

the Briefs

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Orange County Bar Association
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Advertising - 10th of the month prior to the month of publication

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

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President's Message

June 2013



Paul J. Scheck, Esq.

I Will Endeavor...

Every man is said to have his peculiar ambition. Whether it be true or not, I can say for one that I have no other so great as that of being truly esteemed of my fellow men, by rendering myself worthy of their esteem. How far I shall succeed in gratifying this ambition, is yet to be developed.

— March 9, 1832, Abraham Lincoln

I have reflected on these words from Abraham Lincoln (one of my personal heroes) as I embarked on crafting my first “President’s Message.” In this political announcement from 1832, Lincoln acknowledged that his ambition was to be “truly esteemed” and to be worthy of such esteem from those he sought to represent. I, likewise, am truly humbled to have been entrusted with the leadership role of this great organization and assure each of you that I will endeavor to render myself worthy of your esteem during the upcoming bar year.

During the upcoming year, I hope that your bar leadership will be able to accomplish three main objectives. First, we will be developing and implementing a long-term strategic plan for the OCBA. The focus of this process is to devise a plan to further grow and diversify the OCBA through the foreseeable future, while making future transitions at the OCBA a seamless process. A second objective will be to maintain and further develop the level of professionalism and civility among members of our profession. Through our already very active Professionalism Committee, it will be one of my priorities to include a professionalism element in more of our programs and events. A third objective is to continue to make the OCBA relevant to all of you, its members, as well as to those who are not currently members. I look forward to discussing these numerous programs in upcoming messages.

In speaking of “esteemed,” that is certainly a term describing the OCBA. As I have traveled recently in my capacity as the president-elect of your bar association, I have been overwhelmed by the amount of respect and admiration that other lawyers and bar leaders throughout the country have for the OCBA. This admiration is largely a product of the hard work of our current bar staff, led by our executive director, Brant Bittner. I am inspired by the dedication and commitment expressed by each member of our bar staff on a daily basis, and I commend them for setting the standard by which all other bar associations should be measured. We are working very hard to maintain the high level of relevant services currently being provided, while at the same time striving to

implement new programs that will further benefit our members over the next twelve months. I would encourage each of you to acquaint yourself with the numerous and diverse programs and services offered by the OCBA.

The word “esteemed” is also something that applies to the men and women who have gone before us and established the foundation of the OCBA, molding it into the distinguished voluntary bar association that it is today. A review of the pictures of past OCBA presidents hanging in the bar center is a constant reminder that we are called to follow their example of being servant leaders. We should collectively seek during this upcoming bar year to impact our community with the talents and treasures with which each of us has been blessed and entrusted.

“Esteemed” is a concept that also readily applies to you, the members of the OCBA. By virtue of this being a voluntary bar association, each of you has voluntarily committed yourself to being a part of something larger than your own success. This commitment level is reflected in the numerous hours dedicated on a daily, weekly, and monthly basis to the less fortunate citizens of Central Florida in the form of *pro bono* and reduced fee services. It is also reflected in the leadership and servant roles that our members have assumed in various charitable organizations throughout our community, meeting the physical, spiritual, educational, and legal needs of our citizens. In short, I am proud to be a member of the OCBA, the finest bar association in America.

I want to thank you again for the honor and the privilege of serving as your bar president for the upcoming year. I consider it a true blessing to have been called to this role. As for how well I succeed in rendering myself worthy of your esteem, as President Lincoln said, that is yet to be developed.

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



Hon. John Antoon, II

My Views on Professionalism from the Bench Remarks upon Receipt of the James G. Glazebrook Memorial Bar Service Award

For the past several decades, legal institutions have focused intensely on what they perceive as a crisis caused by a precipitous decline in legal professionalism.¹ While I remain unconvinced that the conduct of lawyers is worse now than it was when I began practice, I welcome the increased attention paid to the importance of legal professionalism. Adhering to higher standards of legal professionalism has effects far beyond simply creating a more pleasant experience for those involved in the legal field – it also promotes respect for American courts and strengthens the rule of law. Although the judiciary is an equal branch of government, it lacks resources and muscle to enforce its rulings. Rather, judicial power depends on the respect citizens have for court decisions and the process through which those decisions are reached. The professionalism of judges and the officers of their courts play an essential role in maintaining that respect.

It seems that every article or lecture on this subject begins with an effort to define the term “professionalism.” Regardless of whether the definitions rely on catchy metaphors or philosophical musings, they almost always describe professionalism as behavior that surpasses that required by rules of conduct. Rules of conduct establish the “floor for behavior,” violation of which will possibly result in sanctions.² Professionalism, on the other hand, is a much higher level of conduct, invoking aspirational standards.³ As Professor Rob Atkinson⁴ explains it:

[Professionalism] refers to lawyerly social obligation... that lies beyond what the letter of the law strictly requires. These are aspirational, as opposed to mandatory, standards of lawyerly conduct – the kind of conduct that good lawyers expect of themselves and their peers, even though bad lawyers can’t be formally sanctioned for failing to measure up.⁵

Because you are Florida lawyers and have fulfilled your continuing legal education ethics requirements, you understand the meaning of professionalism in the context of practicing law. Even if you strain to come up with a precise definition of the term, you can say as Justice Stewart did in struggling to define pornography: “I know it when I see it.”⁶

My focus here will be on professionalism from the bench, which is essential to public confidence in the courts. We judges, after all, are the standard-

bearers of the profession. We are equipped with trappings that emphasize the importance of our institutional role. We have the best seats in the courtroom, high above the fray, emphasizing the control we have over proceedings; we wear black robes signifying our neutrality; a few of us wield gavels; and all of us have bailiffs or marshals to maintain order in the courtroom. People stand when we enter the courtroom and refer to us in the most flattering ways. But none of these customs or symbols of authority makes a difference if our conduct itself does not instill confidence in the proceedings.

Judges who issue timely rulings and comply with the minimum requirements of applicable codes of judicial conduct will get by. In contrast, those striving to attain a high level of professionalism will do much more. During my time in the judiciary, I have had the privilege of learning from judges who go the extra mile to set an example of legal professionalism. Judges like these promote public confidence in the courts and, in the process, they earn the respect of lawyers and fellow judges. You know who these judges are, and if you have been paying attention, you have noticed some of the things these judges do.

In my experience, a judge’s professionalism begins with preparation. Do you remember years ago seeing some judges frequently carrying heavy banker’s boxes of papers to peruse at home in the evenings in preparation for hearings the next day? I do. Thanks to technology, preparation no longer requires the physical strength to lug boxes to and from the car, but preparation remains just as important. Rising caseloads, particularly in Florida courts, make this a daunting task, but preparedness is a sign of respect to the litigants and lawyers, and it instills in them confidence in the judge and the legal system. A practical benefit to the court is that the judge’s preparation often results in lawyers writing better papers and being better prepared themselves.

In the courtroom, judges striving for a higher level of professionalism deliberately set the tone of the proceedings through the way they treat others. These judges try to treat everyone who appears before them with courtesy and, most likely, with a certain degree of formality. They address lawyers, litigants, witnesses, and court personnel by their surnames and require the lawyers to do the same. We all know that testing credibility – an impor-

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OCBA Luncheon Tuesday, June 25, 2013



Rick L. Weddle

Rick L. Weddle ***President and CEO***

Metro Orlando Economic Development Commission

Rick L. Weddle joined the Metro Orlando Economic Development Commission (EDC) as president and CEO in March of 2011. In this role, he leads the operations of a \$5 million regional organization with a 26-person staff that represents Orange, Seminole, and Lake counties, and the City of Orlando.

Prior to joining the EDC, Weddle spent seven years as president and CEO of the Research Triangle Foundation of North Carolina, owner and developer of The Research Triangle Park. Under his leadership, the Research Triangle Park generated successful development projects with a projected capital investment of over \$800 million and the projected creation of over 6,300 new jobs.

Weddle's extensive career in economic development also includes serving as president and CEO of the Greater Phoenix Economic Council (GPEC) in Phoenix, Arizona. He has led economic development organizations in Toledo, Ohio, where he served as president and CEO of

the Regional Growth Partnership (RGP); in Stockton, California, as president and CEO of the San Joaquin Partnership & Business Council; and in Winston-Salem, North Carolina, where he was president and CEO of Winston-Salem Business Inc.

