strategy for team setup, you should find the following tips helpful when applied to every day practice.

Tip Number 1: Communication is Key

As we all know, communication is key to all successful relationships, especially working relationships that are constantly put under the stress of a demanding work environment. To make sure your work day goes as smoothly possible, it is essential for everyone to be on the same page. Roles should be identified in detail. At times, an attorney may delegate tasks to both the paralegal and legal secretary without specifying whose responsibility it is to get the task done; it is then the legal professional's responsibility to *communicate* and discuss who is handling what. When roles are clearly defined and tasks assigned, it is easier to work together toward a common goal.

How many times has an email come through designating a team member to complete a specific task – giving specific instructions for the task – and that team member is not copied on the email? It happens! It is everyone's job to pay attention. Remember, the devil is in the details.

Another note to take when it comes to communication is knowing and understanding the current pressure your other team members are under. They may have certain deadlines to accomplish tasks that you may not be working on or have anything to do with. If there is an initial brief due on Monday morning from a colleague, you may not want to set a meeting during that time to discuss dues owed for current memberships.

Holding team meetings is very beneficial to all involved. While in most cases, internal confer-

ences are not billable tasks, they are valuable to the entire team. Keeping up with what's going on in each case is vital to each team member. While the legal secretary may not need to know the attorney's case strategy, it is helpful for scheduling purposes for her to understand how many depositions need to be taken, when trial is set, etc. Team meetings also give a sense of belonging. Building camaraderie is always helpful. Make your team members feel as though they are something great, because they are. The team meetings can also simply be held between the paralegals and the legal secretaries in an effort to update each other and keep each team member in the loop.

Tip Number 2: Organizational Structure

Team roles and a defined division of labor should be implemented whenever possible. It is true that there are circumstances which do not allow for a clear division of labor and roles may overlap, for example, satisfying last minute deadlines. However, there should be a general organizational structure within each team defining clear responsibilities and expectations. By clarifying roles, teams can work smarter by delegating tasks and sharing workload.

Tip Number 3: Motivate One Another

In life, everyone needs a cheerleader from time to time. Having a motivational coworker always makes the workplace feel more productive and positive. Being there for one another and offering help on large projects makes people feel less overwhelmed and stressed out, which in turn improves the work atmosphere. Making yourself approachable also helps with the stress that a demanding work environment may create for fellow team members. Lend a hand whenever possible.

Bethany Gibson, FRP, and **Lorraine Hernandez** of de Beaubien, Knight, Simmons, Mantzaris & Neal, LLP have been OCBA members since 2012 and 2013, respectively.



YLS on the move



Chanel A. Mosley, Esq.

It's hard to believe that summer is almost over and kids are gearing up for another school year. August brings with it one of the most exciting times of the year in the Southeast... college football season! Whether you're a Gator, a 'Nole, or a Knight, we can all agree that this is one of the best times to live in our great state. Here's a look at what the YLS has been up to this summer and some of our upcoming events that you can't afford to miss!

On May 31, 2014, the YLS held its annual **Great Oaks Village Fun Day**. During the Fun Day, YLS volunteers brought food, movies, games, water slides, and tons of fun to over 30 foster children located right here in Orlando. Additionally, the YLS gives each child a brand new pair of shoes for the school year. Many of these children have very few possessions and often own only one pair of shoes. ***The YLS is still in need of donations to purchase additional shoes for the children.*** Any amount will help, and is greatly appreciated by the children. Please send checks payable to YLS – GOV to Jennifer Belbeck, Esq., 415 N. Orange Avenue, Orlando, FL 32802. Please reference the GOV shoe drive on your check. We are truly thankful to all of the volunteers who came out and made this another great event. The children were thrilled to have us there! Also, a special thank you to **Jennifer Belbeck, Esq.**, and her committee for all of their hard work in putting this event together.



