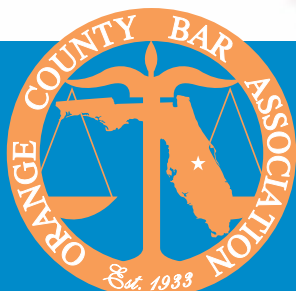


the Briefs

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January 2013
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Copy - 15th of the month six weeks prior to the month of publication

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OCBA Luncheon Thursday, January 24, 2013



Laurel Bellows, Esq.

President, American Bar Association

Laurel Bellows, a principal of The Bellows Law Group, P.C., represents executives in the United States and internationally. Laurel is an experienced business lawyer, counseling senior executives and corporations on employment matters, employment and severance agreements, executive compensation, and workplace disputes. Her expertise in executive compensation matters also includes mid-level management compensation and benefit plans and matters involving incentives, pension, retirement, and workforce restructuring.

The Bellows Law Group, P.C., offers transactional, counseling, and litigation services to entrepreneurs, small and medium-sized businesses, and large corporations. Client matters range from commercial litigation to business startups.

Laurel is president of the American Bar Association, an organization with nearly 400,000 members. She has served as chair of the ABA's policymaking House of Delegates (2006-2008), the second highest elected office in the ABA. Laurel was the second woman president of the 22,000-member Chicago Bar Association in 1991. Her many accolades include: *Crain's Chicago Business* annual

list of Power Players, one of 28 Power Lawyers by *Chicago Magazine*, one of Chicago's 100 Women of Influence in 1996 by *Crain's Chicago Business*, one of *Working Mother Magazine* 25 Most Influential Working Mothers in the country in 1997. She served on the Illinois Supreme Court Special Commission on the Administration of Justice and on the United States Senate Judicial Nominations Commission for the State of Illinois. She is past president of the National Conference of Bar Presidents, past chair of The Chicago Network, past chair of the American Bar Association's Commission on Women in the Profession, and past chair of the Finance Committee of the American Bar Association's Board of Governors.

Ms. Bellows is highly regarded for her many contributions to the Chicago and national community. Laurel is admitted and qualified as an attorney and counselor of the Supreme Court of the United States and is a mediator, certified through the Institute for Conflict Management. Laurel is licensed to practice law in Illinois, Florida, and California.

The Ballroom at Church Street

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

225 S. Garland Avenue • Orlando, FL 32801

Please RSVP by Friday, January 18, 2013
to reservations@ocbanet.org

Main Entrance: Garland Avenue between
Church Street and South Street

To ensure a proper luncheon count, RSVPs and CANCELLATIONS are requested no later than Friday, January 18, 2013. The OCBA is happy to provide 10 luncheons as part of your member benefits, but no-shows incur additional charges for the Bar and walk-ins cannot be guaranteed a seat.

Please keep us up-to-date on your reservation status!

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Michael M. Kest, Esq.

There is No Shame in Asking for Directions

The OCBA and Ninth Circuit Professionalism Committee will be presenting a seminar on the case of *The Florida Bar v. St. Louis* on January 25, 2013 (this serving as our shameless plug). This very real case exhibits just about every way imaginable to run afoul of the ethical rules under which we, as attorneys, operate. It is also a very sad tale. The protagonist, Mr. St. Louis, actually did an excellent job litigating the case. Even the referee in his Florida Bar disciplinary case noted that Mr. St. Louis was quite possibly the best at what he was doing.¹ However, the referee also noted that St. Louis was “inexperienced in the practice of mass tort litigation.”² This seeming contradiction is likely what led to Mr. St. Louis’ initial ethical violations and started the ball rolling on his journey to disbarment.

One of the top reasons businesses fail is by expanding too quickly.³ Attorneys, like other businesspeople, typically want to grow and make money so that they can provide for their families. All of us would like to have the \$59 million case⁴ land on our desks, which would certainly allow us to move into a new office, pay off student loans, and generally improve our lifestyle. However, if we are not competent to handle all aspects of the case, we can find our dream case has turned into a nightmare. Cases with multi-million dollar payouts are usually extremely complex. Like much of life, the greater the reward, the more numerous the pitfalls. Mr. St. Louis learned this lesson the hard way.

Each of us has strengths and weaknesses. Some attorneys are excellent writers but are not comfortable in court. Others love being on their feet in front of a jury but have trouble putting down their thoughts on paper. Some, like Mr. St. Louis, are great litigators but not good client managers. Knowing our weaknesses can be a strength. It allows us to represent our clients in the best way possible. Not only is it a good idea, it is one of our ethical duties.⁵ When a case moves away from our comfort zone, we should be careful about our next move. Of course, there is nothing wrong with taking the time to learn a new area of law. The question we should ask ourselves is, “Can I learn it quickly enough and competently enough to continue down this road alone without jeopardizing my client’s case?” The only problem with asking that question is, you don’t always know what you don’t know. Again, this is a lesson that Mr. St. Louis learned the hard way.

So what do you do if you find yourself in a situa-

tion where you feel like you are in over your head? Attorneys sometimes make things more complicated than they need to be. The simple answer is usually the correct one, and in this case, the simple answer is *ask someone who knows*. Had Mr. St. Louis taken this simple step and contacted an attorney who was familiar with mass tort litigation, he would have likely avoided all the pitfalls and found himself in a very lucrative⁶ and perfectly ethical position. Instead, he was disbarred and had to pay back all the money he made from his unethical conduct.⁷

The type of practice you have may dictate to whom you would turn to for help. In a large multi-disciplinary firm you may have only to walk down the hall. While many solo and small firm attorneys do not have that luxury, there is a veritable wealth of information available. One of the first places to look is at your own OCBA. The OCBA has 27 different committees addressing most of the different areas of law. One need only go to the website and click on the committee links to find the chairs of the committees.⁸ If the chair cannot answer your question, he or she can likely point you to a member who can. Another great resource is the committee listserves. While they have their own ethical pitfalls (an article for another day), this technology allows attorneys from the various committees to connect and discuss ideas related to their respective areas. Lastly, do not forget about The Florida Bar’s Ethics Hotline,⁹ SCOPE,¹⁰ or LOMAS.¹¹ All three services can be invaluable when no one else seems to have the answer.

In this short space, I have only scratched the surface of the ethical issues in the St. Louis case. For a more in-depth look, we welcome you to attend the seminar, “Lessons from the Field: *The Florida Bar v. St. Louis*” on January 25, 2013. For more information, download the flyer and a registration form from the OCBA website calendar at www.orangecountybar.org.

Michael M. Kest, Esq., Kest Law, LLC, is chair of the Professionalism Committee and the owner of Kest Law, LLC. He has been a member of the OCBA since 2012.

¹“When DuPont issued its ultimatum that the firm be retained, DuPont effectively made St. Louis, *who the referee stated was among the most qualified Benlate plaintiffs’ lawyers in the world*, unavailable to future claimants.” *The Florida Bar v. St. Louis*, 967 So.2d 108, 117 (Fla. 2007).

²*The Florida Bar v. St. Louis*, 967 So.2d 108, 118 (Fla. 2007).

³<http://boss.blogs.nytimes.com/2011/01/05/top-10-reasons->

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Orange County Bar Association Election Notice

Election of Officers and Members of the Executive Council of the OCBA

The following positions are open for election:

Vice President / President-Elect (1-year term)

Treasurer (1-year term)

Secretary (1-year term)

Three (3) Executive Council Seats (3-year term)

June 1, 2013 through May 31, 2016

Election of Trustees of the Board of Trustees of the Legal Aid Society of the OCBA, Inc.

The following positions are open for election:

Two (2) Board of Trustees Seats (3-year term)

June 1, 2013 through May 31, 2016

Election of At-Large Members of the Board of Directors of the Young Lawyers Section of the OCBA

The following positions are open for election:

Five (5) At-Large Board Member Seats (2-year term)

June 1, 2013 through May 31, 2015

Anyone interested in running for any of these positions should file a written petition at the OCBA office, 880 N. Orange Ave., Orlando, FL 32801, signed by not less than five (5) members of the OCBA. Blank petitions are available at the OCBA office and on the website at www.orangecountybar.org.

**Petitions must be received no later than 5:00 p.m. on
Friday, February 1, 2013.**

Petitions may be mailed or couriered to the OCBA
at the above address.

Nominees must endorse their written acceptance on
the petition and may NOT accept nominations
for more than one (1) office.

No nomination for the office of Vice President shall be
accepted unless the nominee has served on the
Executive Council at least one (1) year.

Thereafter, the nominating petitions will be canvassed
and tabulated by the President and Secretary, who shall
thereupon certify the names of all members who have
been properly nominated.

Voting shall be by secret ballot mailed to each voting
member of the OCBA on or before **Friday, March 1, 2013.**

Voted ballots must be returned to the OCBA office no later
than 5:00 p.m., **Friday, March 29, 2013.**

In order for your vote to be counted, you must sign **and**
print your name on the back of the return envelope.

Mail or bring voted ballots to the OCBA office,
880 N. Orange Ave., Orlando, FL 32801.



Marc Anthony Consalo, Esq.