An active speaker and leader in numerous economic development and science park organizations, Mr. Weddle currently serves as the president of the International Association of Science Parks (IASP) and was elected president of IASP-North American Division in December 2007. He has been active in the International Economic Development Council (IEDC) since its inception, serving as its first president in 2002, and is a recipient of their lifetime achievement award.

The Ballroom at Church Street

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

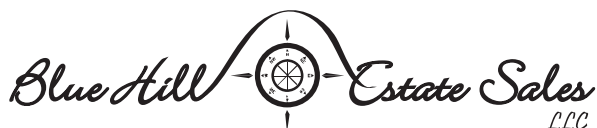
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Please RSVP by Friday, June 21, 2013
to reservations@ocbanet.org

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, June 21, 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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It may be true that the law cannot make a man love me, but it can stop him from lynching me, and I think that's pretty important.

— Martin Luther King Jr.

Professionalism Committee
continued from page 4

tant component of our adversary system – can be messy business, but these judges set boundaries. While a lawyer is entitled to have a question answered as asked, a witness is entitled to give an uninterrupted answer. There is no excuse for *ad hominem* exchanges between lawyers, and these judges will not allow it; in fact, they will require that comments be addressed only to them.

The judges who best exemplify professionalism understand how important it is that all parties be given a meaningful opportunity to be heard. Sometimes it is more important to litigants that they tell their side of a story than that they receive a favorable decision; it may be enough that the person believes the judge has listened and has considered what was said. Of course, judges must set time limits, but they should avoid cutting off a witness simply because they anticipate the same story they have heard countless times before. Even when such rushing does not compromise a litigant's due process rights, it can erode confidence in the system.

Judges exemplifying legal professionalism also recognize that their published opinions should demonstrate the seriousness of their work. Judicial opinions involve real people and often have far-reaching societal consequences; efforts at humor run the risk of undermining the gravity of the courts' work.⁷ As observed by a justice on the Indiana Supreme Court, "[e]xplication of the law, even when in dissent, cannot be personal, political, or preferential, lest the rule of law be undermined."⁸ At the appellate levels, there are myriad examples of judges engaging in personal attacks, questioning the honesty and intelligence of the trial judge or another member of the appellate panel. Unfortunately, there is also an abundance of examples of trial judges lobbing insults back to appellate courts. Such conduct demeans the integrity of the entire judicial system.

The public has entrusted us judges with the incomparable honor of resolving disputes. Daily, we are

educated by competent counsel and paid to do what we believe to be right. Except for rare orders on remand, no one can tell us what to do or how to do it. We are often pampered by the bar and admired by our fellow citizens. As scripture teaches, however, to whom much is given, much is required.⁹ That certainly applies to us. We cannot provide *pro bono* legal services, but there is much that we can do – we can accept invitations to speak to civic groups and students from elementary school through law school about how the courts work, we can engage in programs to train young lawyers, and we can participate in committees such as the OCBA Professionalism Committee or an American Inn of Court that are devoted to improving legal professionalism. Opportunities are there.

As judges, we are in a position to demand professional conduct in our courts, and we have an obligation to do so. Beyond that, we also have the opportunity to improve professionalism in the bar and on the bench through the examples we set. By doing so, we earn the public's confidence in our country's judicial system and strengthen our democracy. What a job!

Hon. John Antoon, II, United States District Court for the Middle District of Florida, has been a member of the OCBA since 1983.

¹See Mike Hoeflich & J. Nick Badgerow, *The Regulation of Courtesy: Does Kansas Need a Code of Professionalism?*, 60 U. KAN. L. REV. 413 (2011).

²Peter D. Webster, *Ethics and Professionalism on Appeal*, FLA. B.J., Jan. 2011, at 16.

³*Id.*

⁴Professor of Law, Florida State University. B.A., Washington and Lee University, 1979; J.D., Yale University, 1982.

⁵Rob Atkinson, *Br'er Rabbit Professionalism: A Homily on Moral Heroes and Lawyery Mores*, 27 FLA. ST. U. L. REV. 137, 139 (1999).

⁶*Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964) (Stewart, J., concurring).

⁷Randall T. Shepard, *What Judges Can Do About Legal Professionalism*, FLA. B.J., Mar. 1998, at 31.

⁸*Id.* at 32.

⁹*Luke* 12:48.

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Drowning in a Sea of Tort: The Florida Supreme Court Fundamentally Reshapes the Economic Loss Rule

Katharine H. Ballingrud, Esq.

The Florida Supreme Court recently decided *Tiara Condominium Association, Inc., etc. v. Marsh & McLennan Companies, Inc.*¹ In an important holding for Florida civil litigants, the Court held in a 5-2 decision that the applicability of the economic loss rule in Florida is now limited solely to products liability cases, permanently altering decades' worth of case law and doctrine on the economic loss rule and changing the landscape for parties litigating claims based in contract and tort.

The Eleventh Circuit certified a question to the Florida Supreme Court, which that Court restated as, "Does the economic loss rule bar an insured's suit against an insurance broker where the parties are in contractual privity with one another and the damages sought are solely for economic losses?" The Court answered the question in the negative.

The facts are as follows: Tiara Condominium Association retained Marsh as its insurance broker. Marsh's job was to obtain insurance coverage for Tiara, and did so, securing windstorm coverage through Citizens Property Insurance Corporation. The amount of the policy was \$50 million. Tiara subsequently suffered damage to its condominium by hurricanes Frances and Jeanne in 2004. Marsh assured Tiara that the loss limits coverage was "per occurrence," leading Tiara to believe that it would be entitled to nearly \$100 million, rather than coverage "in the aggregate," which would entitle Tiara to only about half that amount. Tiara began the process of loss remediation and then sought payment from Citizens. Tiara then learned that the loss limit was \$50 million in the aggregate. Tiara and Citizens eventually settled for approximately \$89 million, but that was an amount lower than the \$100 million Tiara had spent in loss remediation pursuant to the advice of Marsh.

Tiara sued Marsh in October of 2007, alleging (1) breach of contract, (2) negligent misrepresentation, (3) breach of the implied covenant of good faith and fair dealing, (4) negligence, and (5) breach of fiduciary duty. The trial court granted summary judgment for Marsh on all claims and Tiara appealed to the Eleventh Circuit, which concluded that summary judgment was proper as to the breach of contract claim, the negligent misrepresentation claim, and the breach of implied covenant of good faith and fair dealing claims. As to the negligence and breach of fiduciary duty

claims, the court certified the above question to the Florida Supreme Court to determine whether the economic loss rule prohibits recovery in this case, or whether an insurance broker falls within the professional services exception to the economic loss rule that would allow Tiara to proceed with the claims under a tort theory, and theoretically enable it to recover greater damages. The Court ruled that Tiara's suit was not barred under its new interpretation of the doctrine even though Tiara had suffered only economic damages.

The economic loss rule is rooted in products liability cases. It was developed to protect manufacturers from liability for economic damages caused by a defective product beyond those damages permitted under warranty law.² The rule is most often applied when a plaintiff attempts to apply tort remedies to traditional contract law damages. The rule thus prohibited damages under a tort theory if the damages suffered were economic losses. Where parties could not prove that defendants committed a tort independent of a breach of contract, there was no basis for recovery in negligence.³

Before the landmark decision in *Tiara Condominium*, Florida courts had recognized several exceptions to the economic loss rule. Tort actions may be brought for intentional or negligent acts considered to be independent from the acts that breached the contract.⁴ Courts have also carved out an exception for professional services contracts for reasons of public policy. Liability was not limited to the terms of the contract when a plaintiff alleged negligence in providing professional services.⁵ Courts have also recognized exceptions to the rule for claims of fraud in the inducement.⁶

In deciding *Tiara Condominium*, the Court recognized a common thread among its prior jurisprudence on this doctrine to limit application of the economic loss rule. In its decision, the Court explains its reasoning for returning the rule to its original products liability roots. "When the damage is to the product itself," the Court noted, "the injury suffered – the failure of the product to function properly – is the essence of a warranty action, through which a contracting party can seek to recoup the benefit of its bargain."⁷ Where once the Court recognized application of the economic loss rule for cases involving "personal injury or property damage,"⁸ the Court now restricts tort damages to cases involving "property

damage” through a products liability lens. “From the outset,” the Court writes, “the focus of the economic loss rule was directed to damages resulting from defects in the product itself.”

