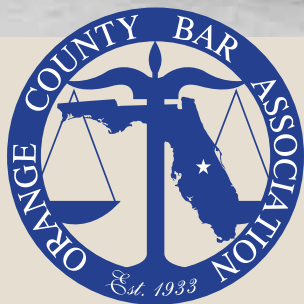


the Briefs

A Publication of the Orange County Bar Association



Orange County Bar Association
2014-2015 Officers and Executive Council



June 2014
Vol. 82 No. 6

Inside this Issue:

President's Message

Location Location Location

Nicholas A. Shannin, Esq.

Professionalism Committee

*Personal Relationships Can Result
in Professional Sanctions!*

Carolyn Johnson Levine, Esq.

Labor and Employment Committee

*How Clients Think: The Brains Behind Decision
Making – Part 1*

Michelle Jernigan, Esq.

Elder Law Committee

Options for Seniors Facing Foreclosure

Aubrey H. Ducker, Esq.

Even if you run a small business entirely alone, you don't have to feel that way.

BMO Harris Bank is a proud sponsor of the Orange County Bar Association. Our Small Business Bankers are always here to help. Talk to one today.

Tom Bacchus, Business Banking | 407.529.2004

Stop by your nearest branch or visit bmoharris.com/smallbiz.



Making money make sense

Save time... Renew Online



ORANGE COUNTY BAR ASSOCIATION

Serving the Legal Profession. Serving the Community.

Home
Member Login
OCBA Store

Join OCBA

Join the OCBA
Membership Levels
Member Benefits
Featured Benefits
Vendor Marketplace

Get the OCBA

About the OCBA
Contact the OCBA
Officers & Executive Council
Past Presidents
Standards of Professional Courtesy
Professionalism Awards
OCBA Foundation
Committees
Paralegal Section
Young Lawyers Section
Staff
Volunteer

Calendar

Program Overviews

CLE Material
CLE Seminars
Court Access Card
Lawyer Referral Information

Mediation

Citizen Dispute/Family Law Mediation
OCBA Foreclosure Mediation Info

Facing Home Foreclosure?
Homeowner's information in English & Spanish

Need an Attorney?

Let the OCBA's Lawyer Referral & Information Service Help!
Call 407-422-4537

OCBA Store

CLEs, Seminars, Luncheons, Social Events



Jump Start Your Career



New Lawyer Training Program
Aug 1 & 2
Apply Today!

News & Events

[View more news items](#)

Dues Renewal!

Renew your OCBA membership today! Renew online - it's convenient! Just login and you'll be directed to your statement. Statements have also been mailed. The renewal deadline is June 30. A \$25 late fee will be assessed after June 31. If you have questions, please contact 407-422-4551, ext. 225.

Florida Bar News - Ad Fees

June 1 - New ad revision fee takes effect July 1. For details, please read story in *The Florida Bar News*.

Annual Installation Banquet

May 29 - Annual Installation of officers and boards of the OCBA, Legal Aid Society, OCBA Foundation, Young Lawyers Section, and Paralegal Section will be held on Thurs., May 29 at the Church Street Ballroom. Awards will also be presented. Cocktails: 5:30 p.m. (cash bar); dinner and program: 6:30 p.m. Fee: \$40 for judges, regular (attorney), government (attorney), and paralegal members; \$60 for associate, law student, paralegal student OCBA members; \$60 for non-OCBA members, and all guests. RSVP by May 23 through the OCBA Store.

New Lawyer Training Program 2014

Aug. 1 & 2 - The OCBA's popular New Lawyer Training Program: The Fundamentals of Practice in Orange County is now accepting applications! Application deadline: July 1, 2014. Read about the program and apply today!

[View more news items](#)

OCBA Luncheons



President's Message



Paul J. Scheck, Esq.
March 2014

Technology Age: "The Best of Times and the

2014 Gala Photos



[Purchase 2014 Gala Photos Here](#)

Leadership Law



Learn how the judicial system benefits your business!

Applications now being accepted!

BMO  Harris Bank

BMO Harris Bank - As a member of the OCBA, you have access to a superior level of

www.orangecountybar.org!

renewal deadline: June 30



Jonathan R. Simon



Kerstin L. Morgan



Michael J. Vaghaiwalla



Refer Your Family Law Matters With Confidence

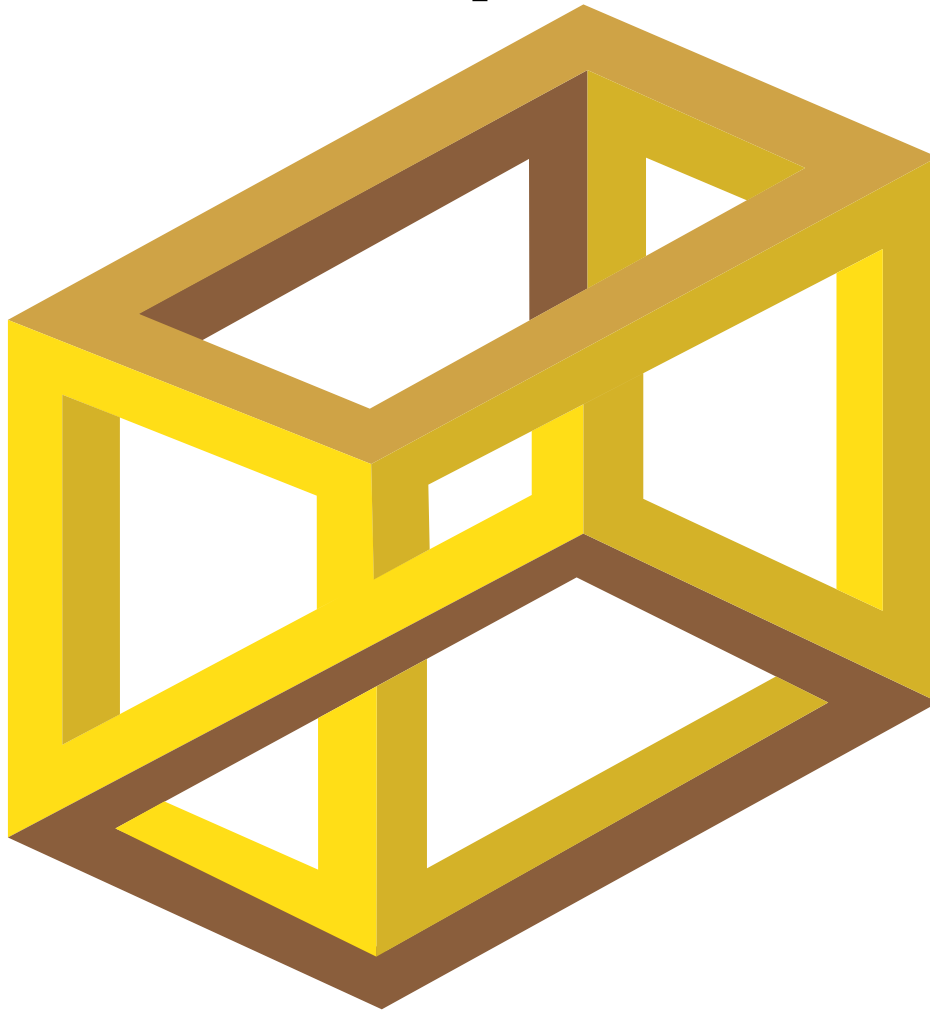
Complimentary Consultations for All Referrals

LITIGATION | MEDIATION | QDRO



TheOrlandoFamilyFirm.com

Uncomplicating the Complicated.



For 25 years, our mediators have helped attorneys and their clients through the maze to settlement. From seven offices in Florida and Alabama, **Upchurch Watson White & Max** has become a top mediation firm nationally, known for effectively and efficiently facilitating agreements to resolve complex and routine issues alike. Our Supreme Court certified attorney-neutrals can serve as court-appointed or privately employed mediators as well as arbitrators and third-party case managers.

Become an appreciated client by calling 800-863-1462 or visiting us online.



MEDIATION | ARBITRATION | E-DISCOVERY | SPECIAL MASTERS | CONSULTANTS

Successfully Resolving Conflicts In Florida, Alabama & Nationwide Since 1988

CALL TOLL FREE: 800-863-1462 | READ MORE & SCHEDULE: WWW.UWW-ADR.COM



[linkedin.com/company/upchurch-watson-white-&-max](https://www.linkedin.com/company/upchurch-watson-white-&-max)



www.facebook.com/UWWMMediation



[@UWWMmediation](https://twitter.com/UWWMmediation)

Contents

3

President's Message

Location Location Location
Nicholas A. Shannin, Esq.