UCF Legal Studies Department Hosts Regional Moot Court Competition: Local Team Gets Bid to Nationals

On October 26, 2012, ninety-two students from across the country descended upon Orlando, Florida. However, their intentions in coming to the Sunshine State were not to fly broomsticks on Universal's Harry Potter ride nor to soak in some rays on Daytona Beach. Instead, these students had much loftier goals as they arrived at the University of Central Florida – to compete at the South Atlantic Regional Moot Court Competition.

Schools from all over were represented, including Armstrong Atlantic University, College of the Holy Cross, Duke University, Florida Atlantic University, Florida State University, Middle Tennessee State University, Patrick Henry College, University of Tampa, University of West Florida, and of course, UCF. Participants competed in a grueling two-day competition, where they argued both sides of a hypothetical problem involving the mythical University of Olympus that uses an affirmative action program giving preferential treatment to male applicants over better qualified, female would-be students.

In the end, the problem sought to challenge the students' abilities to grasp concepts involving the 14th Amendment Equal Protection Clause as well as an individual's First Amendment Right to Freedom of Association. Arguments were made for a new application of strict scrutiny to gender discrimination cases before the Supreme Court and differentiating between open and closed forums on college campuses.

A total of ninety volunteers, including judges, attorneys, and one eager third-year law student, served as justices during the competition. The Seminole County Bar, Osceola County Bar, and Brevard County Bar associations joined the Orange County Bar Association in promoting the event. State-wide appellate bar committees also sent out email blasts, which assisted in getting volunteers to judge. To keep things running smoothly, eighty-one student volunteers also helped.

Forty-six teams began arguments at approximately 6:30 p.m. on Friday night. Each team argued once for the petitioner, once for the respondent, and a third time determined by a coin toss. By the close of the competition on Friday, twenty-six teams remained, including two from the University of Central Florida. Early Saturday morning,

the competition resumed, this time as a single elimination tournament. Students from the University of Central Florida made it to round sixteen before being eliminated.

In the quarter-finals, two teams from Patrick Henry, four teams from Middle Tennessee State, one team from Duke, and one team from Holy Cross competed. These teams eventually were reduced to two teams from Patrick Henry versus two teams from Middle Tennessee.

Team 4 from Patrick Henry versus Team 2 from Middle Tennessee competed in the finale. The students were: Blake Meadows and Ben Williamson from Patrick Henry, and Constance Grieves and Kaitlin Beck from Middle Tennessee State. The justices for the final five-judge panel were Chief Judge Belvin Perry, Jr., Judge Jeff Fleming, Mark NeJame, Ron Gilbert (our tournament sponsor), and Professor Kathy Puzone of Barry University.



The University of Central Florida hosted the South Atlantic Regional Moot Court Competition in October 2012.

School of Law. The final vote was close. Out of the five judges, the final decision was 3-2, with Middle Tennessee winning.

While winning the event was the primary award, teams were also competing for spots to move forward in the national competition. Two students from the University of Central Florida, Taylor Kosh and Dayton King, scored high enough to move forward in the competition. They will continue their journey towards the ultimate prize of winning the National Moot Court Competition.

As both a judge for the competition as well as a coach for the University of Central Florida team, I can say with certainty that the crop of would-



UCF Moot Court Team 2012

be attorneys coming from the UCF Legal Studies department are not only well-rounded but seasoned and ready to take on the hurdles of law school. Students on the moot court team were handpicked by the competition's director, Cynthia Schmidt. Together with the assistance of myself and coach Craig Brams, the students tackled numerous cases in an effort to gain an understanding of equal protection law and First Amendment rights. The students briefed twenty cases in approximately sixty days, including *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978); *U.S. v. Virginia*, 518 U.S. 515 (1996); and *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000). The rigorous training helped students gain confidence in not only their critical thinking skills, but also their public speaking abilities.

The opportunity to help with the program and be surrounded by students who have such passion about the le-

gal world was a breath of fresh air. It was invigorating for the judges to see young people, who often stood their ground better than some attorneys, find their drive to realize their goal of becoming members of the bar.

Programs like the South Atlantic Regional Moot Court Competition survive on the generosity of volunteers. Without the support of the local bars, this event could not have happened nor been the success it was. Opportunities abound for local attorneys to give of themselves to further the interest of college and law students. Seek out mentorships, interns, and other opportunities to be involved with the next generation of lawyers. You may just be surprised someday who you see sitting down at opposing counsel's table.

Marc Anthony Consalo, Esq., Consalo Law Firm, has been a member of the OCBA since 1999.



UCF students Dayton King (center) and Taylor Kosh (right) learn that they earned spots to compete at the National Moot Court Competition in Virginia this month. Cindy Schmidt (left) delivered the good news!

Photos: Abigail Bell, UCF



Ted McCaskill, Esq.

Interview with the Honorable Jeffrey M. Fleming

The Honorable Jeffrey Michael Fleming is a Central Florida resident through and through. Born and raised in Orlando, the Ninth Circuit judge, who currently serves in Osceola County, has lived in the area all of his life – for the most part, at least. He actually took a “sabbatical” of sorts from his early days at the University of Central Florida when he moved to Texas to manage a store for Florsheim Shoes. But it wasn’t too long before Judge Fleming decided that the Sunshine State was the place for him, after all. So he packed up his bags, moved back to Orlando, and resumed classes at UCF, where he graduated with a bachelor of arts degree in political science in 1982. Then Judge Fleming left the area (for the last time) to study law at Florida State University. Upon graduating with his juris doctor degree, Judge Fleming returned to Orlando and went on to become a successful attorney, happy husband, and proud father of four.

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

A: I’ll interpret that question as, “Who is my mentor?” It’s not exactly the question you’re asking, but I would say Bill Frederick, who was our mayor in Orlando for I believe 12 years, from 1980 to 1992. When I came back to UCF, I decided that I was probably going to go to law school, so I changed my major from radio/television to political science. I was looking to get involved in a campaign, and one of my beloved professors at UCF, Dr. Marilyn Whistler, mentioned Bill Frederick, a very successful lawyer who decided he wanted to become mayor. So I got involved in his campaign, and through that experience I met a lot of people who I really came to respect and admire. These are people who all had a profound influence on me, but I would say Bill Frederick probably had the most. He’s just a very intelligent, ethical, hard-working individual who’s always had Orlando’s interest at heart. So I would say that he was a mentor for me, a model for me, and actually that ties in to where I said I was happy practicing law, which I was, but I had a feeling of wanting to do something for the community. And I think I got that from that campaign and getting to know him. He’s the type of person I would want to emulate.

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

A: Handling cases where one side is unrepresented, because the court has a duty, obviously, to ensure a level playing field. But if *pro se* litigants don’t understand what is going on fundamentally,

then it’s difficult for the court to even reach the substantive issues and to decide cases on the merits as they should be, where possible. So it’s a challenge to help *pro se* litigants understand procedurally what’s going on, but without crossing the line . . . [such] that the parties [who are] represented feel like they’re at a disadvantage. So it’s a balance, and in the division I’m in now, that comes up more often. Of course in criminal court, unrepresented parties who can’t



The Hon. Jeffrey M. Fleming

afford lawyers are entitled to representation, so you have a lot less of that, but in civil court it’s not unusual. And certainly with financial circumstances as they are, it’s not unusual for individuals involved in businesses to be attempting to represent themselves. Of course, corporations have to have counsel, so you get into issues there with individuals who may be the principal in a corporation filing responses, in effect, on behalf of the corporation. They can’t do that. So it’s just a balancing of interests, so I would have to say that’s probably what I’ve found to be the most challenging part about my job.

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

A: I think at the heart of it is the jury system. I think it works well in most cases. I’ve been here in Osceola County now for the last three and one-half years, and over a year and a half now in the civil division trying jury cases, and I’ve just been really impressed by the commitment that most citizens are willing to make to the system. They do their duty and they [seldom] complain. We ask a lot of them, and I think in almost all cases they serve their community well. And I find it really inspiring that we do have such a good system.

Q: *What do you feel are the weaknesses of the American legal system?*

A: Well, probably on the other side of that coin [is that], especially in a county like Osceola that has a large population of Spanish-speaking individuals, sometimes these people are excluded from the [jury] process because [due to the language barrier] they can’t understand the evidence or engage in the deliberations.

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

A: I don't really have a pet peeve, I would say. We have pretrial procedures that are pretty detailed, but if they're followed they make the trial not only a lot easier for me, but also for the litigants. For example, marking exhibits for identification and doing it before the morning of trial – that sometimes isn't done. Or exhibits are attempted to be offered that weren't marked, and I hate to exclude evidence on those sorts of bases. But at the same time, if the procedures aren't followed, it complicates things – technical things like deciding to read a deposition and not having designated the page and line, and then the other side doesn't know what you are reading. I don't think they rise to a level of pet peeves, but I think following the pretrial orders makes the case better for everybody.

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

A: Well, probably because I just watched it this week, I would be one of the judges on *America's Got Talent* (laughing). But I would say on a more serious note, I already mentioned that my initial major was radio/television, so I don't know if I could pick a particular individual, but if I had to pick a different career path totally from what I did, it would have been to have worked as a national correspondent, or perhaps a foreign correspondent in the media, or maybe a journalist, or interestingly, a writer.