In limiting application of the rule to products liability cases, the Court expressed frustration with what it saw as the expansion of the application of the rule beyond its “principled origins” to “situations well beyond [the Court’s] original intent.”⁹ The Court decried “over-expansion” and “unprincipled extension” of the rule and its drift away from fundamental contract principles. It sought to remedy “confusion as to the rule’s applicability,” which had been widespread.¹⁰ Yet, significantly, other than alluding to the doctrine’s roots in products liability law, the Court does little to explain why the economic loss rule is appropriately applied in that context but not in others.

Plaintiffs’ and defense attorneys alike are acutely aware of the significance of the economic loss rule. Since tort damages tend to be greater than damages under a contract theory, it behooves plaintiffs to sue in tort whenever possible, unless prohibited by the rule. As a result, the impact of *Tiara Condominium* will be profound. It is conceivable that more claims will be filed as a result, and that greater jury verdicts and judgments will be awarded to plaintiffs. It is likely that plaintiffs will have more leverage in mediation and in settlement discussions because of the opportunity to bring claims with greater damages. *Tiara Condominium* represents a shift of power from defendants – who had enjoyed a favorable atmosphere under Florida law because of restrictions on pleading punitive damages and the cessation of joint and several liability – to plaintiffs.

Does the decision represent an expansion of tort law at the expense of contract principles? Conversely, does it resolve uncertainty and ambiguity in economic loss cases? It depends on whom you ask. “Basic common law principles already restrict the remedies available to parties who have specifically negotiated those remedies and, contrary to the assertions raised in dissent, our clarification of the economic loss rule’s applicability does nothing to alter those common law concepts,” writes Justice Pariente in a concurrence. Moreover, she notes, fundamental contract principles already properly delineate the general boundary between contract and tort law.

The decision will invariably invite some criticism. *Tiara Condominium* will very likely expand tort claims and remedies, adding additional strain to an overbur-

dened court system. Moreover, the Florida Supreme Court’s own consistency could be called into question with this decision. Only two years ago the Court decided that “the economic loss rule in Florida is applicable” not only in the products liability context but also “where the parties are in contractual privity and one party seeks to recover damages in tort for matters arising out of the contract.”¹¹ It would seem the Court has had a dramatic change of heart in the two short years since deciding *Curd*.

With the limitation of the economic loss rule to products liability matters, the floodgates are opened to plaintiffs to pursue tort damages which might otherwise have been barred by the rule. This decision seems to tread upon the notion that contract law protects expectations and tort law is defined by the duty owed to an injured party, and never the twain shall meet.¹² “A buyer’s desire to enjoy the benefit of his bargain,” noted the Court in *Casa Clara*, “is not an interest that tort law traditionally protects.”¹³ *Tiara Condominium* seems to invite a commingling of the strange bedfellows of tort and contract. Contract law, noted the *Casa Clara* Court, must not “drown in a sea of tort.”¹⁴ Yet perhaps this decision invites that undesirable result.

Over time, the economic loss doctrine had been extended to cover situations outside the context of its original underpinnings in products liability. The Florida Supreme Court should be credited for bringing clarity to an issue that has been fraught with uncertainty and inconsistency. This decision will nonetheless open the courthouse doors to more claims and lead to greater damages awards. With public policy implications for plaintiffs, defendants, and the court system, the *Tiara Condominium* decision represents a broad transformation of Florida tort and contract law.

Katharine H. Ballingrud, Esq., Katharine H. Ballingrud, P.A., has been a member of the OCBA since 2011.

¹¹110 So. 3d 399.

²*Indem. Ins. Co. of N. Am. v. Am. Aviation*, 891 So. 2d 532, 537-38 (Fla. 2004).

³*AFM Corp. v. S. Bell Tel. & Tel. Co.*, 515 So. 2d 180 (Fla. 1987).

⁴*Am. Aviation*, 891 So. 2d at 537.

⁵*Moransais v. Heathman*, 744 So. 2d 973, 983 (Fla. 1999).

⁶*HTP, Ltd. v. Lineas Aereas Costarricenses, S.A.*, 685 So. 2d 1238 (Fla. 1996).

⁷*Tiara Condo. citing East River Steamship Corp. v. Transamerica Delaval, Inc.*, 476 U.S. 858, 868 (1986).

⁸See *Moransais*, 744 So. 2d at 973.

⁹*Id.* at 980.

¹⁰*Id.* at 984 (Wells, J. concurring).

¹¹*Curd v. Mosaic Fertilizer, LLC*, 339 So. 3d 1216, 1223 (Fla. 2010).

¹²*Casa Clara Condo. Ass’n, Inc. v. Charley Toppino & Sons, Inc.*, 620 So. 2d 1244, 1246 (Fla. 1993).

¹³*Id.*

¹⁴*Id.* at 1247, quoting *East River*, 476 U.S. at 866.

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Susan Khoury, Esq.

Recipe for Success

In food, the perfect bite is a balance of taste and texture. Something sweet, salty, spicy, acidic, creamy, crunchy... all brought together in one amazing bite. In Orange County, our panel of GAL attorney volunteers are like the “perfect bite” because they, too, possess that all-important balance. But, theirs is a balance of legal talent, substantive knowledge, deep compassion, a willingness to volunteer time, and above all, the innate desire to make a difference in the life of a child.

If there were a “Top 5” list of steps one could take to become an effective GAL, it might contain the following:

Step #1. Know that your advocacy is what may keep the harm this child has experienced from becoming irreparable.

Step #2. To achieve #1, you must be prepared. To be prepared, you must be involved. Effective GALs *know* the children they represent. They attend hearings armed with knowledge that comes from being involved with the child on a regular basis.

Step #3. Attorneys are skilled communicators and advocates. Attorney GALs have the unique opportunity to use their talents to create meaningful and long-lasting change in the lives of children.

Step #4. The most effective way to achieve #3 is to attend hearings in person, armed with the information you’ve gathered from meeting with the child and talking with his/her caregivers.

Step #5. Utilize a checklist to prepare for every hearing you attend:

Meet the child within the first 45 days of GAL assignment

Your initial visit doesn’t have to be long. The GAL Program can provide you with an easy-to-follow visit report template. If you’re nervous about meeting with the child, the GAL Program is happy to accompany you on your initial visit.

Know what the court expects of GALs

You can expect to be asked when *you* last saw the child. You can expect the court to ask *the child* when he/she last saw you. Other questions may pertain to visitation, changing placements, reunification, or administration of psychotropic drugs. To be considered reliable, your recommendations to the court need to be based on your knowledge of the child.

Visit your child regularly or arrange for the GAL Program to visit on your behalf

In order to accurately assess the child’s needs, GALs must visit with their dependent youth regularly. Ideally, contact would occur on a monthly basis. Contact can be in person or by phone. It doesn’t matter that the child is an infant or toddler unable to carry on a conversation. Ensuring that the child’s surroundings and caregivers continue to be appropriate is as important as any conversation you might have with an older child. The GAL Program is more than happy to help you make these contacts. We can share visiting duties with you and provide visit reports promptly upon completion of the visit. Simply call and request our help.

Arrange for courtroom coverage, when needed

GAL attendance at all dependency hearings is mandated by Chapter 39 and the Rules of Juvenile Procedure. GALs are parties to the dependency action. As attorneys, we are also officers of the court. While the court prefers that the GAL appear in person, they understand that Orange County volunteer attorney GALs donate their time to Legal Aid in addition to their full-time professional responsibilities. In light of that, and only when necessary, the court will allow alternate methods of participation. In lieu of a personal appearance, GALs may either file a written report or may appear telephonically after appropriately providing notice to the court’s judicial assistants. With prior notice and discussion, GAL Program staff attorneys can convey the GAL’s report to the court.

Communicate regularly with our courtroom attorneys

Other than in conflict cases, GAL Program staff attorneys will sit alongside you at all dependency court hearings. They are experienced dependency law practitioners and are available to assist GALs at any point with matters ranging from direct examination of witnesses to help with drafting pleadings. They have established professional relationships with DCF’s attorneys, parents’ attorneys, and case managers — relationships that could help expedite issues that impact your GAL children.

Utilize the knowledge of our specialty attorneys

Over the last 10 years, courts have looked to the GAL for recommendations regarding a variety of specialty topics. For that reason, the GAL Program retains specialty attorneys whose

practice focuses on specific legal issues that commonly impact dependent youth. The GAL Program's education attorney, mental health attorney, independent living attorney (serves older foster youth), developmental disabilities attorney, and crossover attorney (serves youth with dependency court involvement and department of juvenile justice involvement) are available to provide individual consults and written materials on each of these subjects if needed.