5

2014-2015 OCBA Officers & Executive Council

6

Professionalism Committee

Personal Relationships Can Result in Professional Sanctions!
Carolyn Johnson Levine, Esq.

7

The Florida Bar Foundation News

Florida Bar Foundation's Children's Legal Services Grants Help Support the Legal Aid Society's Guardian ad Litem Program
Darryl M. Bloodworth, Esq.

8

Labor and Employment Committee

How Clients Think: The Brains Behind Decision Making – Part 1
Michelle Jernigan, Esq.

10

Judicial Relations Committee

Report from the OCBA Judicial Relations Committee
Richard S. Dellinger, Esq.
Eric C. Reed, Esq.

11

The Florida Bar Foundation News

Bruce Blackwell to Serve as Executive Director of The Florida Bar Foundation

12

Elder Law Committee

Options for Seniors Facing Foreclosure
Aubrey H. Ducker, Esq.

14

Clerk's Corner

Clerk of Courts Eddie Fernández Deputizes Harbor House Employees

15

Legal Aid Society

What We Do...

More Than a Paycheck
Donna Anne Haynes

16

Legal Aid Society GAL Teaching Tips

Private Adoption Intervention in Dependency Cases
Kate E. York, Esq.

17

Legal Aid Society Teaching Tips

Reverse Mortgages: The Good, The Bad, The Ugly!
Michael L. Resnick Esq.

20

2014 Gala

22

OCBA Bench Bar Conference

24

Hearsay...

Christine A. Wasula, Esq.

26

Judicial Relations Committee

Interview with Magistrate Maria M. Hinds
Crystal Espinosa Buit, Esq.

28

YLS on the Move

Jill D. Simon, Esq.

29

Paralegal Post

Diversity – Do You Spanglish?
Michelle Gerena

30

Presentation Skills for Lawyers

"Hey, You're Just Like Me!"
Elliott Wilcox, Esq.

32

Rainmaking

Do You Run Your Practice?
Michael Hammond, Esq.

34

New Members

35

Announcements

36

Classifieds

40

Calendar

DEADLINE INFORMATION

Advertising - 10th of the month prior to the month of publication

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

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

All contents ©2014 Orange County Bar Association. All rights reserved. Designer: Catherine E. Hebert

Cover photo: Flo Boehm, Boehm & Boehm

ISSN 1947-3968

the Briefs

©2014

Co-Editors

Vincent Falcone, Esq. & Carrie Ann Wozniak, Esq.

Associate Editors

Elizabeth Collins Plummer, Esq. &
Téa Sisic, Esq.

Hearsay Columnist

Christine A. Wasula, Esq.

Side Bar Columnist

Sunny Lim Hillary, Esq.

YLS Columnist

Jill D. Simon, Esq.

OFFICERS

Nicholas A. Shannin, Esq. *President*
Jamie Billotte Moses, Esq. *President-Elect*
Wiley S. Boston, Esq. *Treasurer*
Elizabeth F. McCausland, Esq. *Secretary*

EXECUTIVE COUNCIL

Linda Drane Burdick, Esq.
Philip K. Calandrino, Esq.
Richard S. Dellinger, Esq.
Mary Ann Etzler, Esq.
A. Felipe Guerrero, Esq.
LaShawnda K. Jackson, Esq.
Kristopher J. Kest, Esq.
Eric C. Reed, Esq.
Gary S. Salzman, Esq.
Anthony F. Sos, Esq.
Ryan Williams, Esq.
Paul J. Scheck, Esq. *Ex Officio*
Karen L. Persis, Esq. *YLS President*

EXECUTIVE DIRECTOR

Brant S. Bittner

Communications Manager

Peggy Storch

Communications Assistant

Nancy Barnette

Marketing & Sponsorship Coordinator

Chelsie Sloan



Residential Mortgage Foreclosure Program
407-649-1833

880 North Orange Avenue • Orlando, FL 32801
(407) 422-4551 • Fax (407) 843-3470

Legal Aid Society	407-841-8310
Citizen Dispute	407-423-5732
Family Law Mediation	407-422-4551
Lawyer Referral Service	407-422-4537
Orange County Foreclosure Mediation	407-422-4551
Young Lawyers Section	407-422-4551

President's Message

June 2014



Nicholas A. Shannin, Esq.

*Starting each message,
An original haiku.
Poetic license!*

Location Location Location

The second rule from the classic movie *Roadhouse* (the subject of a future professionalism-related message) is simply this: Take it outside. Both last month and this, we followed Swayze's advice and took advantage of our Florida environs. The cover shot from May's *Briefs*, marred only by my mug, is the view of Lake Lucerne from my office on Lucerne Circle on the south side of downtown Orlando. I love this view and felt that getting out of the office would be better than a stodgy old indoor picture. Fortunately, my friend and outgoing OCBA president Paul Scheck agreed, and the scenic tableau is the result.

This month's cover photo is similarly outside, this time in front of our beautiful OCBA building. We've almost always taken the picture of the Executive Council inside the building; taking it outside was a means to give *The Briefs* an invigorating breath of fresh air.

Location has always been one of Orange County's greatest advantages. Miami might have its beaches, Tallahassee the Capitol, Jacksonville its, its, well, whatever it is that keeps people in Jacksonville. Orlando, however, has it all. We have the Mouse, we have the Wizard, we have the Whale.

Businesses of all stripes, top notch medical facilities, and the second largest university in the nation. The Magic may be rebuilding, but its hometown is always having a winning season.

Part of the lure to have all those things – we are the center of the center. Prime, Grade A, realtor-salivating property smack dab in the middle of Central Florida. Which is why the conventions, they come to us. Not least among the conventions: The Florida Bar, which has held its last several midyear meetings in Orlando, and which holds its annual meeting here at least every other year.

This is one of those years. We play host this month. From June 25-28, the lawyers of the state will be here – and I encourage each of you to attend. We have home field advantage. Let's be there in force and prove that we are the gravitational center around which The Florida Bar rotates. This is the reason we are not holding our June luncheon at Church Street – we are instead meeting at the Gaylord Palms, and we invite all members of The Florida Bar to join us! Essentially our same location, just a slight modification to a building that could hold all of our out-of-town guests! I hope to see you all there!

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





MORGAN & MORGAN **BUSINESS TRIAL GROUP**

Contingency-Fee Business Litigation

Contract Litigation | Employment Litigation | Securities Litigation
Construction Litigation | Professional Malpractice | Real Estate Litigation
Intellectual Property | Trust & Estate Litigation

We Co-Counsel & Pay Referral Fees

Contact our experienced attorneys for more information.

Orlando Office

Phone **407.245.3505** | Email **BTG@forthepeople.com**

20 North Orange Avenue, Suite 1600 | Orlando, FL 32801

www.ForThePeople.com/BTG

Offices: Orlando | Tampa | Jacksonville | West Palm Beach | Plantation | Ft. Myers | Naples | St. Petersburg | Tallahassee
Atlanta, GA | Jackson, MS | Lexington, KY | Memphis, TN | New York, NY

2014-2015 OCBA Officers & Executive Council



NICHOLAS A. SHANNIN, Esq.

PRESIDENT
The Shannin Law Firm
214 E. Lucerne Cir., Ste. 200
Orlando, FL 32801
407-985-2222
nshannin@shanninlaw.com



JAMIE BILLOTTE MOSES, Esq.

VICE PRESIDENT / PRESIDENT-ELECT
Fisher Rushmer, P.A.
390 N. Orange Ave., Ste. 2200
Orlando, FL 32801
407-843-2111
jmoses@fisherlawfirm.com



WILEY S. BOSTON, Esq.

TREASURER
Holland & Knight, LLP
200 S. Orange Ave., Ste. 2600
Orlando, FL 32801
407-425-8500
wiley.boston@hklaw.com



ELIZABETH F. MCCAUSLAND, Esq.

SECRETARY
Liz McCausland, P.A.
545 Delaney Ave., Ste. 7
Orlando, FL 32801
407-492-1817
Liz@LizLawFirm.com



LINDA DRANE BURDICK, Esq.

EXECUTIVE COUNCIL
State Attorney's Office
415 N. Orange Ave.
Orlando, FL 32801
407-836-2425
ldrane-burdick@sao9.org



PHILIP K. CALANDRINO, Esq.