YLS president, Karen Persis, Esq., and Tara Tedrow, Esq., at the June YLS Luncheon

The **YLS monthly luncheon** was held on June 18, 2014 at GrayRobinson. In lieu of a formal speaking presentation, members were able to meet and mingle with other attorneys, judges, law students, and law clerks in town for the summer. Attendees were able to hear about all of the exciting upcoming YLS events this summer. We had a great turnout and enjoyed participating in a scavenger hunt. Congratulations to **Jodi Ruberg, Esq.**, for winning the scavenger hunt! Also, a special thank you to our luncheon sponsors: **Griffis & MacClary, Raymond James Financial Services, Florida Lawyers Mutual Insurance Company, and Cross, Fernandez & Riley, LLP.**

Judge John Marshall Kest held his monthly **Brown Bag Luncheon** on June 19, 2014 at the Orange County Courthouse. During the luncheon, Judge Kest presented the topic, "Protective Orders: When, How, and Why to Use Them." Attendees can bring a bag lunch while attending these free presentations. If you have missed previous luncheons and would like to obtain a copy of Judge Kest's outlines, electronic copies are available by emailing Diane Iacone, judicial assistant to Judge Kest, at ctjadi1@ocnjcc.org.

On June 20, 2014, the YLS held its annual **Afternoon at the State Courthouse**. This is a unique seminar that provides insight into local judicial policies and procedure, universal courtroom decorum, and helpful hints about area judges. It is designed for attorneys, law clerks, law students, paralegals, and other legal professionals. The event had 106 attendees and raised more than \$1,000! Attendees received CLE credit for the seminar. Thank you to judges **Jeffrey Arnold, Carolyn Freeman, John Kest, Alan Apte, Bob LeBlanc, and Jose Rodriguez** for their attendance and participation in the seminar, and congratulations to **Paige Carlos, Esq.**, and her committee for another great event!

Please join the YLS for our annual **Backpack Project Happy Hour** on Tuesday, **August 5, 2014**, from 5:30-7:30 p.m. at **KASA** (183 S. Orange Ave). The cost is only \$20 per person, which includes unlimited wine and appetizers. ALL proceeds raised are used to purchase school supplies for students at Rock Lake Elementary, one of Central Florida's most economically disadvantaged schools. Monetary and supply donations can also be made at the monthly YLS luncheons. Please contact the project chair **Alisia Adamson, Esq.**, (aadamson@hawmlaw.com) with questions or for alternate donation drop-off/pick-up arrangements.

The **August YLS Luncheon** will take place on **August 15, 2014**, at The Citrus Club beginning at 12:00 p.m. and ending at 1:00 p.m. Casual attire, including jeans, is acceptable and jackets are not required. For a wonderful three-course meal, the cost is only \$10. Lunch is offered at a reduced price, thanks to the wonderful help of our sponsors. Please be sure to **RSVP to yls.ocba@gmail.com no later than August 12, 2014.** A late charge of \$5 will be added for all RSVPs received after the deadline. Additionally, please note that the YLS is charged for all RSVPs, so please ensure that you notify us if you have made an RSVP but are unable to make it. We hope to see you at the luncheon!

If you enjoy a good argument or public speaking, come and judge the **Central Florida Debate Initiative competition!** On the afternoon of **September 17, 2014**, at **Timber Creek High School** (1001 S. Avalon Park Blvd., Orlando, FL 32828) YLS is sponsoring the high school competitive speech and debate competition hosted by the Central Florida Debate Initiative. We are looking for volunteers to judge competitive speech and debate rounds – no experience is necessary! If you're interested in volunteering, please email **Tara Tedrow, Esq.**, at tara.tedrow@lowndes-law.com.

The YLS is holding its **23rd Annual Charity Golf Tournament** on Friday, **October 3,**

2014, the Ritz-Carlton. The tournament begins promptly at 8:00 a.m. with a shotgun start. This is a fun event for a great cause. Through this event, YLS is able to raise the money needed to support numerous charitable endeavors throughout the year. Some of those charitable endeavors include the YLS College Scholarship, the Rock Lake Elementary School Backpack Project, the Women's Residential Counseling Center of Orlando Children's Halloween Party, the Great Oaks Village Project, and Relay for Life. The cost to play is \$620 per foursome, or \$175 per individual. The cost per individual judge or government attorney is \$145. There are still sponsorship opportunities available. The cost per hole sponsorship is \$620, and the cost per game sponsorship is

\$300. You may sponsor a hole and field a foursome for \$1,150. If you are interested in playing or sponsoring, please contact **Michael Barber, Esq.**, at MBarber@thelawman.net, or 407-228-3838.

Oh, and Go Gators!

Chanel A. Mosley, Esq., Marshall, Dennehey, Warner, Coleman & Goggin, P.C., has been a member of the OCBA since 2010.