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

A: I love yard work. I look forward to mowing the grass. Everyone in my neighborhood would absolutely concur with that (laughing). I like anything outside the house. I'm not big on inside chores, but I like repairing stuff. I also exercise every day. One of my commitments when I went on the bench was that I wasn't going to gain any weight, which is not easy, because as sedentary you are as a lawyer, you're even more so as a judge. So I'm very physically active...oh, and I really need to add that on a sort of personal level my wife and I were involved, well my wife more so than I, in starting [a school] at our church, and so I've been really involved in that over the years. I'm not currently holding any position there, but that took up a lot of my spare time. Of course I have four kids and was involved [in their activities when they were younger]. The youngest is now a senior in high school.

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

A: The difference between the young lawyer and the seasoned lawyer is that the

young lawyer can easily see the trees, but lose the forest. The more lawyers have been practicing, the more they see the forest. They see the big picture. They are able to put things in perspective. They're able to pick their battles. They're able to agree to things without being concerned that it's showing weakness. In fact, they learn that when you agree to something that is not really disputed, it tells the court and your adversary that when you do argue about something, you probably really mean it. So I would just say don't lose the forest for the trees. That would be the main thing.

Q: *Can you tell me about a memorable moment in your life? And do you have any amusing stories that you'd like to share from your days serving on the bench?*

A: I was coming back from lunch one day in downtown Orlando when I was working there. I know it was in late March or early April because I had just come back from mailing my tax return at the downtown post office. I was walking back to the courthouse on Orange Avenue, on the sidewalk on the east side of Orange, crossing, I believe, the intersection on Robinson Street, right there at St. James. It's just a sunny day. There's nothing unusual about any of this, and the light turns such that I have the right-of-way in the crosswalk. And the reason why I was very focused on this was there was an Orlando police officer stopped at the light westbound, so if I had made it across the intersection, I would have walked in front of this police car. So, as I'm approaching this intersection, I'm being really careful that I have the right-of-way. So I take a couple of steps into the intersection walking north, and a car makes a left turn from Orange, does not see me, and doesn't slow down. This car hits me head on! And the next thing I know, I am lying flat on my back in the middle of the intersection. [The] police officer [is] leaning over me and there's another woman, who I had no idea who this was, holding my hand. As far as I

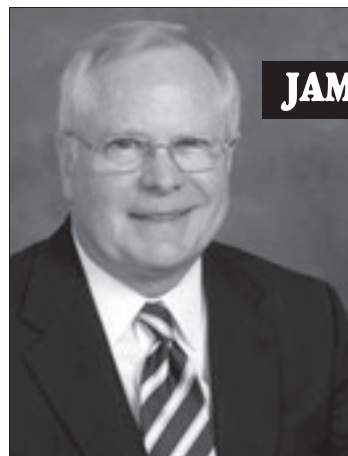
knew, I wasn't hurt, miraculously. And the police officer says, "You just got hit by a car, did a flip eight feet in the air. You're not going anywhere." And I'm lying there and saying, "I think I'm okay, if I could get up... I think I'm okay." Of course this is downtown Orlando and within a minute the whole intersection is tied up. There is an ambulance and a fire truck, I don't know, three or four emergency responders there. The officer says, "No, you're going to the hospital." And I'm like, "Eh, I think I'm okay if I could get up... I really need to get back to work." At 1:30, I was going to have afternoon pretrials, so I had a courtroom literally full of people, defendants, and lawyers. So anyway, I think the officer says, "So you're a judge?" And this lady holding my hand says, "Oh my God, I just ran down a judge!"

It was just the funniest thing! I don't know if I really laughed, but it was amusing. And I think that convinced the officer that I was probably okay, so she let [me get] up and I walked to work. My jacket was torn, my glasses were bent a little bit, and the next day my neck was a little sore, but other than that, I did not have a scratch. It was really an amazing, bizarre, and miraculous event in my life.

Q: *Any words of advice to share, legal or non-legal?*

A: Don't sweat the small stuff. I think the older you get, the more you realize that there's a lot of small stuff that seems big at the time, but in hindsight, not so much. That's probably good for lawyers and non-lawyers, so that's something I try to remind myself of, probably, at least daily. And to quote Albert Einstein: "There are only two ways to live your life. One is as though nothing is a miracle. The other is as though everything is a miracle."

Ted McCaskill, Esq., has been a member of the OCBA since 2011.



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Interview with the Honorable Kerry I. Evander

Kerry I. Evander is a judge on the Florida Fifth District Court of Appeal. He has been a member of this court since July of 2006. He was retained by voters on November 4, 2008 to a full term ending on January 5, 2015.



The Hon. Kerry I. Evander

Judge Evander was born on December 19, 1955. He graduated from the University of Florida with a bachelor of arts degree in political science in 1976 and a law degree (J.D.) in 1980. He is married and has four children.

Judge Evander began his legal career in March of 1980 when he joined a law firm named Reinman, Harrell, *et al.* Judge Evander left in 1986 to work as an associate professor at the Mississippi College School of Law. In May of 1987, he returned to Reinman, Harrell, *et al.* In 1988, he moved to the firm Gleason, Barlow, & Evander, P.A. Shortly thereafter he became a judge, serving as a county judge in Brevard County. In 1993, he was elevated to the position of Circuit Judge of 18th Judicial Circuit. He held this position until his appointment to the Fifth District Court of Appeal in 2006.

Q: *Where are you from?*

A: My father worked for the State Department. As a result, I spent most of my childhood in northern Virginia. However, I also lived one year in Laos, three years in Belgium, and one and one-half years in Brazil.

Q: *What is your favorite vacation destination?*

A: I love Colorado. We have had some wonderful family ski vacations in the Breckenridge/Copper Mountain area.

Q: *What is your favorite type of music/movie/book?*

A: I reluctantly admit that I like the "oldies" from the '60s and '70s. As far as movies and books, I enjoy political and/or spy thrillers. David Baldacci and Vince Flynn are two of my favorite authors.

Q: *What is your favorite sports team?*

A: I am a big Gators fan.

Q: *Who is your favorite fictional lawyer?*

A: The easy answer would be Atticus Finch. However, I certainly liked the judge in *My Cousin Vinny*.

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

A: Despite the ever increasing number of cases, I believe our legal system has generally held true to the two primary elements of due process – notice and the opportunity to be heard. A major weakness in our legal system is the length of time it is taking to resolve cases.

Q: *In what ways has technology changed how you perform the duties of a judge, and what changes do you anticipate in the future?*

A: Advancements in technology have clearly made judges more efficient. Email has provided a quick and efficient method to communicate with other judges and court personnel, while advancements in Westlaw and Lexis have dramatically reduced the time expended in performing legal research. As far as anticipated changes in the future – I have no idea. As my children would tell you, I am severely technologically impaired.

Q: *What is a memorable moment in your life – a time you will never forget?*

A: Because of their lasting impact, I would have to say that my most memorable moments are my wedding and the births of my four children.

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

A: Judges Clarence Johnson and John Antoon. When I was a young attorney, these two individuals were great role models for any individual aspiring to be a judge.

Q: *What advice would you give to a new lawyer entering the practice of law?*

A: No single case or client is worth your credibility and your reputation for honesty.

Q: *What is the longest case you had before you?*

A: In seventeen years as a trial judge, I never had a trial last more than eight days. My two eight-day trials were a first degree murder case (penalty phase included) and a medical malpractice case.

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

A: Having to render a legally required decision even though you abhor the result.

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

A: As a trial judge, my biggest pet peeve was the occasional attorney who apparently believed that the effectiveness of cross-examination was measured by the extent of the attorney's snarling and scowling.

Q: *If you had not gone to law school, what would you have done?*

A: I probably would have gone into public service in some other capacity.

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

A: I enjoy the study of law and my personality is such that I generally would rather seek to fairly resolve a dispute than to be the advocate. When you combine those two traits, it would be difficult to find a better job than being a judge.

Q: *Provide your perspective on funding of the court system and, generally, the role of the judiciary in being more vocal in the legislative funding process.*

A: The excessive length of time in resolving certain cases is primarily caused by the inadequate funding of the court system. While the judiciary has been active in seeking to inform legislators of the need for more funding, positive results will likely only occur if the bar and the public are actively involved in seeking adequate funding for the courts.

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

A: When an attorney (particularly a sole practitioner) has passed away or suffered a debilitating injury or illness, I have witnessed other lawyers step in and assist the clients, even where they knew that there would be little or no compensation for their efforts. The professionalism exhibited by those attorneys is clearly noteworthy.

Justin R. Infurna, Esq., LL.M., The Infurna Law Firm, P.A., has been a member of the OCBA since 2011.



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OCBA attorneys Wynne McFarlin and Wiley Boston met with students and teacher Lisa Crangle at Legacy Middle School on October 5, 2012, as part of the Advancement Via Individual Determination (AVID) program. AVID is a college readiness system for elementary through higher education that is designed to increase school-wide learning and performance. Wiley and Wynn gave a PowerPoint presentation and engaged students in a conversation about what it takes to become a lawyer, various career choices within the law, and famous people who are or were



attorneys and their notable accomplishments. The AVID program invites professionals from a variety of fields to meet with students and acquaint them with the many career paths available to those who have a college education.