EXECUTIVE COUNCIL
Calandrino Law Firm, P.A.
301 E. Pine St., Ste. 950
Orlando, FL 32801
407-601-4905
phil@floridabusinesslaw.com



RICHARD S. DELLINGER, Esq.

EXECUTIVE COUNCIL
Lowndes, Drosdick, Doster,
Kantor & Reed, P.A.
P.O. Box 2809
Orlando, FL 32802
407-843-4600
richard.dellinger@lowndes-law.com



MARY ANN ETZLER, Esq.

EXECUTIVE COUNCIL
Miller Etzler, P.L.
429 S. Keller Rd., Ste. 310
Orlando, FL 32810
407-478-7950
maryann@milleretzlerlaw.com



A. FELIPE GUERRERO, Esq.

EXECUTIVE COUNCIL
Dean, Mead, Egerton, Bloodworth,
Capouano & Bozarth, P.A.
800 N. Magnolia Ave., Ste. 1500
Orlando, FL 32803
407-428-5165
fguerrero@deanmead.com



LASHAWNDA K. JACKSON, Esq.

EXECUTIVE COUNCIL
Rumberger, Kirk & Caldwell, P.A.
P.O. Box 1873
Orlando, FL 32802
407-872-7300
ljackson@rumberger.com



KRISTOPHER J. KEST, Esq.

EXECUTIVE COUNCIL
Lowndes, Drosdick, Doster,
Kantor & Reed, P.A.
P.O. Box 2809
Orlando, FL 32802
407-843-4600
kristopher.kest@lowndes-law.com



ERIC C. REED, Esq.

EXECUTIVE COUNCIL
Shutts & Bowen, LLP
300 S. Orange Ave., Ste. 1000
Orlando, FL 32801
407-835-6790
ereed@shutts.com



GARY S. SALZMAN, Esq.

EXECUTIVE COUNCIL
GrayRobinson, P.A.
301 E. Pine St., Ste. 1400
Orlando, FL 32801
407-843-8880
gary.salzman@gray-robinson.com



ANTHONY F. SOS, Esq.

EXECUTIVE COUNCIL
Dellecker, Wilson, King, McKenna,
Ruffier & Sos, LLP
719 Vassar St.
Orlando, FL 32804
407-244-3000
asos@dwklaw.com



RYAN WILLIAMS, Esq.

EXECUTIVE COUNCIL
State Attorney's Office
415 N. Orange Ave.
Orlando, FL 32801
404-836-2400
mwilliams@sao9.org



KAREN L. PERSIS, Esq.

YLS PRESIDENT
Karen Persis, P.A.
1415 E. Robinson St., Ste. C
Orlando, FL 32801
407-228-2864
karen@karenpersis.com



PAUL J. SCHECK, Esq.

EX OFFICIO
Shutts & Bowen, LLP
300 S. Orange Ave., Ste. 1000
Orlando, FL 32801
407-423-3200
pscheck@shutts.com



BRANT S. BITTNER

EXECUTIVE DIRECTOR
Orange County Bar Association
880 N. Orange Ave.
Orlando, FL 32801
407-422-4551
branth@ocbanet.org

Personal Relationships Can Result in Professional Sanctions!

Carolyn Johnson Levine, Esq.

Lawyers and judges typically maintain a professional and personal distance between each other. Often, it appears as if both parties are very careful to ensure that personal friendships not develop for fear that some proverbial line will be crossed. Of course, some lawyers have long-standing friendships with other lawyers and these friendships can continue when one of the lawyers subsequently becomes a judge. In fact, The Florida Bar has never required that ongoing friendships should cease to exist once a lawyer swears in to the judiciary. However, it is essential that if a lawyer and a judge have a personal relationship, that relationship should be revealed to the opposing party in a case. The opposing party should subsequently be given the opportunity to object to the presiding judge continuing to adjudicate the case at hand. In fact, some judges may be overly cautious in order to avoid the “appearance” of impropriety and, in anticipation of challenges, can ask to be recused from all of the cases associated with a particular lawyer.

The Florida Supreme Court recently addressed the issue of personal relationships between lawyers and judges in *The Florida Bar v. Scheinberg*, 129 So. 3d 315 (Fla. 2013). Scheinberg was a criminal prosecutor for over two decades in the Broward County State Attorney’s office and more specifically “was the lead prosecutor in the *State of Florida v. Omar Loureiro*, a first-degree capital murder case in which the state was seeking the death penalty.”¹ During a five-month period, including the time prior to the jury’s guilty verdict of Loureiro and the judge’s subsequent imposition of the death penalty for Loureiro, Scheinberg engaged in 949 cellular telephone calls and 471 text messages with the presiding judge. Neither Scheinberg nor Judge Ana Gardiner “disclose[d] these communications to the attorney representing Loureiro.”²

Upon the discovery of this secret relationship, the State Attorney’s office agreed to give Loureiro a new trial. Loureiro was convicted of murder at the second trial; however, the new jury recommended a life sentence for Loureiro.³ There was no direct evidence provided by The Florida Bar, Scheinberg, or Judge Gardiner that the phone calls and text messages included discussions regarding the ongoing murder trial. However, Scheinberg’s testimony in his ethical violation case revealed that the frequent communication between himself and the presiding judge was the result of a “per-

sonal” relationship. Scheinberg appealed the referee’s determination that a one-year suspension of Scheinberg’s Florida Bar license was appropriate, which led the Florida Supreme Court to review Scheinberg’s case and subsequently rule that a two-year suspension was a more appropriate sanction in this case.

The Florida Supreme Court “has long held that *ex parte* communications between a lawyer and presiding judge are ‘dangerous and destructive of the impartiality of the judiciary.’”⁴ The communication between Scheinberg and Gardiner was “not casual or administrative, such as the type of communication that might occur when a lawyer and judge pass each other in the hallway, or when they serve on the same committees [therefore, Scheinberg and Gardiner’s] extensive communications, once discovered, created an appearance of impropriety in the case.”⁵ The court observed that it had previously addressed the inappropriate nature of a romantic relationship between an attorney and a presiding judge in the matter of *In re Adams*, 932 So. 2d 1025 (Fla. 2006). In that case, the court held that a judge who continues to preside over cases with an attorney who is emotionally involved with the judge “necessarily depletes the single most important source of his or her authority – the perception of the legal community and public that the judge is absolutely impartial in deciding cases.”⁶

In *Scheinberg*, the court found that Scheinberg and Gardiner “similarly served to damage the perception of judicial impartiality.”⁷ Further, the excessive communication between the parties required an investigation and a subsequent retrial for Loureiro, “a process which consumed court resources, as well as the resources of opposing counsel.”⁸ Finally, the court found that Scheinberg violated Florida Bar Rule 4-8.4, for engaging in conduct that was “prejudicial to the administration of justice.”⁹

Former Judge Gardiner resigned from the bench in lieu of facing sanctions from the Judicial Qualifications Commission. However, The Florida Bar has sought the complete revocation of Gardiner’s license to practice because of the same ethical violations as Scheinberg and an additional finding that Gardiner was dishonest during the ethical investigation into this matter because she had attempted to claim that the excessive contact between herself and Scheinberg only addressed pro-

continued page 25



Darryl M. Bloodworth, Esq.

Florida Bar Foundation's Children's Legal Services Grants Help Support the Legal Aid Society's Guardian ad Litem Program

David was only 7, so he believed his mother when she left him with a friend and said she would be back for him in an hour. He waited. An hour came and went.

When his mother never came back, David entered the juvenile system as a dependent child and Stephanie Stewart, Esq., an attorney with the Legal Aid Society of the Orange County Bar Association, was appointed as his Guardian ad Litem.

Stephanie found that David had been physically and emotionally abused by his parents, who had substance abuse and domestic violence issues. In 2007, parental rights were terminated. Meanwhile, David's abuse was manifesting itself through poor hygiene, insomnia, mood disorders, and disruptive behaviors. Stephanie ensured he received counseling services and that he was not overmedicated for mood disorders, a problem she discovered when reviewing his medical records.

She also attended school meetings to discuss his behaviors and educational needs, and to develop his Individualized Education Program and behavioral intervention plans. David's behavioral issues led to placements in more than 10 foster homes, as well as involvement in the juvenile justice system. Stephanie requested placement in therapeutic foster homes that were better equipped to manage his behaviors.

As David's Guardian ad Litem, Stephanie knew that his behaviors would one day stabilize and a family could be found for him. She fought to maintain adoption as his permanency goal. A loving forever family was found for David, and now a new child has emerged. David no longer has behavioral issues. He dreams of going to college and being a role model to his siblings, and he looks forward to his upcoming adoption finalization.