Judge Heather Rodriguez and Rafael Rodriguez, Esq., participating in the scavenger hunt at the June YLS Luncheon



Attendees at the YLS Afternoon at the State Courthouse

Judge C. Jeffery Arnold presenting at the YLS Afternoon at the State Courthouse



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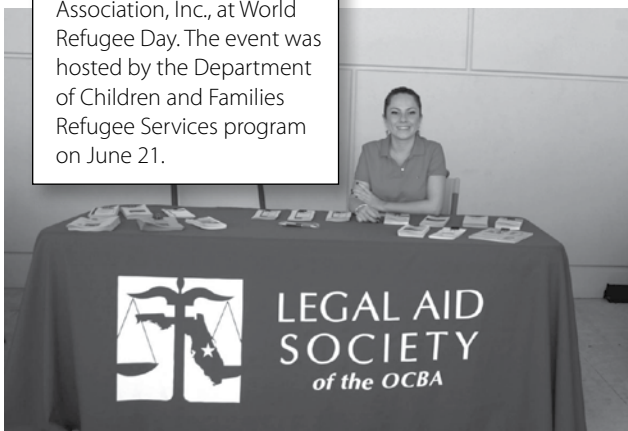


The Orange County contingent of the Florida Bar Leadership Academy at the Florida Bar Conference.



Alvin Benton, Esq.
Bethanie Barber, Esq.
Barbara Leach, Esq.
Felipe Guerrero, Esq.

Camila Pachon Silva, Esq., immigration attorney with the Legal Aid Society of the Orange County Bar Association, Inc., at World Refugee Day. The event was hosted by the Department of Children and Families Refugee Services program on June 21.



Save the Dates!

OCBA Social Committee Events 2014-2015

Aug. 21, 2014 – Summer Happy Hour & Trivia Contest Harry Buffalo

Oct. 19, 2014 – Scares & Spares Halloween Bowling Party

Nov. 20, 2014 – Voluntary Bars Joint Happy Hour

Nov. 2014 – Orlando Magic Night!

Jan. 29, 2015 – Winter Wine & Cheese Social

Feb. 7, 2015 – Cars & Coffee Event

Mar. or Apr. 2015 – Texas Hold 'em Charity Poker Tournament & Happy Hour

May 2, 2015 – Law Week Inaugural 5k Run

All proceeds benefit the OCBA Foundation, Inc.

See the OCBA website and *The Briefs* for updates!

for his or her outstanding work that goes beyond the school's minimum requirement and does not include students fulfilling course work or receiving compensation. This year's award was presented to Andrew Schrager of FAMU.

Catherine A. Tucker, Esq., Deputy Director/Pro Bono Coordinator, Legal Aid Society of the OCBA, has been an OCBA member since 1998.

“

Being democratic is not enough, a majority cannot turn what is wrong into right. In order to be considered truly free, countries must also have a deep love of liberty and an abiding respect for the rule of law.

—Margaret Thatcher

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Michael Hammond, Esq.

The Client Interview

When was the last time you interviewed one of your clients? Interviewing clients can be surprisingly worthwhile – not only for the valuable information you’ll glean, but also for the enhanced relationship you’ll create. The better the relationship, the more likely they are to trust you more, which translates into a more satisfied client. More satisfied clients tend to recommend you to their family, friends, and associates.

Is No News Really Good News?

Small and mid-size law firms have a distinct competitive advantage in client service. They are small enough to deliver personalized service and can readily stay in touch with their client base. But many attorneys don’t make the extra effort required to get feedback from their clients on a regular basis. Instead they rely on client complaints to tell them how they’re doing. This is a negative approach – when complaints go up, they move in to fix the problem. When they hear no complaints, they mistakenly assume that all is going well.

This misleading assumption sets the client service bar low, ensuring that you deliver only an *acceptable* level of service, when instead you should strive to *exceed* your clients’ expectations. The best way to know how your services are perceived is to regularly engage your clients in questions about their experience when dealing with you and your staff.

“So, How’d We Do?”

Do an in-person exit interview at the conclusion of substantial matters with significant clients. Take the client to lunch, or have the conversation in your office. If your work has secured a good result for the client, and you can celebrate that fact, your interview can be especially effective.