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October 12, 2012**



Veta Richardson, President and CEO of ACC, and
Marshall Schirtzer, Executive Director of ACC
Central Florida Chapter



Veta Richardson, Steve Kaplan, Richard Dellinger, Esq.

Photos: Scott Dressel-Martin



Donna A. Haynes

“Take a Chance on Charity”

The Association of Corporate Counsel (ACC) host chapters – Central Florida, San Francisco, West Central Florida, South Florida, and WMACCA (Washington Metropolitan Area) – held a “Take a Chance on Charity” Casino Night & Silent Auction on Tuesday, October 2, 2012, from 9:00 p.m. until 1:00 a.m. at the Solaris Restaurant at the Orlando World Center Marriott. The event was a closing night party during the ACC Annual Meeting.

Central Florida Chapter president Steve Kaplan, community service chair Kelly Lodde, and executive director Marshall Schirtzer worked long and hard to ensure that the closing night had a philanthropic angle. All profits benefited the Legal Aid Society’s Guardian ad Litem program. The efforts of LAS staff members Bethanie Barber, Coravious Cowart, Kavita Sookrajh, Susan Khoury, Wynne McFarlin, Camilla Pachon, Russ Florio, and Rebekah Ellouze also helped to make the event a huge success.

This fun-filled evening included casino gaming, dancing, and mingling, and raffle items included a big screen television, a vacation at a Las Vegas resort, a vacation at a Nassau Bahamas resort, and four one-day Walt Disney World Park Hopper® tickets.

Veta Richardson, president and CEO of the Association of Corporate Counsel, presented a \$10,000 check to Richard Dellinger of the Legal Aid Society Board of Trustees for the Guardian ad Litem program. In addition, another \$21,000 was raised for the Legal Aid Society’s nonprofit charity through auction items, for a total contribution of \$31,000.

A wonderful time was had by all! Stephen Kaplan of Connexions, Inc., Kelly Lodde with Hilton Grand Vacations/Hilton Worldwide, Inc., and Marshall Schirtzer should be proud of the effort they led to “Take a Chance on Charity!” We all were winners as a result of their work!

For more information about the Legal Aid Society of the OCBA, Inc., a nonprofit charity, please contact Donna A. Haynes, manager of development, 100 E. Robinson St., Orlando, FL 32801. Donna may also be contacted at 407-841-8310 extension 3150, or dhaynes@legalaidocba.org.

Donna Haynes is the manager of development and has been a member of the OCBA since 2008.

Silent auction items were contributed by:

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Thank you!



Luis J. Gonzalez, Esq.

Perfecting a Lien on a Florida Liquor License

The economy continues to improve, albeit slowly, and with improving market conditions comes the opportunity for hospitality businesses such as restaurants, bars, nightclubs, and liquor stores to emerge and grow. These new and growing hospitality businesses may seek new money or offer new collateral for existing loans or lines of credit. This article provides a brief overview of the process and pitfalls for creditors to perfect a lien on a Florida retail alcoholic beverages license (AB License).

Not All AB Licenses Are Created Equally

The Florida Division of Alcoholic Beverages and Tobacco (the Division) issues all state AB Licenses. An AB License is a creature of statute granting a privilege to the licensee.¹ The licensee's interest in an AB License is a general intangible, but it is not like other general intangibles² because the government has total control of its use and issues it as a privilege, not as a matter of right.³

Not all AB Licenses, however, are created equal. For example, some allow retailers, such as convenience stores, to sell beer and wine to be carried out in sealed containers, while other AB Licenses allow retailers, such as small cafés, to provide beer and wine for consumption onsite. Still other AB Licenses even allow qualifying restaurants to sell beer, wine, and liquor so long as they meet certain minimum requirements, including, for example, the requirement that revenues from the sale of alcoholic beverages do not exceed 49% of the restaurant's total revenue.⁴

The Division does not limit the number of most AB Licenses issued under these and other similar categories.⁵ Therefore, there is no outside market value for these licenses because any qualified applicant, meeting the AB Licenses' minimum requirements, can apply and obtain them. Consequently, a creditor should not accept most AB Licenses as collateral.

On the other hand, the Division limits AB Licenses commonly referred to as quota liquor licenses. Quota AB Licenses are highly coveted and generally allow the sale of beer, wine, and liquor for carry out in sealed containers or for consumption onsite or both (subject to zoning). And while quota AB Licenses have some restrictions, they do not have, for example, minimum food to alcohol revenue ratios, minimum building square footage requirements, or many of the other restrictions commonly found in non-quota AB Licenses. Depending on the Florida county, quota AB Licenses bear a

4COP, 5COP, or 3APS designation. The "quota" reference is derived from the statutory restriction of Florida Statute § 561.20(1) that prohibits the issuance of quota AB Licenses at a rate of more than one AB License per 7,500 residents within the territorial limits of each county. When there is a 7,500-person increase in population, there should be an additional quota AB license issued.⁶ New quota AB licenses are issued via a yearly lottery process.⁷ The Division, via the yearly lottery, also reissues active quota AB Licenses revoked by the Division or relinquished by the licensee.

The statutory limitation on the number of quota AB Licenses issued by the Division creates a demand for these licenses and thus a transferable value. Factors such as population growth and size, location, and the presence of a strong hospitality industry affect the quota AB License's market price and can range from \$15,000 to over \$500,000.

Florida Statutes Provide the Exclusive Means of Perfecting a Lien on an AB License

Because the government issues AB Licenses as a matter of privilege, and the government has total control of its use, the Florida Statutes provide the exclusive means of perfecting a lien on an AB License.⁸ Section 561.65 (4) provides, in relevant part:

In order to perfect a lien or security interest in a spirituous alcoholic beverage license which may be enforceable against the license, the party which holds the lien or security interest, within 90 days of the date of creation of the lien or security interest, shall record the same with the division on or with forms authorized by the division, which forms shall require the names of the parties and the terms of the obligation...

Thus, filing the appropriate form with the Division is sufficient, and no duplicate filing under the Uniform Commercial Code is necessary.⁹ The Division's website provides the approved form titled *Application for Mortgagee's Interest in Spirituous Alcoholic Beverage License*.¹⁰ The Division must receive the approved form and fee within 90 days of the date of the creation of the lien.¹¹ "The fact that the [Division's] acceptance takes place more than [90] days after the date of creation of the lien is immaterial."¹² Nevertheless, failure to strictly comply with Section 561.65(4) makes the lien unenforceable against the licensee.¹³

continued page 27



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Alan Abramowitz, Esq., receives award in recognition of his work with the Guardian ad Litem program from Richard Dellinger, Esq.



Donna Haynes, Mary Anne De Petrillo, Esq., the Honorable William A. Van Nortwick, Jr.



Mary Anne De Petrillo, Esq. with Colonel David A. Smith, USMC (Ret.) and Major Russell Wilson, USMCR. A \$500 donation from the Central Florida Marine Corps Association was made to the Legal Aid Society.

Representative Darren Soto and Representative Eric Eisnaugle receive recognition for their support of the Legal Aid Society



Bruce Blackwell, Esq.; William A. Van Nortwick, Jr.; Norberto Katz, Esq.; Alan Abramowitz, Esq.; Eric Eisnaugle, Esq.

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HBACF Family Fun Day



The Hispanic Bar Association of Central Florida held its Family Fun Day on September 29, 2012, at Moss Park. It was a fun-filled day with games, a bounce house for the kids, swimming, and wonderful Latin food for all to enjoy!



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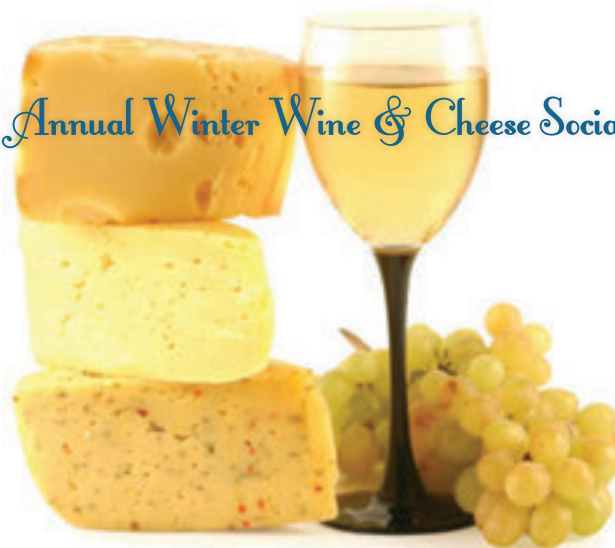
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Orlando Shakespeare Theater November 8, 2012



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Jessica Hew, Esq.
Jonathan Innes, Esq.
Eileen Fernandez, Esq.



Bob Sherry, Esq., Jill Schwartz, Esq., John Lord, Esq., Kim Webb, Esq.

OCBA members enjoyed a reception and David Mamet's award-winning play, *RACE*, at the Orlando Shakespeare Theater in November. The reception, sponsored by Jill S. Schwartz & Associates, P.A., was a first-class performance... as was the play!