In the early 1990s, recognizing that children have special legal needs and that those needs were going largely unmet, The Florida Bar Foundation began funding special annual grants for legal assistance

to children. The Foundation's priorities for its Children's Legal Services grants include representation of foster youth and access to special education, medical, developmental, and mental health services that are required under law. The Legal Aid Society of the Orange County Bar Association has received \$1 million in Children's Legal Services grants since the program began.

The Foundation has made the Children's Legal Services Grant Program one of its top priorities in the face of the devastating impact of low interest rates on revenue from Florida's Interest on Trust Accounts (IOTA) program.

Gifts from attorneys to the Foundation from the Children's Legal Services Campaign on the annual Florida Bar Fee Statement help support the Foundation's Children's Legal Services grants, along with proceeds from The Florida Bar's Kids Deserve Justice license plate initiative.

A 28 percent increase from 2012 to 2013 in contributions from Florida attorneys through The Florida Bar Fee Statement and direct gifts to the Foundation helped soften the cuts to the Foundation's Children's Legal Services grants in the 2013-14 fiscal year, although the IOTA revenue crisis still necessitated cuts. With 2013 contributions of \$276,000, Florida Bar members provided 30 percent of the total funding for the Foundation's 2014 Children's Legal Services grants. The Legal Aid Society of the Orange County Bar Association received a Children's Legal Services grant of \$55,403 this year.

I would like to thank all of those who contributed during this time of critical need. Your help has made a tremendous difference in the lives of youth who might otherwise be without a voice.

Darryl M. Bloodworth, Esq., founding shareholder of Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, P.A., is a past president of The Florida Bar Foundation. He served as a member of the OCBA Executive Council (1978 – 1983) and as its president (1982 – 1983).



Michelle Jernigan, Esq.

How Clients Think: The Brains Behind Decision Making – Part 1

To enhance their ability to properly represent their clients, lawyers require some basic understanding of why their clients make the decisions they do and how to better assist them in the decision-making process. This article will explore some of the factors that drive the decision-making process in broad terms, emphasizing the cognitive aspects but also delving into neurological and psychological aspects of decision making. This brief inquiry into the thought process may help in guiding a client before, during, and after a mediation.

Premised on the assumption that people behave rationally in decision making, utility theory assumes that people collect lots of information, examine a wide variety of alternatives, and then make decisions that maximize their personal satisfaction.¹ However, Nobel Prize winner Herbert Simon contends that people are cognitively limited and do not make decisions rationally in accordance with predictable economic models. People are not as comprehensive in their information gathering and analysis as economists would assume. “Humans satisfice, rather than optimize,”² meaning we search for alternatives only until we find a solution acceptable to us, whether the solution is optimal or not.

This evokes the need to study principles of cognition, behavioral psychology, and neuroscience to gain more insight into the human decision-making process. Neuroscience is defined as a branch of the life sciences that deals with the anatomy, physiology, biochemistry, or molecular biology of nerves and nervous tissue, and especially with their relation to behavior and learning. It began in 1848 as a result of a terrible work-related accident suffered by railroad construction foreman Phineas Gage. Gage had a metal rod stuck in his skull, yet survived. Post-accident, he was a completely different person – rude, vulgar, and socially inappropriate. Scientists studying Gage determined there was a correlation between the damaged areas of his brain and his altered behavior.³

Our cognitive limitations lead to systematic errors in judgment and decision making. This is not because we lack intelligence, but because we are human. These cognitive biases⁴ affect people in a variety of fields, and all of us are subject to them in our personal and professional lives.

First, in this installment of the article, we will explore some of the cognitive biases that have been well established by research in the field of behav-

ioral psychology. Second, we will continue this exploration before examining the effects of intuition, emotion, and mood on decision making in the third and final part of our series. In the last installment, we also will consider left and right-brain functions and the differences in how the two hemispheres process information and then offer strategies or interventions to help you and your clients engage in better decision making.

Overconfidence Bias

This is the tendency for people to be systematically more confident about their judgments than accuracy would dictate. Most studies reflect that average confidence levels exceed accuracy by ten to twenty percent. Author Scott Plous, in his book *The Psychology of Judgment and Decision Making*, suggests the following strategies for dealing with the overconfidence bias: First, beware of judgments that are difficult to make or where confidence is extreme. Second, calibrate the judgment in proportion with the decider's accuracy. For example, if a decision maker is ninety-five percent confident, but only seventy-five percent accurate, treat the confidence level in the decision making at seventy-five percent. Finally, when the decision maker has a high level of confidence about a decision, consider other reasons that support a contrary decision.⁵

Availability Bias

Availability bias is the tendency of people to expect that certain events will occur simply because similar events have occurred more recently or that information regarding such events is more readily available. The fact that certain events are more available than others does not necessarily mean that they occur more frequently or with greater probability.

Consider this example: What is the more likely cause of death in the United States – being killed by falling airplane parts or by a shark attack? Most people say it is a shark attack, when the chance of dying from falling airplane parts is 30 times greater than the chance of being killed by a shark. This is because shark attacks receive more publicity than do deaths from falling airplane parts. In essence, information about shark attacks is more readily available than information about falling airplane parts.⁶ This is the availability bias.

The best way to minimize the impact of this bias is by making proper calculations of probability and risk. Maintain accurate records, seek third-

party assessments when appropriate, and recognize the probability of desirable events is often overestimated, and the probability of undesirable events is often underestimated.

Confirmation Bias

One of the most prevalent biases we face is the confirmation bias. This is the human inclination to gather and rely on information that confirms and supports our existing beliefs and to avoid or downplay information that is contrary to those beliefs. Consider the following example: In 2003, managers at NASA were aware that insulating foam on the external fuel tank of the shuttle Columbia became dislodged during launch. This foam then struck a wing, creating a hole larger than a human head. Hot gases seeped in and melted the shuttle from the inside out. Before this calamity, managers were well aware that foam strikes were occurring every year, but, because nothing catastrophic had ever happened, they did not consider it a safety threat. Each time, these managers “signed off” on flight readiness based on this belief. NASA managers did not seek disconfirming data, such as concerns from engineers and photos demonstrating the damage caused by the strikes. Instead, they relied on an expert who believed the foam strikes did not pose a danger and failed to give credence to the disconfirming data.⁷

One of the best ways to combat confirmation bias is to seek out evidence that is contrary to your viewpoint. In essence, play devil’s advocate. When analyzing an issue, take your opponent’s position and the evidence supporting that position and thoroughly examine the merits of it. You may find that you are not giving sufficient weight to the evidence that supports your

opponent’s position. You may be “drinking your own Kool-Aid” by simply seeking confirming evidence to substantiate your existing beliefs about your position.

Hindsight Bias

This is the “I knew it all along” bias.⁸ It is the tendency for people to view something that has already occurred as having been inevitable without recognizing that their knowledge of the outcome is influencing their assessment of the likelihood of the event’s occurring. Fischhoff and Beyth conducted one of the first studies on hindsight bias in 1975.⁹ In advance of two presidential trips, they asked several groups of Israeli students to estimate the probability of 15 different outcomes for Nixon’s China and Soviet trips.

Students were asked to remember the prior estimates of probabilities of the 15 outcomes. Two weeks after the trips, sixty-seven percent of students assigned a higher probability to the outcomes than they originally estimated. Four to eight months after the trips, eighty-four percent of students assigned higher probabilities to the outcomes than they had originally estimated.

This bias causes an individual to view a particular outcome as having been more predictable than it actually was. The more time that passes, the more we think we could have predicted the outcome. One way to guard against the detrimental effects of this bias is to write down our predictions, since we will often remember them differently than they actually were. Prior to a court ruling on a motion, a lawyer may make a prediction that his likelihood of prevailing on the motion is fifty percent. If, thereafter, that lawyer prevails, he must be wary of thinking that the chances of prevailing were actually higher than fifty percent. Just

because he prevailed he may believe “in hindsight” that his chances were greater than they actually were.

Anchoring Bias

This is the notion that people allow an initial reference point to distort outcome estimates. This is an extremely powerful tool in negotiation. Through experimentation, psychologists Tversky and Kahneman have discovered that, even if the initial reference point is completely arbitrary, it affects estimates. The effects of anchoring do not disappear with monetary incentives for accuracy or outrageously extreme anchors.