When talking with the client don’t launch into the interview questions immediately; pick your moment. Chat casually about the matter that has just been completed, and then perhaps discuss what steps might be taken next. When the time is right, open up the conversation by saying:

Now that we’ve had a chance to work together, I’d like to ask for your feedback. I’m always trying to improve the level of service we provide and the best way to do that is to find out what we did right and what we could do better to serve our clients. Can I ask you a couple of questions about this?

“What Could We Have Done Better?”

In all likelihood, the clients will respond positively to the request and may even be complimented

that you think enough of them to ask their opinions. Continue the conversation with the following questions, keeping the tone light and fostering an open exchange.

Is there is anything you would change about how we worked with you?

Were the attorneys and staff accessible to you?

Were they responsive to your needs?

Did you feel taken care of by our team?

If any negative or critical comments are made, don’t get defensive! Listen thoughtfully to all they have to say and encourage openness, even if the comments become brutal. Thank them for their honesty and let them know you continue to value their opinion. Don’t make up excuses and don’t accuse the client of having impossible standards. Thank them again, and reaffirm your commitment to use their comments to enhance the level of service you provide to clients.

Don’t Forget “The Ask”

At the end of the conversation, especially when you’ve received mostly positive feedback, mention again that you’ve enjoyed working with them. Tell them that you’d appreciate it if they would think of you if they have additional work or hear of any friends or associates that may need your services. For some attorneys, it’s both comfortable for them and complimentary to the client, to say: “My practice is built on referrals from great clients like you.” This final step in the conversation is critical to ensure that clients know your practice depends upon referrals. Be sure to plant this seed – don’t assume that your clients will think of this on their own.

The client interview is a very powerful, strategic conversation. If you listen carefully, they will tell you what kind of lawyers and firms they enjoy working with and what kind they don’t. They will tell you things they are not revealing to any other attorney. In other words, they will reveal their expectations to you. And if you can meet and then exceed their expectations, they will gladly return to your firm and refer prospective clients to you, again and again.

Michael Hammond, Esq., is a “founding father” of Atticus and is a Certified Practice Advisor. He has a depth of experience in lawyer marketing, one-on-one business coaching, and strategic planning. For details, go to Atticus online at www.atticisonline.com, or call 888-644-0022.

settlement of similar cases, and attorney experience. Adjournment may be appropriate, depending on momentum, and leaves some hope that another day spent resolving the remaining issues will lead to a successful conclusion.

Mediated Settlement Agreement

Because it is essential to get the settlement terms in writing before the mediation session is over – unless authorized representa-

tives sign before everyone leaves – each party is potentially subject to buyer's remorse regarding the negotiated terms of the agreement. To avoid this, it is suggested counsel draft desired settlement agreement language before mediation that can be tweaked to reflect the deal that is ultimately reached. This could save hours of back and forth, as well as the expense of massaging what is usually non-essential language in the days that follow the conference. Commercial agreements do tend to be more lengthy and complex. Self-determined material terms essential to

the settlement are usually not that different from the average civil case and are, of course, governed by contract law. Though many settlements are handwritten, counsel having a flexible framework available from which to adapt an agreement is good practice.

Lawrence H. Kolin, Esq., is a federal and Supreme Court of Florida Certified County, Circuit-Civil and Appellate Mediator in Orlando. He recently served as a general magistrate in the Ninth Judicial Circuit Court for Orange County. He is founding chair of the OCBA's ADR Committee and has been a member of the OCBA since 1994.

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Christine L. Weingart, Esq. – *Dean, Mead, Egerton, et al.* – Tax Law

Speaking Engagements

Greg Lee, Esq., and **Brian Smith, Esq.**, BakerHostetler, presented topics at the Association of Eminent Domain Professionals (AEDP) meeting on June 6 at BakerHostetler. Smith, an eminent domain attorney, presented the *Case Law Update*, and Lee, firm partner, presented *2014 Legislative Session Update*. The meeting was organized by Smith and **Joel Roberts, Esq.**, also of BakerHostetler.

Events

Aug. 5 – YLS & CFAWL Backpack Project Happy Hour. 5:30 p.m.-7:30 p.m., KASA, 183 S. Orange Ave., Orlando, FL 32801. Cost: \$20, includes wine and appetizers. All proceeds benefit purchase of school supplies for students at Rock Lake Elementary. RSVP to: Alisia Adamson, Esq., aadamson@hawmlaw.com.