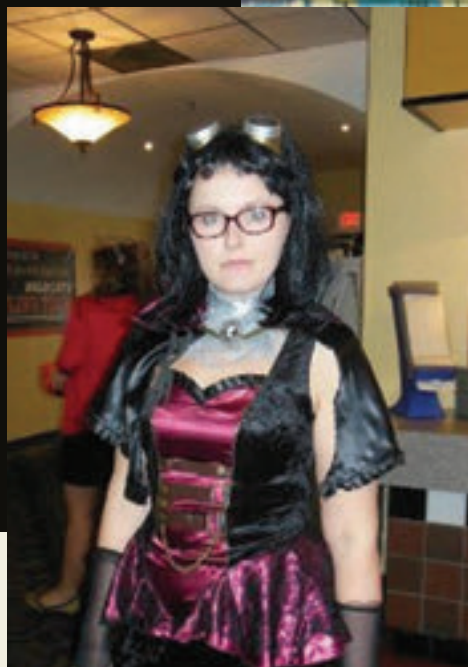


Kitty and Flo
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Spirits & Spares Social Event

The OCBA Social Committee "treated" members and their kids to the "Spirits & Spares" bowling event on October 28 at Aloma Bowl in Winter Park. The committee hopes to make this an annual family event!



Amy Guy

Editors' Note

During the last few months, most of us have taken time to appreciate our families, friends, and the bountiful lives we lead. This brief pause allows us to approach the New Year with fresh ideas, renewed optimism, and a sense of the wonder of our world. It may also cause us to reflect on issues that are larger and more important than ourselves. As editors of your magazine, we thought it would be worthwhile to discuss one of the most important global issues of our time: **the environment.**

Stating the obvious, we are dependent on clean air to breathe, pollutant-free water to drink, nourishing food to eat, and clean energy to maintain our lifestyle. But, do we need to maintain our lifestyle in ways we always have? Our technological and industrial practices continue to deplete and may even exhaust critical natural resources within the next several decades.

For April's issue of *The Briefs*, **we invite those of you whose practice area touches on environmental issues to submit a substantive article that addresses any of the following topics: global warming, environmental justice, energy consumption or alternative energy sources, air quality, food & agriculture, wetlands, wildlife, international issues, transportation, or any number of others.** Feel free, as well, to submit personal stories of how environmental changes have impacted your life, health, volunteer or philanthropic commitments, or leisure activities.

Please send your topic ideas by January 10 to Peggy Storch, communications manager, at peggys@ocbanet.org. Deadline for submission of articles is February 15, 2013.

Thank you for your support of the bar, and our best to you in the coming year.

The Briefs Editors



Richard S. Graham



Sandra C. Upchurch



John Briggs



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Steven G. Mason

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See e.g. *Corona v. State*, 64 So.3d 1232 (Fla. 2011); *Rameses v. Orange County*, 481 F.Supp.2d 1305 (MD Fla. 2007); *Sanders v. Thomas*, 821 So.2d 1214 (Fla. 1st DCA 2002); *AG v. Bradenton Group*, 26 So.3d 636 (Fla. 5th DCA 2010); *DVD v. New Albany*, 581 F.3d 556 (7th Cir. 2009).

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Due Diligence is Required Before Accepting an AB License as Collateral

Before a creditor considers whether to accept an AB License as collateral, the creditor should conduct a search of the relevant AB License file for existing liens and equitable interests in the license. AB License files are public records available for examination.¹⁴ The Division's main office in Tallahassee and the field office responsible for the county where the AB License is located maintain AB License files. The creditor should first request a formal lien search utilizing the Division-approved form titled *Request for Alcoholic Beverage License Lien Search*.¹⁵ The formal request will cause the Division to conduct a lien search of the AB License file and provide to the requester copies of all recorded liens and security interests.¹⁶

The creditor should then determine whether there are agreements creating an equitable interest in the AB License file. Under Rule 61A-3.017(5) of the Florida Administrative Code, all "agreements concerning ownership or operation of an alcoholic beverage license shall be attached to and submitted with each new or transfer application for a license, including, but not limited to, management agreements, options to purchase, and retailer franchise agreements. Any such agreements coming into existence following the issuance of a new or transfer license shall be submitted to the Division within ten (10) days of execution." Courts interpret this rule to give notice to all creditors that an agreement creating an equitable interest in an AB License could exist and that special inquiry should be made to the Division for such agreements.¹⁷ Accordingly, the creditor should review any agreements in the AB License file for provisions that, for example, create a contractual obligation for the borrower/licensee to transfer the AB

License to a third party at the expiration of lease or management agreement.¹⁸

Conclusion

A quota AB License can provide a creditor security against borrowers seeking new money or offering new collateral for existing loans or lines of credit; strict compliance with Florida Statute § 561.65 and due diligence is required.

Luis J. Gonzalez, Esq., is an associate with Holland & Knight. He has been a member of the OCBA since 2005.

¹*Lachance v. Desperado's of Holly Hill, Inc.* 760 So. 2d 1023, 1025 (Fla. 5th DCA 2000).

²Under the U.C.C., "general intangibles" means any personal property (including things in action) other than goods, accounts, chattel paper, documents, instruments, and money. U.C.C. § 9-106.

³*U.S. v. McGurn*, 596 So. 2d 1038, 1041 (Fla. 1992).

⁴*See e.g.* Fla. Stat. § 561.20(2)(a).

⁵Fla. Stat. § 561.20(2)(a).

⁶Fla. Stat. § 561.20.

⁷Fla. Stat. § 561.20(1).

⁸*U.S. v. McGurn*, 596 So. 2d 1038, 1041 (Fla. 1992).

⁹*Id.*

¹⁰<http://www.myfloridalicense.com/dbpr/abt/index.html> (DBPR ABT-6022 – Division of Alcoholic Beverages and Tobacco Application for Mortgagee's Interest in Spirituous Alcoholic Beverage License).

¹¹*Splash Entertainment, Inc. v. Sons of Ireland, Inc.*, 867 So. 2d 423, 426 (Fla. 3d DCA 2004).

¹²*Id.*

¹³*Dery v. Occhiuzzo and Occhiuzzo Enterprises, Inc.*, 771 So. 2d 1276, 1278 (Fla. 4th DCA 2000).

¹⁴Personal information in AB License files, such as social security numbers, are redacted and not disclosed.

¹⁵DBPR ABT – 6023 DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO REQUEST FOR ALCOHOLIC BEVERAGE LICENSE LIEN SEARCH.

¹⁶Fla. Stat. § 561.65 (4).

¹⁷*Lachance*, 760 So. 2d at 1026.

¹⁸*See Lachance*, 760 So. 2d at 1026 (affirming trial court order that denied creditor's claim to foreclose lessor's interest in AB License and finding that lessor's interest in the license was the ability to regain title or ownership of the license at the end of the lease and that section 561.65(4) did not require lessor to record this type of equitable interest with the Division).



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Richard B. Lord



A. Michelle Jernigan



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Mark Your Calendar

The Florida Bar's 3rd Annual Trial Lawyers Section Summit

January 16-18, 2013

including dinner and keynote remarks by author **Scott Turow**
on Thursday, January 17, 2013

The summit schedule and registration information can be found on the OCBA website calendar at <http://orangecountybar.org/calendar.asp>.

To register only for the dinner with **Scott Turow**, please see the online calendar entry for January 17.



Linda McGrath-Cruz

Recharging Your Professional Development

If you are like most people, the holidays were probably spent reconnecting with your kids during their winter break, enjoying family gatherings, or simply enjoying a slower pace. This hiatus seems to have given us permission, even if unconsciously, to be a little less productive, a little less consumed by, and a little less focused on work. But now the holidays have come to an end, and it's time to focus on reenergizing and rededicating ourselves to our professional activities, goals, and networking.

While we were enjoying the slower pace, the Florida Supreme Court was hard at work giving us a few new rules. These rules included Florida Rule of Civil Procedure 2.516, which addresses service of pleadings by email and other changes to the Florida Rules of Civil Procedure concerning the hot topic of electronic discovery. They also approved a new uniform computation of time rule, Florida Rule of Judicial Administration 2.514.

These are just three examples of important changes that have taken place during the past months. So now that we are recharged it is time to get back on track, become familiar with these and other procedural changes, and put them into use in our practice. These changes remind us of one important benefit to networking – the ability to stay up-to-date on changes in laws and procedures that affect our cases. We can use our knowledge and familiarity with these new rules as an added asset to our employer.

It is also an excellent time to get out of the office and get more involved in your own professional development. You may be asking yourself, why bother joining a local bar association? Maybe you didn't even know that you had that option. You already have so many other expenses, so many other obligations, and who wants to sit through those boring meetings anyway? But you couldn't be more wrong. Whether you are unemployed, working for a solo practitioner, or working for a global mega-firm, joining a professional association is one of the most important investments you can make in your career.

You've heard about how important networking is, haven't you? Even though the Orange County Bar Association is a professional association, it is also a social group. You get to unwind, socialize, and develop new friendships, all while learning new information or brushing up on old skills. As a paralegal member, you can enjoy the camaraderie of fellow paralegals and learn from their

personal and professional experiences, as well as gain valuable insight from attorneys, judges, administrators, community leaders, and other legal professionals in your community. Also, by taking the initiative of becoming more involved, you can show that you are dedicated to your chosen career and set yourself apart from others who may be using it as a stepping stone to other things.