Consider this example: Tversky and Kahneman asked two groups of people to estimate the percentage of African nations that were members of the United Nations. Prior to presenting the question to one group, a wheel of fortune was spun and the needle landed on the number 10. Then those subjects were asked if the percentage of African countries in the United Nations was more or less than 10 percent. The other group of subjects spun the wheel of fortune and the needle landed on 65. This group of subjects was asked if the percentage of African countries in the United Nations was more or less than 65 percent. The first group estimated 25 percent, and the second group estimated 45 percent.¹⁰ This technique is very powerful in negotiations and mediations where the plaintiff frequently sets the initial demand.¹¹ Be aware that if a plaintiff sets an unreasonable anchor, it can stall the negotiations.

Some suggestions on how to counter the powerful effects of anchoring in mediation and negotiation are to contest the evaluation by using credible evidence, counter with an equally extreme proposal, ignore

continued page 23



Lilburn R. Railey III

Mediation Services

30 Years Experience
As Civil Trial Lawyer

Circuit-Civil Mediator

FL Supreme Court
Qualified Arbitrator

National Academy of
Distinguished Neutrals

+ Contract Disputes

+ Construction

+ Commercial | Business

+ Architects | Engineers
Professional Liability

Railey Harding + Allen | PA

15 North Eola Drive | Orlando FL 32801 | 407.648.9119

schedule via: kschaffner@raileyharding.com or raileyharding.com/mediation

Judicial RelationsCommittee



Richard S. Dellinger, Esq.



Eric C. Reed, Esq.

Report from the OCBA Judicial Relations Committee

Members of the OCBA Judicial Relations Committee meet monthly with members of the bench and the bar to discuss issues of importance to both the judiciary and practicing attorneys, with each court division judge and the OCBA leaders giving reports on their activities.

The March 26, 2014 meeting began with a report from Circuit Civil and Circuit Judge John Kest. Judge Kest reported that foreclosures continued to take a lot of time on the Circuit Civil dockets and senior judges continue to help move cases to completion and through trial, if necessary. Judge Kest also advised that because of the backlog in foreclosures, when a case is noticed for trial, judges currently are setting trials for the year 2015. Many of the cases are being held in the overflow courtroom on the 14th floor of the courthouse. Trials have been booked there through June 2014.

Judge Kest also reminded the bar that Administrative Rule 2012-03 (<http://www.ninthcircuit.org/research/AdminOrders/AO2012-03.pdf>) requires parties to meet and confer prior to setting a hearing, noting that this rule requires the attorneys to talk by phone or in person, not by email, before scheduling a hearing. If a hearing is set without discussion between the parties, judges may cancel the hearing and sanction the parties. The rule is designed to free a judge's docket for other matters if a hearing settles on the eve of the hearing date.

Circuit Judge Frederick Lauten, reporting for Circuit Criminal, spoke about the anticipated moves of the division judges in the upcoming months. The moves are as follows: Judge Heather Pinder-Rodriguez is leaving Division 11 on April 19, and Judge Lubet is moving into her place. Judge Evans is covering the newly opened Bureau of Prison Division, leaving an open seat in the Domestic Violence Division. Judge Pinder-Rodriguez will be taking over Judge Evans' division, and the court's new judge, Dan Traver, will be placed in the Domestic Violence Division. Judge Traver is scheduled to start on May 5; he is also shadowing domestic violence judges, including Judge Apte and Judge Sally Kest. Judge Sally Kest will be taking over as the administrative judge in the Family Division.

Judge Steve Jewett reported for the County Court, stating that the Criminal Division is down by one judge, as Judge Tynan has been elevated to the Circuit Court and the position remains open.

In County Civil, the docket appears to be moving smoothly. All civil divisions are fully filled.

Judge Alan Apte reported on behalf of Judge Higbee for the Circuit Appellate Division, noting that Judge Higbee encourages attorneys to call her office if they believe there is an unreasonable delay in appeals to the Circuit Court and would like to see the case resolved sooner.

Eddie Fernández, Esq., Clerk of Court, acknowledged and congratulated his staff on the successful rollout of the new system, Odyssey 13. Mr. Fernández also reported that his office is receiving good reviews on the new law office line. In the first week of the rollout, the wait time for the 80 calls received was under two minutes; during the following two weeks, the office received approximately 100 calls per week, with a wait time of about two minutes. Mr. Fernández is focused on providing superior customer service for users of the courthouse.

Jamie Billotte Moses, Esq., president-elect of the OCBA, reported on bar activities, including bar elections, the annual Gala, the April Bench Bar conference, and the various Law Week programs. Brett Renton, Esq. provided a report from the OCBA Young Lawyers Section.

Kim Homer, Esq., OCBA Foreclosure Mediation Program manager, reported that although foreclosure filings are down, the program continues to offer free seminars to those who are facing foreclosure. Ms. Homer also reiterated that the mediation services remain available for any new or existing foreclosure filing.

Camy Schwan-Wilcox, Esq., presented a report on behalf of the OCBA Family Law Committee and the Central Florida Association for Women Lawyers (CFAWL). The report included a discussion of a pending updated draft Administrative Order for family law and a report on the upcoming Runway for Justice Program to benefit A Place for Children. Approximately 10% of the funding for A Place for Children comes from CFAWL's Runway for Justice fundraiser.

The Judicial Relations Committee also heard from Ms. Amber Jade F. Johnson, Esq., a member of the OCBA's Estates, Trust and Guardianship Committee, who reported on the committee's upcoming meeting topics. Ms. Johnson also reported on legislation that is currently being drafted and considered by The Florida Bar Real Property,

continued page 14



Bruce B. Blackwell, Esq.

Bruce Blackwell to Serve as Executive Director of The Florida Bar Foundation

Orlando attorney Bruce B. Blackwell, Esq., has been named executive director of The Florida Bar Foundation, a statewide charitable organization that works on behalf of Florida's legal profession to provide greater access to justice.

A founding shareholder with King, Blackwell, Zehnder & Wermuth, P.A. in Orlando, Bruce is a past president of the Foundation, the 2011 recipient of its Medal of Honor Award and the 2013 recipient of the American Bar Association's Pro Bono Publico Award for outstanding service. Prior to becoming president, Bruce served on The Florida Bar Foundation's board for 10 years and on The Florida Bar Board of Governors for four years.

Bruce, 67, is taking on the leadership of the Foundation at a time of tremendous challenge. The organization's primary funding source, Florida's Interest on Trust Accounts (IOTA) program, is at less than 10 percent of its peak level as a result of near-zero bank interest rates, while the organization's once-healthy reserve is dwindling. Meanwhile, access to justice is difficult for most Floridians, especially those with lower and fixed incomes.

"My service to The Florida Bar Foundation was the most meaningful of the many leadership positions I've been fortunate to hold in my career, but I never would have imagined myself in this role," Bruce said. "This was a call I just had to answer, as the Foundation is simply too important. Florida needs a healthy Florida Bar Foundation more than most people will ever know. But I do know, and I will do all within my power to make it so."

The Florida Bar Foundation is the only funder linking 30 legal aid organizations in Florida to form a comprehensive, statewide legal services delivery system. It also provides funding for projects to improve the administration of justice. Through its leadership and funding, the Foundation has been instrumental in bringing about advances from a statewide, Web-based case management system for legal aid, to the creation of a statewide plan to combat human trafficking. The Foundation established the Innocence Project of Florida, which has used post-conviction DNA evidence to bring about the exonerations of 14 innocent men who spent a combined 268 years in prison.

Over the course of his career, Bruce has regularly performed more than 500 hours of *pro bono* work per year, including taking on some of the Legal Aid Society of the Orange County Bar Association's most difficult cases, as well as raising money for and lobbying Congress and the Florida Legislature to support legal services for the poor. He has used his previous leadership positions as OCBA president and as a member of The Florida Bar Board of Governors to persuade other lawyers to make a commitment to serving the poor and increasing their *pro bono* work.

Bruce has received the OCBA's highest award, the William E. Trickel, Jr., Professionalism Award, the ABA's Grassroots Advocacy Award, the Florida Council of Bar Association Presidents Outstanding Voluntary Bar President Award, and twice received the President's Pro Bono Service Award for the Ninth Judicial Circuit from the president of The Florida Bar. A fifth-generation Floridian, Bruce is a past president of the Florida Supreme Court Historical Society.

"I can think of no other lawyer who has done more to advance the cause of access to justice in Florida, and no one better to help move the Foundation forward," said Florida Bar Foundation president John Patterson, Esq. "He will be a remarkable leader for the Foundation, and I am very grateful that he was willing to take on this role."