Request case coordinator assistance for out-of-court meetings

Staffings are out-of-court meetings held for a number of reasons, including determining whether the permanency goal is appropriate, determining whether a child's mental health needs require additional intervention, and developing a transitional plan for foster youth who will "age out" of care. The GAL Program's case coordinators, professionals with educational backgrounds in social work and public interest, are able to attend these meetings on behalf of GALs. When staffings involve legally demanding advocacy, GAL Program staff attorneys can attend on the GAL's behalf.

By nature, dependency cases begin as a result of unimaginably painful events for children. However, because of the GALs' work, children have the opportunity to experience safety, normal childhood development, and happiness.

Kudos to GAL Darryl Gottlieb, Esq. Recently, Darryl went above and beyond for a child who was moved to a new foster home at the start of February and had not been enrolled in school since then. Darryl went to the high school to determine what was needed to get the child into the correct school and days later, when there was still no movement on getting the child enrolled in school, Darryl

rearranged his work day and went with the case manager and the child to the school to talk with them about what was needed to get the child enrolled. Darryl even got another attorney from his office to also go to the school to help out.

Kudos to GAL Shawn Jewell, Esq. Two little girls disclosed to Shawn that their father, with whom they were placed, was excessively using corporal punishment on them and selling drugs from the home. Shawn ensured that the girls were brought to court to relay that information. As a result, the girls were quickly reunified with their mother because of their father's actions.

Kudos to GAL Chris Kolos, Esq. In a letter written by a child welfare professional to Mr. Kolos and copied to Legal Aid, she wanted him to know how "exceptional" he was. "Sir, you have gone above and beyond even more so than the direct care staff to ensure that this child's needs are met. You have taken him to doctor's appointments and have advocated for him tirelessly at both the school and DJJ level. If there is anything that hasn't been done for this child, it's because it was not humanly possible for you to do so. Mr. Kolos, thank you so very much for your continued commitment, dedication, and advocacy. Any child that has you on his/her case, can rest assured that his/her needs will always be met as you will make him/her feel both validated and appreciated."

At Legal Aid, we will work with you to help you turn a terrible life event into a positive conclusion for the child and our entire community.

Susan Khoury, Esq., is the Legal Aid Society Guardian ad Litem Program Director. She has been a member of the OCBA since 1988.



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Realizing the Dream: Equality for All

Law Week, which is one of the OCBA's most visible community events, brought together hundreds of students from elementary through the high school level, newly naturalized citizens, and attorney and paralegal volunteers to help all participants gain a real understanding that civic participation changes lives, influences laws, and changes our democracy to further the dream of inclusion and equality for all.

Law Week Panel



Florida A & M University College of Law Professionalism and Diversity Panel: (Left to right) Richard Dellinger, Esq., Conti Moore, Esq., Judge Faye Allen, Wayne Golding, Esq., Judge Emerson Thompson, and former Judge Antoinette Plogstedt, moderator

The OCBA, in conjunction with the Paul C. Perkins Bar Association, presented a roundtable discussion on the topics of professionalism and diversity on April 10, 2013, at Florida A&M University College of Law, as one of the OCBA's annual Law Week activities.



Conti Moore, Esq., Zedrick Barber, II, Barbara Leach, Esq.



FAMU College of Law Auditorium

Poster Contest Judging



John Robinson, III, Law Week Co-chair



Poster photos: Flo Boehm



Photo: Cindy Schmidt

Pathways in Law

Pathways in Law, which took place on March 22, 2013, is a program designed to promote awareness and understanding of the law and what happens when the law is violated. Students participate in a mock trial, conducted under the watchful eyes of real Ninth Circuit judges. Regardless of the verdict, most young participants leave the courtroom with a better understanding of the legal process and the consequences of criminal behavior. Judge Allen describes the eye-opening experience as "a fun and easy way for kids to learn about the law and why it's important to stay out of trouble." The students are treated to a pizza party at the courthouse at the end of the mock trial exercise.

Naturalization Ceremony



This year's naturalization ceremony took place April 11, 2013, in the Boone High School Auditorium. Bill Sublette, Esq., Orange County School Board Chairman and past president of the Orange County Bar Association was the keynote speaker.





Susan Khoury, Esq.



Bethanie Barber, Esq.



Sally McArthur, Esq.



Donna A. Haynes

Connections Really Do Count

Sally McArthur, Esq. enjoys resolving the daily challenges of our community's dependent youth as a Legal Aid attorney. Prior to her present position, Sally represented Legal Aid clients in employment law matters such as wage claims and unemployment benefit cases. In 2011, when funding for that work ended, she was given the opportunity to represent abused and neglected children who are dependents in our innovative United Way Pine Hills "Connections Count" program.

"While I was working in employment law, I wanted to work to represent dependent children if the opportunity arose," said Sally. "I was so happy when they told me that I was assigned to this new program."

Although Legal Aid's GAL work involves serving dependent children in all of Orange County, we have a special relationship with youth and families in the Pine Hills area, located west of downtown Orlando. Our Connections Count program, funded by a grant from Heart of Florida United Way, was designed to provide support for children removed from their homes in zip codes that include Pine Hills and the surrounding area. These zip codes have the highest number of children displaced from their homes as a result of abuse, neglect, or abandonment, as well as the second highest number of youth with delinquency involvement per square mile than any other zip codes in Florida.

The rate of educational and social success has been found to be higher when children have the benefit of an established support system. Through the Connections Count program, Orange County's volunteer attorney GALs systematically work to prevent and divert high-risk Pine Hills youth from delinquency interaction by increasing community supports and facilitating family involvement in dependency cases.

At the end of a dependency case, children are often returned to the community from which they came. The program has enabled us to increase the number of foster homes within the Pine Hills area. We do this in order to ensure that at-risk youngsters are not moved away from familiar surroundings and can stay connected to the positive influences in their lives, such as ministers, coaches, friends, and relatives. Establishing supports and strengthening positive ties to the community will help prevent delinquency for these children during and after a dependency action.

Currently, the Connections Count program serves approximately 130 Pine Hills youth with dependency courtroom representation. Sally provides each volunteer attorney GAL with the necessary assistance to help keep the youth in touch with an established support system. These support systems serve to increase academic success and provide the child with the opportunity to participate in extracurricular enrichment activities. As a result, more Pine Hills dependent youth are engaging in positive, age-appropriate life experiences. These opportunities have directly resulted in lower rates of delinquency.

Once dependent children are placed with a relative, non-relative, or in foster care, Sally works with Pine Hills children and their caregivers to make certain all involved receive the supportive services necessary to sustain a successful placement. She also works with schools and civic organizations to help promote the child's academic success and cultivate involvement in activities, such as sports, clubs, etc.

"The idea is to work with the agencies, organizations, churches, and schools in the area to provide additional reinforcement for these children, to give them what they need to overcome what has happened to them in the past, and to get them on the road to a better future," explained Sally.

"So far, studies show that foster children involved with Connections Count are having far fewer issues with delinquency than children in the general population within Pine Hills," Sally reported.

One of the teens with whom Sally has worked, "Tim," has overcome his history of delinquency. Tim's mother was a drug addict and even prostituted her young children to feed her drug habit. Tim first got into trouble when he stole food to feed his younger siblings. If they went to school, it was because Tim took them, since their mother was usually incapacitated. Despite this horrific past, Tim has had no further involvement with the Department of Juvenile Justice since entering the program.

"We found that his mother did not have custody of him. He was supposed to be with relatives who had permanent guardianship, but they gave him back to his mother," says Sally. "He attended two or three schools each year for most of his life, and had an IEP (Individualized Education Plan) based on an assessment that was 10 years old. We advocated for him to get a new assessment so

that his educational needs could be properly addressed. He is now in a private school where he is getting more individual attention."

She adds, "Tim inspires me. He really was a hero for his sister and brother, and now they are all in a much better placement."

While the primary intent of the Connections Count program is to reduce delinquency involvement among Pine Hills youth, the program has yielded additional, unexpected positive outcomes. "Jody," another youth in the program, is a paraplegic teen. When Sally and Jody's volunteer attorney GAL, Ed Alexander, first met Jody, he felt isolated as a result of his physical impediment. Additionally, he was told he was restricted from attending public school. However, through legal advocacy and es-

tablishing community contacts, Sally and Jody's volunteer GAL introduced Jody to a persons with disabilities bike racing club and also negotiated for his re-entry to public school. We not only ensure that youth avoid delinquency interaction, but that they find passions that allow them to grow into successful adults.