Most attorneys know the importance of networking and recognize how critical it is to be a member of an organization such as the Orange County Bar Association. But many attorneys fail to recognize that their paralegal staff benefit in many of the same ways. Attorneys want their paralegals to be educated and professional. They also expect their paralegals to be up-to-date on local, state, and federal rules, and be able to implement rule changes flawlessly. Being a part of the Orange County Bar Association allows paralegals to do just that. It allows them to build a professional network that they can depend on for education and practice assistance. Professional associations also help paralegals gain confidence and increase their level of professionalism – two features that attorneys should prize. Attorneys should not only encourage but support their paralegal staff in their involvement with the Orange County Bar Association.

Another of the many benefits of association membership is the ease of access to a frequent and varied assortment of educational events designed to keep you current in your practice area or offer you new skills. While many paralegals are required to reach particular CLE reporting requirements, advancing your education is about so much more than that. For personal and professional advancement, we should strive to further our knowledge and education at every opportunity. This also allows us to stay on the cutting-edge and up-to-date with rule and procedural changes.

Many paralegals have the desire to get more involved with their profession but simply don't know how to get started or are nervous about the idea. We aren't secretaries, but we aren't attorneys either and we don't want to step on anyone's toes. You are professionals in your own right and now is the time to shake that feeling of uncertainty and take steps toward your own professional future. The Orange County Bar Association is giving you that opportunity – the opportunity to join and become a member of something bigger than yourself, to get involved and make a difference. They are giving you the opportunity to

grow professionally and to invest in yourself and your future. I encourage you to take this opportunity now, embrace it, and start on your own journey.

Linda McGrath-Cruz is a litigation paralegal with the Miami office of Arnstein & Lehr LLP. She has been a member of the OCBA since 2010.

Professionalism Committee *continued from page 4*

small-businesses-fail/. (While not a scientific study, the author's conclusions are in line with just about any other search done for the top reason businesses fail.)

⁴*The Florida Bar v. St. Louis*, 967 So.2d 108, 115 (Fla. 2007). The settlement amount for Mr. St. Louis's clients was \$59,000,000.

⁵R. Regulating Fla. Bar 4-1.1.

⁶*The Florida Bar v. St. Louis*, 967 So.2d 108, 114 (Fla. 2007). "St. Louis testified that in his estimate, the value of potential future Benlate business that FRF & S surrendered to DuPont far exceeded [the] \$6.4 million [payoff]."

⁷*The Florida Bar v. St. Louis*, 967 So.2d 108, 125 (Fla. 2007).

⁸<http://www.orangecountybar.org/committees>.

⁹Florida Bar Ethics Hotline (800) 235-8619.

¹⁰"Talk with an experienced attorney to learn more about being an attorney or about a new area of law. There are seasoned attorneys available to counsel our next generation of lawyers through SCOPE." The Florida Bar website.

¹¹"LOMAS was created to assist members dealing with all of the business aspects of setting up, managing, merging or closing a professional practice." The Florida Bar website.



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Begin Marketing Retreats - Part 3

As we discussed in the first and second part of this series, holding an annual marketing retreat is one of the best strategies we know to increase your marketing effectiveness. By pausing to take a good look at your past efforts and plan for the coming year, the strategic value of your client development efforts can be dramatically increased.

We have discussed why marketing retreats are valuable, who should attend, and what you should examine in your efforts to test the viability of your current marketing direction. We have also focused on how to set up a retreat and create a comprehensive agenda. In this article, we'll narrow our focus to discuss specific client development ideas to place on your agenda, including building your reputation, energizing your bar participation, and hosting client development events. In addition, we'll suggest ways of using your retreat as a springboard to an ongoing structure of support for your client development efforts.

Build Your Reputation

Prior to your retreat, take a look at how you and your firm are perceived by the larger community – this is an area often overlooked by up-and-coming firms. Have you done anything lately to build your reputation? The following list of goals related to raising your profile are examples of goals clients have actually used in their year-end retreats in order to round out their agenda. Read through the list to see if any of these goals would be applicable to you and your situation. If so, add them to your agenda for discussion:

•Increase your visibility by being quoted or mentioned in the publications your clients read

Sample goal: Identify the publications most read by your clients, then send one press release a month on topics which are hot-button issues.

•Increase your visibility on local or national television

Sample goal: Cultivate television reporters and/or news anchors in your area so they turn to you for commentary on local and national events.

•Increase individual reputations

Sample goal: Accumulate “mentions” in trade journals or bar newsletters.

Sample goal: Cultivate placement on business or non-profit boards.

Sample goal: Begin the process of additional training and/or board certification.

Host Activities and Events

The events and activities you participate in often shape the perceptions of you and your firm held by the community at large. Read through this list and decide which event-related goals you might want to discuss at your retreat:

•Hold a signature event every year

Sample goal: Host a party to celebrate the firm's anniversary every year (or host an event themed around a holiday, client appreciation, or charity).

•Begin a seminar or a series of speaking engagements

Sample goal: Schedule one speaking engagement or seminar per quarter on issues of most importance to potential and existing clients.

Join Your Client's Organizations

If you aren't a member of organizations other than the bar, take a look at the kind of organizations that your clients join, both business and community related. Once a member, see if you can:

•Become a high-profile presence

Sample goal: Arrange to speak to or teach the group on a regular basis.

•Become recognized as an expert

Sample goal: Write an article or column for their newsletter or trade journal.

•Become a contributing member

Sample goal: Sponsor hospitality suites, golf games, or dinners in conjunction with special events or conferences.

Schedule Weekly Lunches

A golden rule for marketing: engage in at least three marketing contacts a week. In order to meet this standard you can:

•Have lunch with people on your “Top Twenty” and “Farm Team” lists

Sample goal: Meet influencers, important clients, or potential referral sources for lunch three times per week (or have at least two lunches plus a dinner event every week).

Energize Your Bar Participation

If you, like most attorneys, get much of your business from other attorneys, local bar events are great places to:

•***Spend time with existing referral sources***

Sample goal: Use every event as an opportunity to invite another bar member out to lunch in the following week.

•***Sit next to new people at bar events to get to know them***

Sample goal: Meet one new person at every event who could be a potential referral source for you.

•***Participate or lead a committee***

Sample goal: Join a committee and use it as an opportunity to contribute your talents and meet fellow members.

Play Up Your Passion for Sports

If you, or other attorneys in your firm, are sports fans, make the most of your interests and try to:

•***Schedule a regular sports-related marketing event quarterly, monthly, or weekly***

Sample goal: Calendar golf or tennis on Friday afternoons and invite different referral sources to participate.

•***Purchase season tickets***

Sample goal: Use your season tickets to cultivate important clients, as well as existing and potential referral sources.

Cross-Selling Opportunities

Consider the following technique to get to know the clients of your partners and cultivate further work:

•***VIP lunches, “reverse seminars”***

Sample goal: Host an event in your conference room that features one of your clients or referral sources who may have need of additional legal services in the future. Introduce him or her to everyone in the firm and ask questions about his or her business.

Hire a Marketing Assistant

If those charged with client development aren't good at initiating marketing activities and events, determine if it's prudent to recruit a paralegal or a secretary to act as your marketing assistant. This person can:

•***Schedule marketing lunches and speaking events***

•***Coordinate your annual signature event***

•***Manage or coordinate updates to your web site***

•***Write or coordinate others to write a firm newsletter***

•***Capture new client data to gauge the effectiveness of your marketing efforts***

Create a Structure of Accountability

Though marketing is not complicated, it is daunting for those attorneys who lack confidence in their client development skills. Both young and old attorneys attempting to adopt challenging new behaviors are helped when a structure of accountability is in place.

Creating a structure of accountability means setting up regular meetings at which the goals established at the retreat are discussed and progress is reviewed.

These meetings, held on a quarterly or monthly basis, offer opportunities for further learning, advanced strategizing, and brainstorming about what's working and what's not. They also provide, early in the process, an opportunity to identify inattention to goals. To be successful, your accountability structure must have consequences for non-compliance. We recommend that a senior partner who is respected by the team conduct the meetings to give them the appropriate weight. Many firms provide additional incentive by creating bonuses based on client development goals

such as originating a certain number of new clients a month. For an associate with some experience, the goal might be one new client a month. For a more experienced attorney the goal might be two new clients, depending on his or her level of experience, number of contacts, and networking abilities.

Since partnership opportunities often depend in part on an associate's ability to bring in new business, helping him or her become better a marketer helps not only that individual but the firm as a whole.

Holding an annual marketing retreat is important to the growth of your firm. Taking consistent action on the goals you've identified in your marketing retreat is even more important. The more often the goals to raise your profile in the community cultivate new referral sources and clients are reviewed, the better.

Even if you don't meet your goals perfectly, go about trying to achieve them with confidence – in trying to achieve them you'll do much more than you would have otherwise. Set your goals high, and provide as much internal support and education as possible, because in the words of Ralph Marston, “Your goals minus your doubts equal your reality.”