Bruce graduated from Florida State University with his bachelor's degree in 1968 and earned his law degree from the FSU College of Law, graduating with honors in 1974.

He replaces Jane E. Curran, who had served as executive director of The Florida Bar Foundation since 1982 and who now serves as executive director emeritus.

"Jane Curran has given us a tremendous legacy on which to build, and we all owe her a great debt," Bruce said. "The Florida Bar Foundation will work to honor that legacy while adapting to the many changes that have come our way. While we are met with great challenges, we also see great opportunity. We intend to employ partnerships, technology, leadership, and outside-the-box thinking to help make sure that in Florida the phrase 'justice for all' means what it says."



Aubrey H. Ducker, Esq.

Options for Seniors Facing Foreclosure

Elder law can be a very broad area of practice as it primarily encompasses the client rather than the issue. Elder law attorneys typically answer questions regarding estate planning, end of life planning, Medicaid planning and qualification, Medicare, social security, guardianships, living wills, testimonial wills, trusts, special needs trusts, qualified income trusts, Medicaid trusts – the list goes on and on. Elder law speaks more to client constituency than individual issues handled. Elder law attorneys address issues of competence and guardianship, end of life and healthcare directives, Medicaid planning as well as estate planning. Over the past few years, a new area has emerged: foreclosure of mortgages against new nursing home residents. Foreclosure defense spiked during the recent recession, but as concerning elder law, what does the average practitioner need to know to competently advise those asking questions?

Of principle importance in any discussion of foreclosure is the asset's value and the amount actually owed. Because many houses in the Orlando area and surrounding communities lost significant value as a result of the foreclosure crisis that began in 2008, many senior citizens who moved to Central Florida between 2002 and 2010 and put a reasonable down payment into their homes have witnessed the evaporation of equity at unprecedented levels. If you purchased a home in 2002 for \$200,000, it now may be valued at less than one-half the original purchase price. If a mortgage was used for the purchase, the balance due after seven years may be significantly higher than the current market value. This negative equity may place seniors at risk because of limited income mobility, rising taxes and expenses, and the inability of the senior to refinance the home at a lower interest rate.

The federal government has been active in addressing the foreclosure crisis resultant from this negative equity situation by passing programs such as the Home Affordable Modification Program (HAMP), part of the Making Home Affordable Program created by the Financial Stability Act of 2009, HAMP 2, HAFA, and finally the National Mortgage Settlement. Florida's attorney general, Pam Bondi, Esq., initially opposed the National Mortgage Settlement; however, it is being used to assist many Floridians today. Additionally, most lending institutions have established programs for mortgage modifications supplemental to these nationwide programs. The lenders want performing loans while the borrowers generally want to re-

main in their home. These programs have helped thousands of Floridians modify their mortgage on much more favorable terms than they could have otherwise achieved. The programs have also provided a means by which the mortgage industry could convert many default situations into performing loans.

Attorneys have been instrumental in the mortgage modification process from many different standpoints. Most notably, the bankruptcy court in Orlando began a Mortgage Modification Mediation Program that is becoming a national model. This mediation program allows debtors in bankruptcy to require the mortgage holder to attend mediation. While mediation has been a mandatory part of the state court foreclosure process for many years, the success rate has been less than stellar, with some estimates as low as 4% statewide. Success is defined herein as the borrower being able to maintain possession of the home and the bank achieving a performing loan.

The Middle District Bankruptcy Court's Mortgage Mediation Program has witnessed significantly higher success; homeowners completing mediation with the ability to remain in their homes has been consistently above 74% of all mediations sought. Additionally, the mediation process in the bankruptcy court has allowed many debtors the dignity of negotiating to surrender the home on a specific time schedule, rather than just waiting until the bank foreclosure process is completed and they are eventually evicted. Many senior citizens fear bankruptcy, but they do not fully realize how the cards are stacked against them with regard to credit and investments. A Statewide Mortgage Summit was held at the Orlando federal courthouse on February 27, 2014, and federal clerks of court from the Northern, Southern, and Middle Districts; eight bankruptcy judges from all three districts; six standing Chapter 13 Trustees from throughout the state; and representatives and attorneys from the big five banks making up the National Mortgage Settlement attended. Plans are underway for a National Mortgage Summit in the coming months.

An older attorney once asked me, "What makes America great?" My answer was the standard "freedom." He continued, "When you think of America, you typically think of freedom of speech, freedom of religion, and freedom of the press, yet these freedoms only appear in the First Amendment to the Constitution, while the bank-

ruptcy courts were established two years earlier in the original Constitution, Article One, Section 8.” Bankruptcy is a valuable American right, and a senior citizen on a fixed income with a mountain of health-related bills, for example, should not feel guilty or unpatriotic in exercising this right.

Senior citizens may have been raised to believe that bankruptcy is reserved for those who have been dishonorable or immoral; typically, debtors are portrayed as those who fail to pay their bills when they can. Nationally, however, the leading cause of bankruptcy is unexpected medical bills or injury causing a loss of employment. Over the past 30 years, investment returns through traditionally secure investments such as bonds have witnessed stagnant growth. Senior citizens have seen their income decimated by low interest rates on the bonds and certificates of deposits. These low returns are offset by rising costs of care, insurance, and living expenses. Additionally, senior citizens in the recession watched their home prices fall, wiping out any equity they had. And as their medical bills continue to rise – notwithstanding Medicare and Medicaid coverage – many seniors end up in a position of extreme stress at not being able to pay their bills and not being able to meet their mortgage obligations. Additionally, seniors are enticed by reverse mortgages sold by former politicians on television who cite Ronald Reagan as the president who set up this way for them to access the equity in their homes to meet their needs. Reverse mortgages may be the perfect solution for some, but for many, there could be more beneficial solutions. People considering reverse mortgages should consult with an elder law attorney to discuss their options before making the deal. While reverse mortgages may be appropriate for certain seniors, many considerations must be asserted because of homeowners’ association taxes and insurance that must be provided for to maintain the mortgage current.

In 1989, Congress created the home equity conversion mortgage, or HECM, which was intended to protect borrowers from losing their homes. As long as borrowers pay the property taxes, maintain the property, and do not change the names on the deed, they can remain in the house forever. Furthermore, if the reverse mortgage lender fails, any unmet payment obligation to borrowers is assumed by the Federal Housing Administration. While the HECM program was slow to catch on, it has been growing rapidly in the past decade. In 2009, about 130,000 HECMs were written. As seniors use the equity in their homes to pay for current care and living expenses, much of their estate planning from prior years may need to be revisited. Once the last homeowner leaves the house, the HECM may foreclose if the heirs cannot either sell the home at a significant profit, or pay the debt of the reverse mortgage. When the senior moves from the home to a nursing care facility, the lost home equity may impact heirs significantly. Homesteads are protected in Florida and whereas the value of the homestead may have previously passed to heirs easily, with no impact on Medicaid qualification, the HECM may cause undue burden as the debt must be repaid or the house forfeited. In the *Report to Congress on Reverse Mortgages*, published June 28, 2012, the Consumer Financial Protection Bureau found:

1. Reverse mortgages are complex products and difficult for consumers to understand.
2. Reverse mortgage borrowers are using the loans in different ways than in the past, which increase risks to consumers.
3. Product features, market dynamics, and industry practices also create risks for consumers.
4. Counseling, while designed to help consumers understand the risks associated with reverse mortgages, needs improvement in order to be able to meet these challenges.

5. Some risks to consumers appear to have been adequately addressed by regulation, but remain a matter for supervision and enforcement, while other risks still require regulatory attention.

Finally, even if the senior citizen remains in the home, there are significant debts that accrue, such as taxes and homeowners’ association fees. Many times seniors begin taking equity out of their homes, eventually exhausting that supply, yet forget to anticipate increases in the homeowners’ association fees and taxes. Embarrassment keeps them from asking for help, and it is not until after their passing that their children finally realize how truly dire their parents’ financial straits had become. Additionally, as life expectancies become longer, many seniors do not begin asking their children for help until their children are themselves retired or are of retirement age, when the burden is at its greatest. The sandwich generation (those between children still pursuing their education and with parents needing further assistance) faces a special crisis. It’s important for attorneys to recognize where their clients are in relation to these needs. After all, recognition of the problem is the attorney’s first job. Helping to alleviate that problem makes the attorney useful to the client, and solving that problem for the client creates a resource for other clients.

Whether seniors use the available advice of counsel is an open question. Too many times, seniors do not ask the necessary questions, either because they do not feel they need additional information or because they are afraid of the cost. It is incumbent on attorneys to be available and informed when the questions arise.