Aug. 21 – Annual Trivia Contest & Summer Happy Hour. 5:30 p.m.-8:30 p.m. Harry Buffalo, 129 W. Church St., Orlando, FL 32801. Cost: \$75 for a team of five players. (Limited to 22 teams.) \$15 for non-players. For details and to register, go to the OCBA Store.

Sept. 17 – YLS Central Florida Debate Initiative, Speech and Debate Competition. 3:00 p.m.-7:00 p.m. Timber Creek High School, 1001 S. Avalon Park Blvd., Orlando, FL 32828. Volunteers are needed to judge. Contact: Tara Tedrow, Esq., at tara.tedrow@lowndes-law.com.

Seminars

Aug. 5 – GAL 101: Best Interest Advocacy In and Out of Court. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Marks St. Senior Recreation Complex, 99 E. Marks St., Orlando, FL 32803. CLE: 1.0 pending. Contact: Marilyn Carbo at mcarbo@legallaidocba.org.

Aug. 12 – 3D Printing – Changing the Practice of Business as Usual? Intellectual Property Committee Brown Bag Seminar. 12:00 p.m.-1:00 p.m. OCBA Center, 880 N. Orange Ave., Orlando, FL 32801. CLE: 1.0 (pending). Cost: Free. Registration is required by August 10. Register at the OCBA Store.

Aug. 14 – Daubert: Handling the Daubert Hearing. Brown Bag Lunch with Judge John Kest. 12:00 p.m.-1:15 p.m. CLE: 1.5. Orange County Courthouse, 23rd Flr. Judicial Conf. Rm. Please feel free to bring a sandwich; water will be provided. To register, contact: Diane Iacone at ctjadi1@ocnjcc.org, or 407-836-0443.

Aug. 14 – Civility Matters. Professionalism Committee & Central Florida Chapter of ABOTA joint seminar. 3:30 p.m.-5:00 p.m. OCBA Center, 880 N. Orange Ave., Orlando, FL 32801. CLE: 1.0 (including 1.0 Ethics). Cost: Free for OCBA members; \$15 for non-members. Register by August 12 at the OCBA Store.

Aug. 14 – Open Forum. Social Security Committee. 11:00 a.m.-1:15 p.m. OCBA Center, 880 N. Orange Ave., Orlando, FL 32801. CLE: none. Presented by members of the committee and local members of the U.S. House of Representatives and Senate. Register at the OCBA Store.

Aug. 15 – Get to Know Domestic Relations Court Judges. Family Law Committee Seminar. 12:00 p.m.-1:00 p.m. OCBA Center, 880 N. Orange Ave., Orlando, FL 32801. CLE: 1.0. (pending). Speakers: Hon. Heather Pinder Rodriguez and Hon. Daniel Traver. Cost: Free. Registration is required by August 13. Register at the OCBA Store.

Aug. 19 – Paving the Road to Permanency In and Out of Dependency Court. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Marks St. Senior Recreation Complex, 99 E. Marks St., Orlando, FL 32803. CLE: pending. Contact: Marilyn Carbo at mcarbo@legallaidocba.org.

Aug. 26 – Orange County's Development Review Process Changes. Real Property Committee Brown Bag Lunch Seminar. 12:00 p.m.-1:00 p.m. OCBA Center, 880 N. Orange Ave., Orlando, FL 32801. CLE: none. Cost: Free. Registration is required by August 23 at the OCBA Store.

Sept. 9 – Sealing and Expungement. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Marks St. Senior Recreation Complex, 99 E. Marks St., Orlando, FL 32803. CLE: pending. Contact: Marilyn Carbo at mcarbo@legallaidocba.org.

Sept. 11 – How to Conduct an Attorney's Fee Hearing. Brown Bag Lunch with Judge John Kest. 12:00 p.m.-1:15 p.m., Orange County Courthouse, 23rd Flr. Judicial Conf. Rm. CLE: 1.5. Feel free to bring a sandwich; water will be provided. To register, contact: Diane Iacone at ctjadi1@ocnjcc.org, or 407-836-0443.

Sept. 19 – 7 Degrees of Separation. Family Law Committee **Major Seminar.** 8:00 a.m.-1:30 p.m. OCBA Center, 880 N. Orange Ave., Orlando, FL 32801. CLE: pending. Cost: \$35 for OCBA regular, associate, and judicial members; \$25 for OCBA government, law student, and paralegal student members; \$50 for non-members (breakfast included). Register by September 16 at the OCBA Store.