Editors' note: When adding a personal touch to express appreciation to referral sources, including, in some cases, sending a meaningful gift, attorneys should be aware that their gestures must not violate Rule 4-7.2(c)(14) of the Rules Regulating the Florida Bar, which prohibits an attorney from giving anything “of value” to a referral source. An attorney should consult with The Florida Bar if he or she has questions regarding the application of the rule.

Mark Powers, President of Atticus, Inc., and **Shawn McNalis** co-authored *How Good Attorneys Become Great Rainmakers* and *Time Management for Attorneys*, and are featured marketing writers for *Lawyers, USA* and a number of other publications. To learn more about the work that Atticus (www.atticusonline.com) does with attorneys or the Atticus Rainmakers™ (www.atticusrainmakers.com) program, please visit or call 352-383-0490 or 888-644-0022.



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Thomas D. Sommerville, Esq. – Muller & Sommerville, P.A. – Criminal Trial

Jason B. Vrbensky, Esq. – Bull and Associates, P.A. – Construction Law

Speaking Engagements

Stephen M. Bull, Esq., Bull and Associates, P.A., presented *Use of Alternative Dispute Resolution in the Crane Industry* at the Annual Professional Development Conference for the Crane Industry in Tampa in November.

Earnest DeLoach, Jr., Esq., Andre T. Young, Esq., and Nikie N. Lomax, Esq., facilitated a presentation with the African American Chamber of Commerce on the topic, *Wealth Protection & Succession Planning in a Down Economy*, at the National Entrepreneur Center on October 24, 2012.

Larry D. Smith, Esq., managing partner of Southern Trial Counsel, PLC, and member of the Litigation Counsel of America's Diversity Institute, presented *Diversity and Professionalism* at the Litigation Counsel of America's Diversity Summit held on September 14, 2012, in Chicago.

Michael L. Smith, Esq., The Health Law Firm, delivered a lecture on Florida legal issues associated with working in the healthcare and food management industries to participants at a healthcare seminar sponsored by U.S. Foods on October 9, 2012.

Dennis J. Wall, Esq. of Winter Springs and Orlando, co-presented the webinar, *Review of Many Recent Insurance Cases, And of One Modest Proposal* for West Legal Education Center on September 28, 2012, a live seminar entitled *Forensic Examination of Insurance Policies: Part 1* for the OCBA on October 17, 2012, and co-presented the webinar, *Hurricane Sandy and Other Hot Topic Insurance Issues* for West Legal Education Center on November 9, 2012.

Events

Jan. 30 – Annual Winter Wine & Cheese Social. 5:30 p.m. Ember. Sponsored by Westlaw. Benefitting OCBA Foundation.

Feb. 16 – Cars & Coffee Social. 9:00 a.m. University Club. Sponsored by Orange Legal; Rumberger, Kirk & Caldwell; Credence Corp. Benefitting OCBA Foundation.

Feb. 28 – Evening with the Judiciary. 5:30 p.m. Winter Park Civic Center.

Seminars

Jan. 8 – *Common Issues in Litigation of Intellectual Property Disputes in the Middle District of Florida*. Intellectual Property Committee. 12:00 p.m.-1:00 p.m. OCBA Center. CLE: 1.0 (pending). Sponsored by Lowndes, Drosdick, Doster, Kantor & Reed, P.A. Panelists: Hon. John Antoon, II, Hon. Gregory A. Presnell, Hon. David A. Baker. Moderator:

Richard Dellinger, Esq. To register, contact: Barbie Mahan at bmahan@iplawfl.com.

Jan. 10 – *Motions to Dismiss, Motions to Strike, and Motions for Summary Judgment*. Brown Bag Lunch with Judge John Kest. 12:00 p.m.-1:15 p.m. Orange County Courthouse, 23rd Flr. Judicial Conference Room. CLE: 1.5. Please feel free to bring your lunch, and tell security you will be attending the Brown Bag Lunch. To register, contact: Diane Iacone at 407-836-0443 or ctjadi1@ocnjcc.org.

Jan. 15 – *How to Predict Your Mediation Outcome*. Solo & Small Firm Committee. 12:00 p.m.-1:00 p.m. OCBA Center. Speaker: Dan H. Honeywell, Esq. CLE: 1.0 (pending). Lunch sponsored by Honeywell Mediation. Registration deadline: Jan. 14. To register, contact: ocbasolos@gmail.com.

Jan. 18 – *Drug Testing in Family Law Cases*. Family Law Committee. 12:00 p.m.-1:00 p.m. OCBA Center. CLE: 1.0 (pending). Speakers: Dee Carlson, Esq. and Veronica Carter, Esq. To register, contact: Camy B. Schwam Wilcox at camy@cbswlaw.com.

Jan. 22 – *Discover How to Get Real Business Results From Your Website*. Sponsored by Orlando Business Journal. 8:30 a.m.-11:00 a.m. OCBA Center. Speakers: TBD. To register, go to: <http://www.bizjournals.com/orlando/event/83401>.

Jan. 25 – *Lessons from the Field: A Case Study of The Florida Bar v. Roland Raymond St. Louis, Jr.* Ninth Judicial Circuit OCBA Professionalism Committee. 9:00 a.m.-4:00 p.m. OCBA Center. CLE: 6.0 (including 6.0 ethics; 1.0 mediation) pending. Speakers: Former Supreme Court Justice Charles T. Wells, Esq.; Patricia Savitz, Esq.; William H. Robinson, Jr., Esq.; David B. King, Esq.; Carrie A. Wozniak, Esq.; Marc P. Ossinsky, Esq.; James G. Feiber, Jr., Esq.; William B. Custer, Esq.; James A. Edwards, Esq.; Robert L. Dietz, Esq.; David C. Schwartz, Esq.; David A. Paul, Esq.; Michael V. Elsberry, Esq.; Kristopher J. Kest, Esq. Fee: \$35 (OCBA members); \$50 (non-members). Continental breakfast sponsored by: HMS Certified Public Accountants. Lunch sponsored by: Marsh U.S. Consumer, a Service of Seabury & Smith, Inc. Registration deadline: Jan. 18. To register, contact: Marie West at mariew@ocbanet.org, or download registration form from OCBA website calendar: www.orangecountybar.org.

Jan. 30 – *Life and Law in the Cloud*. Seminar sponsored and presented by Protechnica. 12:00 p.m.-1:00 p.m. OCBA Center. To register, contact: Marie West at mariew@ocbanet.org.

Jan. 31 – *Recent Trends in E-Discovery Ethics*. Seminar sponsored and presented by Elijah, Ltd. 12:00 p.m.-1:00 p.m. OCBA Center. Speaker: Andy Reisman, President of Elijah, Ltd. CLE: 1.0 (pending). To register, contact: Marie West at mariew@ocbanet.org.

Feb. 14 – *Motions to Compel, Sanctions and Contempt*. Brown Bag Lunch with Judge John Kest. 12:00 p.m.-1:15 p.m. Orange County Courthouse, 23rd Flr. Judicial Conference Room. CLE: 1.5. Please feel free to bring your lunch, and tell security you will be attending the Brown Bag Lunch. To register, contact: Diane Iacone at 407-836-0443 or ctjadi1@ocnjcc.org.

Feb. 15 – *Getting to Know Judge Bob LeBlanc*. Family Law Committee. 12:00 p.m.-1:00 p.m. OCBA Center. CLE: 1.0 (pending). To register, contact: Camy B. Schwam Wilcox at camy@cbswlaw.com.

LAS Lunchtime Training dates: Jan. 7; Jan. 21; Feb. 4; Feb. 18. Topics and speakers: TBA. 12:00 p.m.-1:30 p.m. Marks Street Rec. Ctr. For more information and to register, contact: Marilyn Carbo at mcarbo@legalaiddocba.org or 407-841-8310, ext. 3121.

Inside the Courts dates: Feb. 12, 19, 26, and Mar. 5. 6:30 p.m. Orange County Courthouse. Details to come.