Aubrey Harry Ducker, Esq., Law Offices Aubrey Harry Ducker, Jr., PL, has been a member of the OCBA since 2003.

HONEYWELL MEDIATION

& Other Alternative Dispute Resolution Services

Is a pre-mediation summary for your mediator really necessary?

Only if you want to maximize the mediation benefit that a pre-informed mediator can offer. For any mediator to assist well, they must understand the issues and details of your dispute. It is far more productive to educate your mediator before mediation than waste your limited negotiation time for mediator education.

Visit my website: **www.honeywellmediation.com** to find who I am, my **online schedule**, **my educational blog**, and what I offer you and your client who may be seeking success without trial. My unique credentials and experience can be a useful and valuable added resource in finding resolution to your client’s dispute.

- Certified Circuit Civil Mediator • Certified Appellate Mediator
- Certified Federal Court Mediator • Board Certified Civil Trial Lawyer

Call **Honeywell Mediation /Mediation, Inc:**

Winter Park: **407-647-5155**

Orlando-Central Florida:

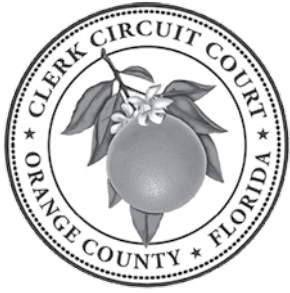
407-294-7000

Statewide-National: **800-741-7000**

Neutral, convenient conference facilities on Lee Road in Winter Park.



Available anywhere in Central Florida without travel charge. **DAN H. HONEYWELL**



Clerk of Courts Fernández Deputizes Harbor House Employees

Clerk of Courts Eddie Fernández, Esq., has sworn in 27 Harbor House of Central Florida employees as deputy clerks, allowing them to continue processing domestic violence injunction petitions during the hours that the Clerk's Office is closed.

"Domestic violence is not an 8 a.m. to 5 p.m. Monday-Friday issue," Eddie said. "We need to ensure that victims do not have to wait until the Clerk's Office opens its doors to start seeking protection."



More than 6,142 people visited the Orange County Clerk's Office in 2013 seeking court-ordered protection from someone they believed was a threat to their safety, well-being, or perhaps their very lives. Already this year,

more than 1,282 injunction petitions have been filed. The first step is to fill out the required paperwork.

"Having this opportunity to swear in our employees to save lives is our primary goal, since being able to process a domestic violence injunc-

tion when the Clerk's Office is closed is crucial for a victim in a domestic abuse situation," said Carol Wick, president & CEO of Harbor House of Central Florida. "It also enables us to uphold no-contact orders at any Harbor House location, which eliminates one more barrier to protecting survivors and holding abusers accountable."

If a petition is filed during business hours, the paperwork is filled out and returned to the Clerk's Office at the downtown courthouse. If someone wants to start that process when the Clerk's Office is closed, they can call Harbor House of Central Florida, which will take the information over the phone. That number is 1-800-500-1119.

The paperwork is several pages long and is available at the Clerk's Office and its branches. It is also available online at myorangeclerk.com, which allows the petitioner to fill out the applications privately and thoroughly, away from crowds and bystanders at the courthouse.

The swearing-in ceremonies for Harbor House employees mirrored the oath each deputy clerk takes.

"We are very grateful for our partnership with Harbor House," said Eddie. "It allows us to better serve our community 24 hours a day."

Judicial Relations Committee

continued from page 10

Probate and Trust Law Committee (RPPTL, pronounced "reptile").

Judge Lauten and Judge Julie O'Kane advised the committee of a scam currently being perpetrated by individuals who claim they represent law enforcement. The individuals call unsuspecting citizens and claim that the citizen missed jury duty and owes money to the person who is making the call. Judge Lauten asked anyone who hears reports of this fraud to call his chambers immediately and give details of the incident. Court deputies are aware of it and

are currently engaged in an investigation. Mr. Fernández noted that he had been informed of the scam and had posted a banner on the clerk's website to advise citizens of the scam and to tell them to ignore the calls.

Speaking on behalf of the OCBA Law Week Committee, Esther Whitehead, Esq., reported on the Pathways in Law program and encouraged the judiciary to participate. During the program, fifty-six students spend the day at the courthouse, learning about career opportunities in law and in law enforcement. Mrs. Whitehead noted that Judge Jewett is serving as the program facilitator.

The Judicial Relations Committee is a wonderful venue for sharing ideas and reporting current events by the bench and the bar. The committee chair is Eric Reed, Esq., the vice-chair is Camy Schwan-Wilcox, Esq., the treasurer is Gisela Laurent, Esq., and the secretary is Richard Dellinger, Esq.

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



Donna Anne Haynes

More Than a Paycheck

Kate York, Esq., has served as a child advocacy attorney for over four years. She first practiced in Miami with the the Florida State-wide Guardian ad Litem Program, and most recently as a courtroom attorney with the Legal Aid Society of the OCBA's Guardian ad Litem program. While Kate readily acknowledges that GAL work is demanding, stressful, and often emotionally draining, she also readily acknowledges that it is the most important work she has ever done and has never regretted making it the focus of her legal career. "GALs are on the front lines of a war," she states, "not only against child cruelty, but against the bureaucracy of a system that can crush families under its weight."

It took just a few seconds for Kate to respond when I asked her to tell me about a case that stands out in her mind as one that highlights her belief in the importance of GAL work. It is a story about a GAL who has traversed the dependency system for more than seven years with the two children he represents. The children, together with their custodian, are finally about to see their hopes for permanency come to fruition.

Michael Sasso, Esq., has been a *pro bono* attorney Guardian ad Litem for more than eight years. He graciously accepted a GAL case in 2007, having no idea how much time he would ultimately spend on it, or how close he would become with the family. Michael was assigned as the GAL for two young siblings who were exposed to cocaine and living in hazardous conditions. They were removed from their parents for a number of reasons: drug use, deplorable housing, and domestic violence. The children lived in a chaotic and unstable home environment. The Department of Children and Families (DCF) tried valiantly to keep the family together, allowing the parents to regain custody upon completion of their assigned case plan tasks.

This plan failed miserably. The children were ultimately removed from their home a second time and placed in foster care. After being appointed Guardian ad Litem, one of the first things Michael did was to advocate for the two children and request they be placed with a paternal uncle. The court had concerns. The uncle was only eighteen and barely an adult himself. Could he really care for two young children? Michael believed the young man could provide a home and stable environment. The children were eventually placed with their uncle.

The case closed in late 2007 with the young uncle

having permanent guardianship, a permanency option that is supposed to last until the children turn eighteen.

However, fate had something different in store for these children. Three years passed, and in 2010, the mother requested that the court reopen the case for visitation/reunification, stating that she could not visit as often as she would like and that she wanted to regain custody of her children. Michael took the case back as GAL and investigated the allegations. He spent many hours talking to the children, to the uncle, as well as to the children's therapist. He concluded that the mother's lifestyle was still unsafe for the children. The court agreed and closed the case. Normally when closing a case to permanent guardianship, the court terminates DCF supervision, discharges the GAL, and retains jurisdiction in the event the caretaker or other parties need to reopen the case. What is unique here is that Michael *requested* that the court allow him to remain appointed on the case as GAL so he could assist the children even without DCF involvement.

That's not the end of the case though. In 2012, the mother again requested that the court reopen the case for reunification. This time, there was a new judge on the case. Also changed was the mother herself. Over the intervening two years, the mother had gotten clean and had two more children. She was now stable. The one thing she continued to lack, however, was a relationship with her children. She only sporadically visited the children while the case was closed. The children were clear about what they wanted. They wanted to remain with their uncle. As is required of all GALs, at every hearing and in every report filed with DCF, Michael communicated what the children wanted.

A year passed. Michael was the lone voice trying to prevent these children from being torn from the only home they had ever known to being placed with a mother who they did not know. In mid-2013, a two-day evidentiary hearing was held to determine where the children were going to live. Michael took an active role in this litigation. He questioned witnesses, gave an opening and closing statement, and even testified.

At the end of this arduous hearing, the judge issued his ruling: The children were to remain with their uncle. The case closed, yet again, to the original ruling from 2007, permanent guardianship, with specific parameters for visitation for the mother.

continued page 18



Kate E. York, Esq.

Private Adoption Intervention in Dependency Cases

My name is Kate York, and I am a Guardian ad Litem staff attorney with the Legal Aid Society of the OCBA.