"Pine Hills has a lot of pride, and it is definitely on the rise," said Sally. "But for things to get better in the long run, we have to make certain that kids who live there have every chance to succeed."

So, as you can see, **connections really do count**. Pine Hills youth are counting on their community today so their community can count on them tomorrow.

For more information about the Legal Aid Society of the Orange County Bar Asso-

ciation Inc., the United Way Connections Count program, and ways in which you can help, visit legalaidocba.org or contact development manager Donna Haynes at dhaynes@legalaidocba.org or 407-515-1850.

Susan Khoury, Esq., is the Legal Aid Society Guardian ad Litem Program Director. She has been a member of the OCBA since 1988. **Bethanie Barber, Esq.**, is the Legal Aid Society Guardian ad Litem Program Litigation Director and an independent living attorney. She has been a member of the OCBA since 2008. **Sarah (Sally) L. McArthur, Esq.**, is a staff attorney with the Legal Aid Society Guardian ad Litem Connections Count program. She has been a member of the OCBA since 2007. **Donna Haynes** is the LAS Manager of Development and has been a member of the OCBA since 2008.

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RCL Portrait Design will be at the OCBA on the following dates to take your free professional portrait for the OCBA Online Membership Directory:

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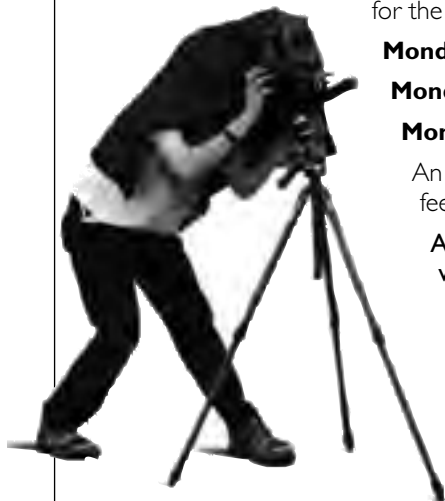
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Mayanne Downs Selected as the 2013 Recipient of the Champion for Justice Award

Mayanne Downs, Esq., a shareholder at Gray-Robinson, received the Barry University Dwayne O. Andreas School of Law's 2013 Champion for Justice Award. The annual award honors an individual who exemplifies the highest standards of the legal profession in service to the Central Florida community. Mayanne has practiced law for more than 25 years, with a concentration in state and federal trial work. She is currently co-chair of GrayRobinson's complex litigation group and has previously served as president of The Florida Bar, the Orange County Bar Association, the Legal Aid Society of the Orange County Bar Association, and the Central Florida Association for Women Lawyers. More than 130 people attended the presentation, which was held at the Ballroom at Church Street on April 4, 2013.



(From left) Dean Leticia Diaz, Barry University School of Law; Champion of Justice Award winner, Mayanne Downs; Barry Glenn, *Orlando Magazine* editor

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Kristy E. Kennedy, Esq.,
OCBA President



Liberty Bell Award
recipient, former Florida
state legislator, Dick
Batchelor (center), John
E. Robinson, III, and Bill A.
Davis, Jr., Esq.

Twenty-eight judges and other dignitaries from Brazil visited the Ninth Judicial Circuit Court in April and attended the Law Week Luncheon. Among the Brazilian delegation were Minister Olympio Pereira da Silva, Minister of the Supreme Military Court of Brazil. The group was accompanied by Colonel Matias, head of Court Security for the State of Rio de Janeiro and the Supreme Court of Brazil, and Charles Saba, the group coordinator.



John E. Robinson, III, Law Week Co-chair, Hon. Faye Allen, award recipient for nine years of service to Law Week, Bill Davis, Jr., Esq., Law Week Co-chair



Woody Rodriguez, Esq., Haresh
Maharaj, 2nd Place Speech Contest
Winner, and Bill Sublette, Esq.

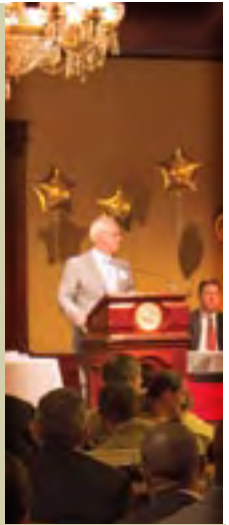


Woody Rodriguez, Esq.,
Edmund Wideman, 1st Place
Speech Contest Winner, and
Bill Sublette, Esq.

Diamond Lofton, 3rd Place
Speech Contest Winner



Poster Contest Award recipients with
Woody Rodriguez, Esq. (left) and
Bill Sublette, Esq. (right), past OCBA
Presidents



PHOTOS: Flo Boehm

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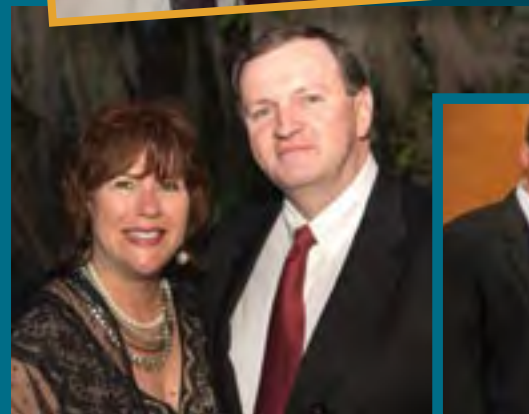
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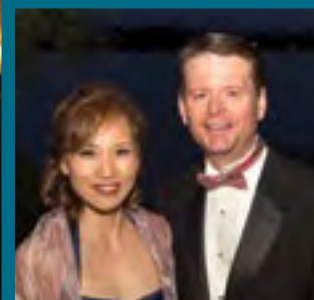
April 20, 2013
Cornell Fine Arts
Museum at Rollins
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PHOTOS: Flo Boehm

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Lydia Gardner
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Orange County Clerk of Courts Lydia Gardner Passes Away

Orange County Clerk of Courts Lydia Gardner passed away Thursday, May 9, after a battle with cancer. She was in her fourth term, having served as Clerk since 2001.

Lydia led tremendous change in the Clerk's Office from the time she was elected in 2000. With an emphasis on providing exemplary customer service, she focused on technology upgrades that would enhance electronic services, pioneered online traffic ticket payments, and provided easier access to information through myorangeclerk.com.

She ran a fiscally conservative operation, which allowed the Clerk's Office to do well during tough economic times. She vowed from the outset to run the Clerk's Office like a business.

She was especially proud when the office was awarded the 2008 Florida Governor's Sterling Award, which recognizes performance excellence and put the Clerk's Office in the company of such organizations as Florida Hospital and the Ritz Carlton Hotel in Naples, Florida.

Lydia was a member of the recently reconvened Domestic Violence Commission, having played a key role in establishing the original panel in 2004. She announced at the commission's press conference in February that she had made injunction petitions available online so traumatized victims could fill out the paperwork thoughtfully and privately, away from the courthouse crowds and perhaps with the help of loved ones.

In 2010, she was appointed by Speaker of the House Dean Cannon to the Florida Clerks of Court Operations Corporation. She was also named chairman of a statewide committee that created a Florida Courts E-Filing Portal. She used her office to advocate for the mentally ill and was awarded the Central Florida Health Association's Golden Bell Award for her efforts. She has served on the Orange County Jail Oversight Committee, the Juvenile Justice Commission, and the Board of Directors for the Central Receiving Center. She was appointed by the Florida Supreme Court to a number of special committees, including one to study privacy and court records.

She was a board member of the Orlando Science Center and the Winter Park Chamber of Commerce, including a term as chairman in 2003.

Lydia was a graduate of University of Michigan, holding certificates in the management program at the Crummer Graduate School of Business, Rollins College, and the executive leadership program at John F. Kennedy School of Government, Harvard University. Previously she was a teacher, a member and chairman of the School Board of Orange County, a real estate broker, and an executive with a Fortune 100 telecommunications company.

She is survived by her husband, John Terwilliger, and children Chris Gardner and Betsy Eckbert, as well as her grandchildren Haden and Lucy Eckbert and Bebe and Courtney Gardner.

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Hearsay...



Christine A. Wasula, Esq.

Before I launch into this month's column, I would like to take a moment to recognize our former Clerk of Courts, Lydia Gardner, who passed away last month after a long battle against recurring cancer. Ms. Gardner was a great supporter of Legal Aid, the OCBA, and our court system, and she will be sorely missed by our members.