Announcements

100%

Allen, Norton & Blue, P.A.
 Amy E. Goodblatt, P.A.
 Anderson & Ferrin, Attorneys at Law, P.A.
 Bailey Fisher, PLLC
 Banker Lopez Gassler P.A.
 Benitez Law Group, P.L.
 Benkiran Law Firm, P.A.
 Billings, Morgan & Boatwright, LLC
 Bodiford Law Group
 Bonus McCabe Law Firm
 Bull and Associates, P.A.
 Burr & Forman LLP
 Calandrino Law Firm, P.A.
 Camy B. Schwam Wilcox, P.A.
 Carr Law Firm, P.A.
 Carsten & Ladan, P.A.
 Chaires, Brooderson & Guerrero, P.L.
 Cole, Scott & Kissane, P.A.
 Colling Gilbert Wright & Carter, LLC
 Cullen & Hemphill, P.A.
 DeCiccio & Johnson
 Dellecker Wilson King McKenna Ruffier & Sos, LLP
 Dewitt Law Firm, P.A.
 Englert, Leite & Martin, P.L.
 Faddis & Faddis, P.A.
 Fassett, Anthony & Taylor, P.A.
 Fishback, Dominick, Bennett, Stepter, Ardman,
 Ahlers & Langley, LLP
 Fisher, Rushmer, Werrenrath, Dickson, Talley & Dunlap, P.A.
 Frank A. Hamner, P.A.
 Frank Family Law Practice
 Gregory S. Martin & Associates, P.A.
 Grossman & Grossman, P.A.
 Harris, Harris, Bauerle & Sharma
 Higley & Szabo, P.A.
 Hilyard, Bogan & Palmer, P.A.
 Infocus Family Law Firm, P.L.
 James H. Monroe, P.A.
 Kelley, Kronenberg, Gilmartin, Fichtel, Wander,
 Bamdas, Eskalyo & Dunbrack, P.A.
 King, Blackwell, Zehnder & Wermuth, P.A.
 Korshak & Associates, P.A.
 Kosto & Rotella, P.A.
 Law Offices of Thomas H. Justice III, P.A.
 Law Offices of Walter F. Benanati Credit Attorney, P.A.
 Legal Aid Society of the OCBA
 Lewis & Crichton, Attorneys at Law
 Lynn B. Aust, P.L.
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 Southern Trial Counsel, PLC
 Stovash, Case & Tingley, P.A.
 Swann Hadley Stump Dietrich & Spears, P.A.
 Tangel-Rodriguez & Associates
 The Aikin Family Law Group
 The Brennan Law Firm
 The Carlyle Appellate Law Firm
 The Draves Law Firm, P.A.
 The Elder Law Center of Kirson & Fuller
 The Johnston Law Firm, P.A.
 The Llabona Law Group
 The Law Offices of Terry L. Bledsoe, P.A.
 The Law Offices of Trevett and Bonham, P.L.
 The Marks Law Firm, P.A.
 The McMahon Law Group, P.A.
 The Rosenthal Law Firm, P.A.
 The Skambis Law Firm
 The Smith Family Law Firm, P.A.
 The Tech Law Firm, PLLC
 Troutman, Williams, Irvin, Green, & Helms, P.A.
 Vose Law Firm, LLC
 Warner + Warner, P.L.
 West, Green & Associates, P.L.
 Wicker, Smith, O'Hara, McCoy & Ford, P.A.
 Wieland, Hilado & DeLattre, P.A.
 William G. Osborne, P.A.
 Wilson McCoy, P.A.
 Winderweedle, Haines, Ward & Woodman, PA
 Wolff, Hill, McFarlin & Herron, P.A.
 Wooten, Kimbrough and Normand, P.A.
 Yergey and Yergey, P.A.
 Young DeLoach, PLLC

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

CLUB

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To reply to BRIEFS box number, address as follows:
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handling first party property/liability coverage issues and complex contractual/tort litigation seeks attorneys for its Maitland office. Insurance defense experience preferred. Fax/Mail resume to: Office Manager (407) 647-9966, The Rock Law Group, P.A., 1760 Fennell St., Maitland, Florida 32751.

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WINTER PARK OFFICE SPACE TO SHARE – Near I-4. Furnished or unfurnished office with secretarial area(s). Share 2 conference rooms, reception area, full kitchen, phone, internet, large on-site parking area, and utilities included. Monthly rent negotiable. For info call Marc at 321-397-2966.

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OFFICE SPACE AVAILABLE FOR LEASE, midway between Orange and Seminole County courthouses, in Altamonte Springs, easy access on/off interstate 4, receptionist, copy machine, fax machine, and phones are available, two conference rooms with flat panel televisions, library, breakroom/kitchen/storage, reception area, substantial secretarial area(s), local phone service, power, water and sewer, high speed internet, janitorial service and signage on busy road included, 3 offices with windows and 1 without available, ample free parking. Contact Victoria at (407) 389-4LAW (4529).

COLONIALTOWN OFFICE: 1,438 Sq.Ft., Former law office includes 3 offices plus secretarial areas; large reception area with hardwood floors, wall to wall built in bookcase, sky lights, and foyer;

full kitchen. Backyard includes private courtyard, pool and elaborate landscaping. Minutes from courthouse. Call Ed Gay at 407-578-1334, ext. 292.

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

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Marc Jacobs, Esq., Michelman & Robinson, LLP, Litigation Partner

OCBA Calendar

JANUARY - FEBRUARY 2013

OCBA Luncheon

Sponsored by Curtis Protective Service

Laurel Bellows, Esq.

President, American Bar Association

January 24, 2013 • 11:30 a.m. - 1:00 p.m.

The Ballroom at Church Street

RSVP by January 18, 2013

reservations@ocbanet.org

January

- 1 OCBA Office Closed – New Year's Day**
- 2 Business Law Committee**
12:00 p.m. • OCBA Center
- 4 Criminal Law Committee**
12:00 p.m. • OCBA Center
- 7 LAS Lunchtime Training**
Topic TBA
12:00 p.m. • Marks Street Rec. Ctr.
- 8 Intellectual Property Committee Luncheon Seminar**
Common Issues in Litigation of Intellectual Property Disputes in the Middle District of Florida
12:00 p.m. • OCBA Center
- 9 Judicial Relations Committee**
12:00 p.m. • Orange County Courthouse
21st Flr. Judicial Conference Rm.

Lawyers Literary Society
12:00 p.m. • OCBA Center

Executive Council Meeting
4:30 p.m. • OCBA Center
- 10 Brown Bag Lunch with Judge J. Kest**
Motions to Dismiss, Motions to Strike and Motions for Summary Judgment
12:00 p.m. • Orange County Courthouse
23rd Flr. Judicial Conference Rm.

Social Security Committee
12:00 p.m. • OCBA Center
- 14 Estate, Guardianship & Trust Committee**
12:00 p.m. • OCBA Center
- 15 Solo & Small Firm Committee Seminar**
How to Predict Your Mediation Outcome
12:00 p.m. • OCBA Center
- 16 Insurance Law Committee**
12:00 p.m. • OCBA Center
- 17 Technology Committee**
12:00 p.m. • OCBA Center
- 18 YLS Luncheon**
11:40 a.m. • Citrus Club

Family Law Committee Seminar
Drug Testing in Family Law Cases
12:00 p.m. • OCBA Center

- 21 LAS Lunchtime Training**
Topic TBA
12:00 p.m. • Marks Street Rec. Ctr.
- 22 Discover How to Get Real Business Results From Your Website**
8:30 a.m. • OCBA Center
- 23 Appellate Practice Committee**
12:00 p.m. • OCBA Center

Elder Law Committee
12:00 p.m. • OCBA Center
- 24 OCBA Luncheon**
Laurel Bellows, Esq.
President, American Bar Association
11:30 a.m. • Ballroom at Church Street
- 25 Professionalism Committee Major Seminar**
Lessons from the Field: A Case Study of The Florida Bar v. Roland Raymond St. Louis, Jr.
9:00 a.m. • OCBA Center
- 30 Protechnica Seminar**
Life and Law in the Cloud
12:00 p.m. • OCBA Center

OCBA Winter Wine & Cheese Social
5:30 p.m. • Ember
- 31 Elijah, Ltd. Seminar**
Recent Trends in E-Discovery Ethics
12:00 p.m. • OCBA Center

February

- 4 LAS Lunchtime Training**
Topic TBA
12:00 p.m. • Marks Street Rec. Ctr.
- 5 Social Committee**
11:45 a.m. • Rusty Spoon

Professionalism Committee
12:00 p.m. • OCBA Center
- 6 Business Law Committee**
12:00 p.m. • OCBA Center
- 7 Criminal Law Committee**
12:00 p.m. • OCBA Center
- 8 YLS Luncheon**
11:40 a.m. • Citrus Club
- 11 Estate, Guardianship & Trust Committee**
12:00 p.m. • OCBA Center

- 12 Inside the Courts**
6:30 p.m. • Orange County Courthouse
- 13 Lawyers Literary Society**
12:00 p.m. • OCBA Center

Executive Council Meeting
4:30 p.m. • OCBA Center
- 14 Brown Bag Lunch with Judge J. Kest**
Motions to Compel, Sanctions and Contempt
12:00 p.m. • Orange County Courthouse
23rd Flr. Judicial Conf. Rm.

Social Security Committee
12:00 p.m. • OCBA Center
- 15 Family Law Committee Seminar**
Getting to Know Judge Bob LeBlanc
12:00 p.m. • OCBA Center
- 16 Cars & Coffee Social Event**
9:00 a.m. • University Club
- 18 LAS Lunchtime Training**
Topic TBA
12:00 p.m. • Marks Street Rec. Ctr.
- 19 Solo & Small Firm Committee**
12:00 p.m. • OCBA Center

Inside the Courts
6:30 p.m. • Orange County Courthouse
- 20 Elder Law Committee**
12:00 p.m. • OCBA Center
- 22 Bankruptcy Law Committee**
12:00 p.m. • OCBA Center
- 26 Tax Law Committee**
12:00 p.m. • OCBA Center

Inside the Courts
6:30 p.m. • Orange County Courthouse
- 27 Appellate Practice Committee**
12:00 p.m. • OCBA Center
- 28 OCBA Luncheon**
The Honorable Mary S. Scriven
U.S. District Court, Tampa
11:30 a.m. • Ballroom at Church Street

Evening with the Judiciary
5:30 p.m. • Winter Park Civic Center

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