Sept. 23 – Human Trafficking, Sexual Abuse, and Keeping Children Safe Act Certification for GALs. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Marks St. Senior Recreation Complex, 99 E. Marks St., Orlando, FL 32803. CLE: pending. Contact: Marilyn Carbo at mcarbo@legallaidocba.org.

Sept. 23 – Community Planning and Pathways to Parramore. Real Property Committee Seminar. Sponsored and presented by VHB-Vannasse Hagen Brustlin, Inc. 12:00 p.m.-1:00 p.m. OCBA Center, 880 N. Orange Ave., Orlando, FL 32801. CLE: none. Cost: Free (lunch included). Registration is required by September 20 at the OCBA Store.

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

CLASSIFIED ADS

To reply to BRIEFS box number, address as follows:
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BOGIN, MUNNS & MUNNS, P.A. – Orlando law firm with 10 Central Florida offices, seeks experienced real estate attorney to practice in the Orlando office in residential and commercial real estate. Prefer 3+ years experience. Great opportunity to join growing practice. Email resume to KBJ@boginmunns.com.

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23rd Annual YLS Golf Tournament

Friday, October 3, 2014

Shotgun Start at 8:00 a.m

Entrance Fees:

\$620 per Foursome

\$175 per Individual Golfer

\$145 per Individual Judge or
Government Attorney

Sponsorship Opportunities:

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\$ 620 Hole Sponsorship

\$ 300 Game Sponsorship

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Registration form available on the OCBA website calendar.

If you are interested in playing or sponsoring please contact:
Michael Barber, Esq. at MBarber@thelawman.net or 407-228-3838.

Proceeds benefit YLS programs, including YLS Scholarships, Backpack Project,
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SAVE THE DATE

Central Florida Diversity Mentoring Picnic

FAMU Law School

201 Beggs Avenue Orlando,
Florida 32801

Saturday, November 15, 2014
12 – 4 PM

Free Admission – Families Welcome

Join local bar associations & sponsoring law firms welcoming students from Florida's 11 law schools to the Central Florida Legal Community Booth and sponsorships available

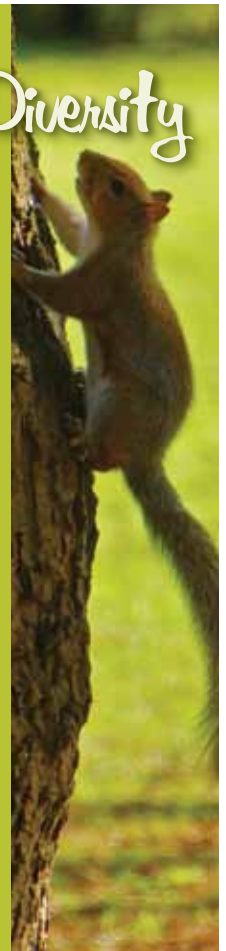
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OCBA Calendar

AUGUST - SEPTEMBER

OCBA August Luncheon

August 28, 2014

Phil Rawlins

President & Founder of
Orlando City Soccer

RSVP by August 22, 2014 at

www.orangecountybar.org/products/luncheons

August

- 1 New Lawyer Training – Day One**
8:00 a.m. • OCBA Center
- 2 New Lawyer Training – Day Two**
8:00 a.m. • OCBA Center
- 5 Professionalism Committee**
12:00 p.m. • OCBA Center
- LAS Lunchtime Training**
GAL 101: Best Interest Advocacy In and Out of Court
12:00 p.m. • Marks St. Senior Center
- YLS Backpack Project Happy Hour**
5:30 p.m. • KASA
- 6 Business Law Committee**
12:00 p.m. • OCBA Center
- 8 Criminal Law Committee**
12:00 p.m. • OCBA Center
- 11 Estate, Guardianship & Trust Committee**
12:00 p.m. • OCBA Center
- 12 Intellectual Property Committee Seminar**
3D Printing – Changing the Practice or Business as Usual?
12:00 p.m. • OCBA Center
- 13 Veterans Committee**
12:00 p.m. • OCBA Center
- OCBA Executive Council Meeting**
4:30 p.m. • OCBA Center
- 14 Brown Bag Lunch with Judge John Kest**
Daubert – Handling the Daubert Hearing
12:00 p.m. • Orange County Courthouse, 23rd Flr. Judicial Conf. Rm.
- Social Security Committee**
Open Forum
11:00 a.m. • OCBA Center
- Professionalism Committee & ABOTA Seminar**
Civility Matters
3:30 p.m. • OCBA Center
- 15 YLS Luncheon**
11:40 a.m. • Citrus Club
- Family Law Committee Seminar**
Get to Know Domestic Relations Court Judges
12:00 p.m. • OCBA Center
- 19 Solo & Small Firm Committee**
12:00 p.m. • OCBA Center