On a lighter note, the OCBA is not just about business and professional development, it's also about finding true love, as proven by Executive Council member **Phil Calandrino, Esq.**, and Social Committee chair **Amy Guy**, who recently announced their engagement to be married. Congratulations to Phil and Amy! We wish you many years of happiness together.

And now, to the professional recognition section of the column (which is pretty much the entire column).

First up, **Hal K. Litchford, Esq.**, with the law firm **Baker Donelson**, has been appointed to serve as vice chair of the Antitrust & Trade Regulation Law Certification Committee of The Florida Bar.

Clay Henderson, Esq., senior counsel in **Holland & Knight's** Orlando office, was honored by the Central Florida Council of Boy Scouts of America with the Golden Eagle Award for his community leadership in Southeast Volusia County. The Golden Eagle Award recognizes an individual's contributions to the community – contributions that are representative of the Boy Scouts' core values. Community leaders selected Clay for his work in the area of environmental conservation.

S. Brendan Lynch, Esq., a senior associate at **Lowndes, Drosdick, Doster, Kantor, & Reed, P.A.**, has been appointed to the Teen Court Advisory Board, a nonprofit organization that raises funds to provide financial assistance for the higher education of Orange County's teen court volunteers. Brendan has been a volunteer judge and jury adviser with Orange County Teen Court for the last three years.

Patricia Strowbridge, Esq., BCS, was recently admitted to the prestigious group of American Academy of Assisted Reproductive Technology Attorneys, a credentialed, professional organization dedicated to the advancement of best legal practices in the area of assisted reproductive technology matters.

Jim Lussier, Esq., a shareholder with **Mateer & Harbert P.A.**, has been appointed by the Orlando City Council to serve as a member of the city's public art advisory board.

Lissa Bealke-Moore, Esq., a litigation paralegal with the Orlando office of **GrayRobinson, P.A.**, has been appointed by the OCBA Paralegal Section as its liaison to The Florida Bar. As a litigation paralegal for over 12 years, Lissa helped develop the paralegal committee of the OCBA in September 2004, and she served as its past president in 2005. She also served as president of the Paralegal Section of the OCBA in 2010, the first paralegal section formed in Florida. Lissa has also served on the Law Week Committee for many years and is a co-recipient of the American Bar Association's 2005 Outstanding Law Day Activity award.

Jessica K. Hew, Esq., a partner at **Burr & Forman LLP**, has been appointed to the Central Florida Community Food & Outreach Center board.

Hollie Croft, Esq., an attorney in the Orlando office of **Broad and Cassel**, has been elected to the Coalition of Affordable Housing Providers Inc. board of directors.

Janet E. Martinez, Esq., an attorney with **ShuffieldLowman P.A.**, recently won in the category of Outstanding 2013 Female Professional for the annual Mujeres Destacadas Awards. The honor was awarded for her work with migrant workers in Northwest Volusia County, as well as for her volunteer service to the Orlando Hispanic Chamber.

Grey Squires-Binford, Esq., a shareholder with **Killgore, Pearlman, Stamp, Ornstein & Squires, P.A.**, has been appointed to a new term on the Professional Ethics Committee of The Florida Bar.

Finally, in my shameless plug of the month, **Robert Swift, Esq.**, a partner in the Orlando office of **Cole, Scott & Kissane, P.A.** (aka, my firm), has been appointed as the president-elect of the **Central Florida Chapter of the CPCU**, a leader in education and the promotion of professionalism in the local insurance industry since 1961. Congratulations to Bob and all of our OCBA members on these outstanding professional accomplishments!

Please remember to send all newsworthy items to our communications manager, **Peggy Storch**, at peggys@ocbanet.org, or to myself at christine.wasula@csklegal.com. See you next month!

Christine A. Wasula, Esq., Cole, Scott & Kissane, P.A., has been a member of the OCBA since 2002.

On April 24, 2013, the Labor & Employment Committee presented the seminar "ADR in the Employment Context & Supreme Court Cases of Significance in the FMLA Context." The seminar was sponsored by All Good Reporters, LLC.



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Tanika Patrick, GAL Case Coordinator
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Cynthia Schmidt, Esq.



Brittany Hollenbacher

UCF's Moot Court and Mock Trial Teams: Volunteer Opportunities for Paralegals and Attorneys

The University of Central Florida is well known for being one of the largest universities in the country. Many good things happen on this big campus, and two of them are the Moot Court and Mock Trial teams. Both teams are part of the Department of Legal Studies. Through these programs and our department as a whole, students are gaining exposure and hands-on experience in tasks they will see daily once they enter the legal profession, whether they work as attorneys or paralegals. The Moot Court program at UCF was founded two years ago under the direction of department chair James Beckman.

Students spend sixteen weeks briefing twenty cases and preparing oral arguments on two predetermined issues that are then presented in front of three-judge panels at the South Atlantic Regional Moot Court Tournament. UCF has hosted this tournament for the last two years. I am the Moot Court head coach and the tournament director. Assistant coaches are Craig Brams, Esq., and Marc Consalo, Esq. Despite the fact that the Moot Court program at UCF is new, we received bids to send two teams to the National Tournament in Virginia in January. My student and intern, Brittany Hollenbacher, can best describe the Moot Court experience in her own words, and how this program helps young would-be attorneys and would-be paralegals.

Cindy Schmidt: Tell us a little bit about yourself, Brittany.

Brittany Hollenbacher: I am a 21-year-old undergraduate student graduating next month with honors and a bachelor's degree in legal studies with a minor in criminal justice. Upon graduation I plan to attend law school. I recently was accepted at the University of Florida Levin College of Law. Although I have participated in activities outside of my comfort zone for most of my life, they were physical endeavors (cheerleading). Attending UCF has presented me with many opportunities to pursue mental endeavors that I never imagined I had the capability of doing, such as participating in a series of debates aired on live radio and being a member of the Moot Court team.

C.S.: Many people confuse Moot Court and Mock Trial. Explain to us what Moot Court is.

B.H.: Moot Court is similar to Mock Trial in that you are a lawyer presenting arguments, but Moot

Court is arguing at the appellate level. There is no jury, only a panel of three judges interrupting your argument at any moment to stop and question you. The South Atlantic Regional Moot Court Tournament was held at UCF in November and was set up with three rounds. In one round you would argue for the petitioner, then immediately turn around and argue for the respondent, followed by a coin toss to decide which side you would argue for the third round. There were two issues we were arguing: freedom of association and affirmative action. Each person had up to ten minutes to give his or her argument and respond to the judges' questions.

C.S.: What was the most challenging part of this experience?

B.H.: I think the most challenging part was working up the confidence to deliver a ten-minute-long argument in front of established attorneys while they were peppering you with questions. They could ask anything from the year of a case to the rule of law and why it should be applied to the instant case. You had to figure out how to entertain their questions while weaving back into your argument, without forgetting any of your content. And on top of that, we made our arguments with virtually no notes.

C.S.: What skills did participating in this tournament help you develop that will be useful later on in your legal career?

B.H.: Whether a student wants to attend law school or work as a paralegal, Moot Court is a great way to gain experience in many different areas. I already knew how to brief a case, but this experience forced me to become more thorough in my analysis. Paralegals and attorneys alike need to have excellent case briefing skills and Moot Court will absolutely teach you that. I learned how to develop an actual argument based on previous case law. One of the requirements for the course was to write an appellate brief, so my writing skills were challenged and enhanced. This was the first time I had ever given an oral argument, so Moot Court helped me develop and improve my public speaking skills. Out of all the opportunities I've had at UCF, this was by far the most challenging, beneficial, and rewarding thing I've done.

The Moot Court team has only been in existence at UCF for two years now and already has some

prestigious accomplishments. Another program that the university is very proud of is the Mock Trial team. The team was founded in the mid 1990s and averages 25-30 students a year. Each year the team participates in four or five tournaments, starting with invitational events, then moving to regionals. From there they have the opportunity to advance to open round championships and then the national tournament. UCF sends one or two teams to the open round championships each year and has had the incredible accomplishment of attending nationals three times. Next year, UCF will have the honor of hosting the national tournament. The head coach for the Mock Trial Team is Dr. Margarita Koblasz. Alexis Wansac was the captain of the B team, and hopes to lead the A team next year.

Cindy Schmidt: *Hello Alexis. Please introduce yourself to the readers.*

Alexis Wansac: I am a junior at UCF, with a double major in political science and history. I have been in Mock Trial since my third day of freshman year, when I tried out for the team. I have been active with the team since then.

C.S.: *Did you do Mock Trial in high school?*

A.W.: No, I did not. I was involved with the environmental club and Key Club, and the like. I played sports. But I had never tried anything like this.

C.S.: *How did you learn about Mock Trial?*

A.W.: The summer before college I used Google to find activities and organizations where I could learn to think like a lawyer. I found Mock Trial and decided to apply.

C.S.: *What roles have you had in Mock Trial?*

A.W.: I have been a witness and an attorney.

C.S.: *Has Mock Trial met your expectations?*

A.W.: It has exceeded them. I had no idea how competitive the team would be. I have had my thought processes honed. I can see now where other people, including fellow students in other classes, are going with their arguments before they make them. Lastly, I have become more confident as a person.

C.S.: *Have you met local attorneys through this team?*

A.W.: Yes, our coaches have become older sister figures. And they are certainly our mentors.

C.S.: *Tell us about the friendships you have developed through Mock Trial.*

A.W.: All of my best friends and roommates are from Mock Trial. We are a little family.

C.S.: *Do you want to go to law school, and if so why?*

A.W.: I do. I am into policy. Law is the best way to affect policy change and I look forward to one day doing that.

As members of the legal community, paralegals and attorneys have a vast amount of knowledge that could be beneficial to these students. The moot court and mock trial programs would cease to exist without support from the legal community, and these programs are excellent volunteer opportunities to make a difference in someone else's legal career. The legal community has much to be excited about in the coming years because of these successful teams full of interesting and excited students.

Cindy Schmidt, Esq., is the Director of the Department of Legal Studies Center for Law and Policy, UCF. She is a long-standing member of the OCBA and has been involved in many activities throughout the years, including serving as a member of the board of the OCBA Foundation. She is the 2012 recipient of the OCBA's Liberty Bell award.

Brittany Hollenbacher is a student in the Legal Studies program at the University of Central Florida. She will attend the University of Florida Levin College of Law in August of this year.

Photo of Cynthia Schmidt: Abi Bell/UCF

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Trust Is The Key

Think about the lawyer-client relationship from the client's point of view. Clients seek professional services because they lack the necessary expertise and experience to solve their problem. In hiring you, they gain what they need, but in doing so they also lose something else that's very important to them — their sense of control over their problem. Along with that feeling of losing control, most clients tend to believe that their risk — the consequences of not solving their problem — is much greater than their lawyer's. In many cases, they're right.

To compensate for this feeling of having less control and more risk, clients will focus on something they can understand — the level of trust they place in you. Trust is developed and earned gradually. We tend to trust people we like. Clients will decide to trust you — or not — based upon how you communicate with them. This is why purposeful and meaningful conversations are so important, from your first interaction with them to your last. Think of your client's trust like a strand of pearls and the conversations you have with them are like single pearls that get added to that strand one conversation at a time; the longer the strand, the more valuable it is.

Listening and Speaking

Listening and speaking — actions that we normally think of as ordinary and commonplace — take on new dimensions when we realize they are the very essence of "word-of-mouth" marketing. Whether the conversation is work related, involves another professional, or happens in a social situation, what you say and how you say it helps others see you as trustworthy. And being considered trustworthy is ultimately the key to your professional success. Fortunately, there are a variety of ways to turn everyday conversations into strategic conversations that will build trust, deepen rapport, and communi-

cate key messages about who you are and what you do. By turning ordinary conversations into strategic ones you are following the first rule of marketing by differentiating yourself from other lawyers at the first opportunity. For now, we'll start with the easiest strategy and a conversation that is adaptable to almost any setting, be it a new client meeting, a conversation with a referral source, or a party down the street. It is the art of asking questions. Your conversation won't sound canned because you improvise the script as you go.

Ask and You Shall Receive

Let's take the initial client interview. Most clients have no real ability to judge the quality of your legal work; all but the most sophisticated clients have little or no experience in this area. But most clients are very experienced in interacting with other human beings and will bring all of that experience to bear in deciding whether or not you are trustworthy. The old adage, "They don't care how much you *know*, until they know how much you *care*," holds true and is worth remembering in this context. In order for a client to feel cared for, he/she has to have the opportunity to tell his/her story, believe he/she has been understood, and know that you are interested in him/her. If you care and are interested, you'll ask your clients a lot of questions about themselves — and their problems.

How does the art of asking questions apply to marketing in social and professional situations? As a general rule, no matter whom you meet, or where you are, people love to talk about themselves. Ask both personal and professional questions, but don't be overly intrusive. According to studies about developing rapport with people, it takes about twelve minutes of conversation for a person to warm up to you and begin to trust you. Engaging someone in a conversation about himself is an easy way to show interest and to begin building trust. Avoid cross-examining and try to remember that almost everyone has an interesting story behind whatever exterior façade he or she presents to the world.

Acceptable questions include those about people's lives: what is important to them and why. Find out if they are married, whether they have children and what their children's names and ages are. Find out about their hobbies or interests. Are they into sports? Where did they go to college? What type of work do they do? Do they

own their own business – what inspired them to be an entrepreneur?

Seek and You Shall Find

Be interested and curious without overstepping the bounds of good manners. You will be able to judge how open people are by the amount of self-disclosure they allow. If they give grudging, one-word answers to your questions, they probably aren't immediately trusting and it will take longer to get to know them. If they give you long, detailed answers, it's an indication that they are beginning to warm to you. As you ask these questions and listen to the answers, try to do only 20 - 30 percent of the talking. This means that you'll be spending 70 - 80 percent of your time listening, which is the foundation of all good conversations. Allow the person you are getting to know to dominate the conversation. Focus your attention on him or her exclusively.

The simplest technique for turning a normal conversation into a strategic one is to ask questions. Questions are a powerful tool for building rapport and trust. They help you learn about and form relationships with others. The information you receive and the common ground you discover will form the foundation for the relationship that is built, one conversation at a time, and strung together over a long period. Make a point of finding out what you have in common with each individual and remember the "Rule of Seven" – after about seven encounters with someone, he begins to accept you as part of his world.

Engaging people by asking questions can help you bridge the gap in the early stages of a relationship so that it can grow into something more substantial and meaningful for both of you. Use the art of asking questions when you meet a new client, take a referral source out to lunch, talk to a colleague in the courthouse, or run into a prospective influencer at a social function. It is the best way to show interest, build rapport, and begin your strand of pearls.

Michael Hammond, Esq., is a "founding father" of Atticus and is a Certified Practice Advisor. A licensed attorney since 1983, he has spent his entire career either practicing law or supporting and promoting the practice of law. Michael has a depth of experience in lawyer marketing, one-on-one business coaching, and strategic planning. He is currently a featured writer for *Lawyers, USA* and a number of other publications. To learn more about the work that Atticus does with attorneys or the Atticus Rainmakers™ program, please visit www.atticusonline.com or call 352-383-0490 or 888-644-0022.



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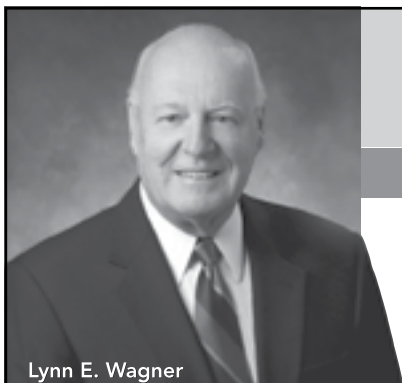


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Speaking Engagements & Publication

Merrell Bailey, Esq., Bailey Zobel Pilcher, presented *Married There But Not Here* to the OCBA Estates, Trusts & Guardianship Committee on April 6, 2013. The topic covered issues related to legal inconsistencies that occur when Florida does not recognize a same-sex marriage that is legally valid in another state. Domestic Partnership Registries, the federal Defense of Marriage Act (DOMA), and cases brought before the U.S Supreme Court were also discussed.

George F. Indest III, Esq., President and Managing Partner, The Health Law Firm, was featured in the March/April issue of *Florida Medical Business*. His article, *Legal Strategies for Doctors To Fight Bad Online Reviews*, targeted primarily to physicians and health professionals, discusses how to prevent online defamation.

Dennis J. Wall, Esq., Winter Springs and Orlando, co-presented the webinar, *Religious Issues in the Supreme Court: The Affordable Care Act's Contraceptive Provision*, for West Legal Education Center on Monday, March 18, 2013. In addition, his article *The Expert Witness: Selecting and Managing A Vital Resource*, was published by *Property Casualty 360* on March 12, 2013.