LAS Lunchtime Training

Paving the Road to Permanency In and Out of Dependency Court
12:00 p.m. • Marks St. Senior Center

- 20 Elder Law Committee**
12:00 p.m. • OCBA Center

- 21 Technology Committee**
12:00 p.m. • OCBA Center

Annual Trivia Contest & Summer Happy Hour
5:30 p.m. • Harry Buffalo

- 26 Real Property Committee Seminar**
Orange County's Development Review Process Changes
12:00 p.m. • OCBA Center

- 27 Appellate Practice Committee**
12:00 p.m. • OCBA Center

- 28 OCBA Luncheon**
Phil Rawlins, President & Founder of Orlando City Soccer
11:30 a.m. • Church Street Ballroom

- 29 Bankruptcy Law Committee**
12:00 p.m. • OCBA Center

September

- 1 Labor Day**
OCBA Office Closed
- 2 Professionalism Committee**
12:00 p.m. • OCBA Center
- 3 Business Law Committee**
12:00 p.m. • OCBA Center
- 4 ADR Committee**
12:00 p.m. • OCBA Center
- 5 Technology Committee**
12:00 p.m. • OCBA Center
- 8 Estate, Guardianship & Trust Committee**
12:00 p.m. • OCBA Center
- 9 LAS Lunchtime Training**
Sealing and Expungement
12:00 p.m. • Marks St. Senior Center
- Law Week Committee**
12:00 p.m. • OCBA Center
- 10 Lawyers Literary Society**
12:00 p.m. • OCBA Center
- 18 OCBA Luncheon**
11:30 a.m. • Church Street Ballroom
- 19 Family Law Committee Major Seminar**
7 Degrees of Separation
8:00 a.m. • OCBA Center
- YLS Luncheon**
11:40 a.m. • Citrus Club
- 23 LAS Lunchtime Training**
Human Trafficking, Sexual Abuse, and Keeping Children Safe Act Certification for GALs
12:00 p.m. • Marks St. Senior Center
- Real Property Committee Seminar**
Community Planning and Pathways to Parramore
12:00 p.m. • OCBA Center
- 26 Bankruptcy Law Committee**
12:00 p.m. • OCBA Center

Veterans Committee

12:00 p.m. • OCBA Center

OCBA Executive Council Meeting

4:30 p.m. • OCBA Center

- 11 Social Security Committee**
12:00 p.m. • OCBA Center

Brown Bag Lunch with Judge John Kest
How to Conduct an Attorney's Fee Hearing
12:00 p.m. • Orange County Courthouse, 23rd Flr. Judicial Conf. Rm.

- 12 Paralegal Section Seminar**
11:30 a.m. • OCBA Center

Criminal Law JA/MA Luncheon
12:00 p.m. • Citrus Club

- 16 Solo & Small Firm Committee**
12:00 p.m. • OCBA Center

- 17 Elder Law Committee**
12:00 p.m. • OCBA Center

YLS Sponsored Debate Initiative, Speech and Debate Competition
2:30 p.m. • Timber Creek High School

- 18 OCBA Luncheon**
11:30 a.m. • Church Street Ballroom

- 19 Family Law Committee Major Seminar**
7 Degrees of Separation
8:00 a.m. • OCBA Center

YLS Luncheon
11:40 a.m. • Citrus Club

- 23 LAS Lunchtime Training**
Human Trafficking, Sexual Abuse, and Keeping Children Safe Act Certification for GALs
12:00 p.m. • Marks St. Senior Center

Real Property Committee Seminar
Community Planning and Pathways to Parramore
12:00 p.m. • OCBA Center

- 26 Bankruptcy Law Committee**
12:00 p.m. • OCBA Center