Bailey Zobel, Esq., Bailey Zobel Pilcher, presented a talk on estate planning issues, from the perspective of families with a special needs child, to parents and students at the Pace Brantley School in Longwood on May 7.

Events

July 31 – *Annual Trivia Contest*. 5:30 p.m. at Harry Buffalo, 129 W. Church St. For details about fees and how to register, see ad in this issue of *The Briefs*!

Seminars

June 11 – *GAL's Role in Termination of Parental Rights Cases in Juvenile Court*. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Speakers: Kate York, Esq., Clarrisa Maldonado, GAL Case Coordinator. CLE: pending. Marks St. Senior Recreation Complex, 99 E. Marks St., Orlando, FL 32803. To register, contact: Marilyn Carbo at mcarbo@legalaidocba.org or 407-841-8310, ext. 3121.

June 13 – *Tech Check-up for Lawyers*. Technology Committee Seminar. 11:45 a.m. – 4:00 p.m. OCBA Center. Primary speaker: Adriana Linares, President and Founder of LawTech Partners. CLE: 4.0. General. \$35 for OCBA members; \$50 for non-members. Registration form will be available on OCBA website calendar.

June 13 – *Discovery of the Expert Witness*. Brown Bag Lunch with Judge J. Kest. 12:00 p.m.-1:15 p.m. Orange County Courthouse, 23rd Flr. 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 ctadi1@ocnjcc.org.

June 18 – *The Small Firm Rollercoaster: The Ups & Downs of Marketing Your Practice in a Tough Market*. Solo & Small Firm Committee Seminar. 12:00 p.m.-1:00 p.m. OCBA Center. CLE: pending. Speaker: Bill Umansky, Esq. RSVP to ocbasolos@gmail.com.

June 19 – *Diversion Programs*. Criminal Law Committee Seminar. 12:00 p.m.-1:00 p.m. OCBA Center, 880 N. Orange Ave., Orlando, FL 32801. Speakers: The Hon. Deb S. Blechman, Kelly Steele, Drug Court Program Manager, and Chris Allan, State Probation Officer, and Gladys McClendon, County Probation Officer. CLE: pending. Contact: Marie West at mariew@ocbanet.org.

June 25 – *GAL Representation of Youth Who Are Sexual Abuse Victims or Victims of Human Trafficking: Discussion of the Keeping Children Safe Act and the Safe Harbor Act*. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Speakers: Kavita Sookrajh, Esq.; Tanika Patrick, GAL Case Coordinator; Tomas Lares, Co-Founder and Chair of the Rescue and Restore Coalition of Orlando. CLE: pending. Marks St. Senior Recreation Complex, 99 E. Marks St., Orlando, FL 32803. To register, contact: Marilyn Carbo at mcarbo@legalaidocba.org or 407-841-8310, ext. 3121.

July 9 – *Administrative Hearings for Public Benefits*. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Speaker: Edward Dimayuga, Esq., CLE: pending. Marks St. Senior Recreation Complex, 99 E. Marks St., Orlando, FL 32803. To register, contact: Marilyn Carbo at mcarbo@legalaidocba.org or 407-841-8310, ext. 3121.

July 12 – *Common Legal Issues in Domestic Violence Cases: A Judge's Perspective*. Criminal Law Committee Seminar. 12:00 p.m.-1:00 p.m. Speaker: Hon. Alice Blackwell. CLE: pending. OCBA Center. RSVP to jessicatravispa@gmail.com.

July 12 – *Topic TBA*. Brown Bag Lunch with Judge J. Kest. 12:00 p.m.-1:15 p.m. Orange County Courthouse, 23rd Flr. 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 ctadi1@ocnjcc.org.

July 16 – *Time Management: How to Control Your Business Instead of Having Your Business Control You*. Solo & Small Firm Committee Seminar. 11:45 a.m.-1:00 p.m. OCBA Center. Speaker: Joan R. Bullock, Esq. CLE: pending. RSVP to ocbasolos@gmail.com.

July 23 – *Topic 1: How to Conduct Effective Home Visits; Topic 2: Dependency Staffings 101*. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Speakers: Doris Mackey, GAL Case Coordinator; Heather Brangwin, VAC Coordinator. CLE: pending. Marks St. Senior Recreation Center, 99 E. Marks St, Orlando, FL 32803. To register, contact: Marilyn Carbo at mcarbo@legalaidocba.org or 407-841-8310, ext. 3121.

eFiling Portal Training, presented by the Florida Court Clerks & Comptrollers, will be held on various dates in June at the OCBA Center. Seating is limited. Prepaid registration is required. Please refer to the OCBA web calendar for dates, times, and registration form.

Correction: The 100% Club firm name, Walton Lantaff Schroeder & Carson, LLP, was inadvertently misprinted on the luncheon photo spread May's issue of *The Briefs*. We regret the error.

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June

3 eFiling Portal Training
2:00 p.m. • OCBA Center

4 Professionalism Committee
12:00 p.m. • OCBA Center

5 Business Law Committee
12:00 p.m. • OCBA Center

eFiling Portal Training
2:00 p.m. • OCBA Center

7 YLS Afternoon at the State Courthouse
12:30 p.m. • Orange County Courthouse,
Jury Assembly Rm.

10 Estate, Guardianship & Trust Committee
12:00 p.m. • OCBA Center

11 LAS Lunchtime Training
*GAL's Role in Termination of Parental Rights
Cases in Juvenile Court*
12:00 p.m. • Marks Street Senior Center

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

13 Technology Committee Seminar
Tech Check-up for Lawyers
12:00 p.m. • OCBA Center

Brown Bag Lunch with Judge J. Kest
Discovery of the Expert Witness
12:00 p.m. • Orange County Courthouse,
23rd Flr. Judicial Conf. Rm.

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

18 Solo & Small Firm Committee Seminar
*The Small Firm Rollercoaster: The Ups &
Downs of Marketing Your Practice in a
Tough Market*
12:00 p.m. • OCBA Center

19 Criminal Law Committee Seminar
Diversion Programs
12:00 p.m. • OCBA Center

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

eFiling Portal Training
2:00 p.m. • OCBA Center

21 YLS Event
Afternoon at the State Courthouse
12:30 p.m. • Orange County Courthouse
Jury Assembly Room

24 eFiling Portal Training
2:00 p.m. • OCBA Center

25 OCBA Luncheon
Rick Weddle
Orlando Economic Development Commission
11:30 a.m. • Ballroom at Church Street

LAS Lunchtime Training
*GAL's Representation of Youth Who Are
Sexual Abuse Victims or Victims of Human
Trafficking: Discussion of the Keeping
Children Safe Act and the Safe Harbor Act*
12:00 p.m. • Marks Street Senior Center

26 Appellate Practice Committee
12:00 p.m. • OCBA Center

July

2 Professionalism Committee
12:00 p.m. • OCBA Center

3 Business Law Committee
12:00 p.m. • OCBA Center

4 Independence Day Holiday
OCBA Office Closed

8 Estate, Guardianship & Trust Committee
12:00 p.m. • OCBA Center

9 Intellectual Property Committee
12:00 p.m. • OCBA Center

LAS Lunchtime Training
Administrative Hearings for Public Benefits
12:00 p.m. • Marks St. Senior Center

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

Veterans Committee
VA Benefits Presentation
12:00 p.m. • OCBA Center

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

12 Criminal Law Committee Seminar
*Common Legal Issues in Domestic Violence
Cases: A Judge's Perspective*
12:00 p.m. • OCBA Center

Brown Bag Lunch with Judge J. Kest
12:00 p.m. • Orange County Courthouse,
23rd Flr. Judicial Conf. Rm.

16 Solo & Small Firm Committee Seminar
*Time Management: How to Control Your
Business Instead of Having Your Business
Control You*
11:45 a.m. • OCBA Center

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

Insurance Law Committee
12:00 p.m. • OCBA Center

18 Technology Committee
12:00 p.m. • OCBA Center

19 Family Law Committee
12:00 p.m. • OCBA Center

23 LAS Lunchtime Training
*Topic 1: How to Conduct Effective Home
Visits; Topic 2: Dependency Staffings 101*
12:00 p.m. • Marks St. Senior Center

24 Appellate Practice Committee
12:00 p.m. • OCBA Center

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

31 Annual Trivia Contest
5:30 p.m. • Harry Buffalo's

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

*Seminar and event information must be submitted at least six weeks in advance of
publication in order to be listed on The Briefs calendar.*