If you are a *pro bono* Guardian ad Litem, you are familiar with the regular dependency players: the Department of Children and Families (DCF), the case manager, the parents' attorneys, and of course, the Guardian ad Litem. There may also be "participants" to the case – individuals who have an interest in the case and have information that is important to the judge. Participants might include a custodian or someone who is a prospective adoptive parent.

Last year there was an amendment to Chapter 39, the dependency statute, which gives private adoption entities a stake in certain dependency cases. The section of Chapter 39 that governs termination of parental rights procedures states "[t]hat the parents of the child will be informed of the availability of private placement of the child with an adoption entity, as defined in s. 63.032." Chapter 39.802(d) Florida Statutes (2013). The corresponding section of Chapter 63, the adoption statute, is Ch. 63.082(6)(b), which states that "[u]pon execution of the consent of the parent, the adoption entity shall be permitted to intervene in the dependency case as a party in interest." Florida Statutes (2013).

Therefore, any time a parent wishes to consent to a private adoption of a minor child involved in a dependency case, there is a quick and easy avenue to accomplish it. Once the parent decides to pursue private adoption, an adoption entity can be hired to intervene on behalf of the prospective adoptor and become a party to the dependency case. This can benefit parents who want to have a say in where their children are permanently placed and can facilitate a timely adoption of dependent children.

There are, however, practical applications of the statute that GALs should be cognizant of and consider when advocating on behalf of children whose parents have identified a prospective adoptor. The parent has the discretion to choose the adoptor – so it could be anyone – even someone the child does not know very well. GALs should carefully weigh the stability of the current placement against the change in placement.

We have also seen this law used when a termination of parental rights petition has already been filed against the parents. In effect, the statute allows the parent, whom the state believes is unfit

to parent, to name the person who will become the permanent custodian of the child.

The GAL should approach cases like this using best-interest factors to formulate a recommendation. However, only four factors are to be considered (in contrast to the 11 manifest best-interest factors in termination of parental rights cases, or the 21 best-interest factors outlined in the family law statute, Chapter 61.13(3)). The four best-interest factors are:

1. "... the right of the parent to determine the appropriate placement for the child,
2. the permanency offered,
3. the child's bonding with any potential adoptive home that the child has been residing in, and
4. the importance of maintaining sibling relationships, if possible." Chapter 63.082(6)(d).

The use of the intervention statute has been steadily increasing since its inception. Recently, GAL Sean Smith, Esq., was involved in a case where a relative intervened in the dependency case in order to adopt the minor child. Although Sean and DCF aggressively fought the intervention and change of placement, the judge did ultimately allow the intervention and placement change. For cases such as these, having a strong GAL ready and willing to fight for the best interest of the child is essential. GALs must balance a parent's right to choose a permanent home for his or her child against the facts of the case, such as why the child cannot safely return to the parent and why the state is seeking to terminate parental rights. As GALs, we focus on the child's right to live in a safe, stable, permanent home. Although the intervention statute is a step in the right direction, it gives significant discretion to the parent in determining a potential adoptive placement.

Kate E. York, Esq., a Guardian ad Litem attorney with the Legal Aid Society, has been a member of the OCBA since 2010.



Michael L. Resnick, Esq.

Reverse Mortgages: The Good, The Bad, and The Ugly!

A “reverse mortgage.” Have you ever heard of it? Most have not, and if they have, then they are not quite sure about how it works and whether or not it is a good idea. Because we are all getting older, living longer, and home prices are now increasing, we should all be more aware of what reverse mortgages are and what they can and cannot accomplish. Like everything in life, there are some very good things about a reverse mortgage and there are some very bad things about reverse mortgages. To follow is a quick primer on “the good, the bad, and the ugly” about reverse mortgages.

A reverse mortgage is a special type of home refinance loan for seniors that allows a home owner to take advantage of the equity in a home. For a large majority of our senior population (who own homes) the senior may be “land rich, but money poor.” What this means is that a senior, who is retired and living principally on Social Security benefits, will have minimal monthly cash flow but is sitting on property that has considerable equity. Ordinarily, this senior would not be able to tap into the equity of his or her property because refinancing (to obtain cash as part of the refinance) would require significant monthly income (something a senior does not have). How do we solve this problem? Reverse mortgages to the “rescue!” ... Maybe.

A reverse mortgage allows a person who is 62 years of age or older to tap into the equity in his or her home. A senior obtains a reverse mortgage from a specialized lender who then provides the senior with a loan, the amount of which is based on the fair market value of the home and the age of the senior. The younger the senior is (as in closer in age to 62), the lower the loan amount. The older the senior is to actuarial death, the higher the loan amount. The hallmark of a reverse mortgage is that no monthly payments (principal and interest) are ever owed during the life of that senior, provided the senior is living in the home. Payment is only required after the death of a senior.

The money that is obtained from a reverse mortgage is first used to pay off any existing loans on the property, which payoff results in a senior not having any monthly mortgage payments for life. Any loan monies remaining after all prior loans are paid off are then accessible by the senior, either in a lump sum payment or as an equity line that can be used at the senior’s discretion. Seniors often use this money to make repairs to their home. Some of the other (not so great) reasons

for obtaining a reverse mortgage are to pay off debts, give gifts to loved ones, or travel.

In real-world terms, a reverse mortgage would work like this for a typical low-income and long-time home owner of Orange County. Typically, the amount of the reverse mortgage loan is 50% of the fair market value (FMV) of the home. If the FMV of the home is \$150,000, then the reverse mortgage loan will be for \$75,000. If there is an existing \$30,000 first mortgage on the home, then this \$30,000 first mortgage will be paid off (using reverse loan monies) and the senior will have access to the remaining \$45,000, either in a lump sum or in a credit line.

As a general matter, reverse mortgages are a wonderful thing because they allow a senior to live a better and more rewarding life because they are relieved of their monthly mortgage payments and can have access to additional monies should the need arise.

There are, however, some significant and profound problems with reverse mortgages.

1. Reverse mortgages come with very high interest rates and fees.
2. While reverse mortgages do not require monthly payments (of principal and interest), a reverse mortgage does require a senior to pay for real estate taxes and homeowner’s insurance. These payments must be made by the senior and are not made by the lender. (Since there are no monthly mortgage payments, there is no escrowing of taxes and insurance by a lender.) What this means is that if a senior fails to pay his or her real estate taxes and/or homeowner’s insurance then the senior will be in default of the reverse mortgage, which will result in the loss of the home as part of a foreclosure action. Does this really happen? You bet! The author of this article currently has a number of reverse mortgage foreclosure cases where the senior has failed to pay his or her taxes and insurance, either as a result of Alzheimer’s, dementia, and/or the failure of family members to provide assistance and guidance to the senior.
3. When a senior passes away, his or her heirs usually have six months within which to pay off the reverse mortgage to retain ownership of the home. Paying off the reverse

continued page 18

mortgage loan is impossible because the outstanding balance of the reverse mortgage, with high interest rates, has significantly increased and heirs have little or no ability to obtain a new loan to pay it off. Since the reverse mortgage was for the life of the senior, there is no ability for heirs to “assume” the debt (since that would mean that heirs could live in the home for the remainder of their lives, with no monthly payments).

4. Reverse mortgages are only for people who are 62 years of age or older. What happens in the situation where two people are married but one spouse is 62 or older and the other spouse is younger than 62 (say 62 and 58, respectively) at the inception of the reverse mortgage? In order for this 62-year-old senior to obtain a reverse mortgage, the younger spouse must be removed as a title holder of the property; the younger spouse cannot be a “borrower” under the reverse mortgage. This scenario will have *catastrophic consequences* if the then-62-year-old senior passes away with his then-younger spouse still alive. In such a situation the then-younger spouse, who may now not be that much young, will lose ownership of the home in a foreclosure action since this reverse mortgage was not for the life of the then-younger spouse. Such a situation should be avoided at all cost.
5. Reverse mortgages usually have a default provision that allows the lender to demand payment in full if the senior has not lived in the home for 12 consecutive months. Why is this important? Sadly, a lot of our seniors will transition to nursing homes or rehabilitation facilities; however, not everyone who goes into these facilities passes away. Some seniors are discharged after 12 months and go home. Notwithstanding the fact that a senior has been discharged and is going home to live in his or her home, a senior who has

a reverse mortgage will still lose ownership of the home in a reverse mortgage foreclosure because of a violation of this 12-month residency rule.

6. Caution should be used when considering reverse mortgages and the lump sum or equity line features of these loans. Typically (and sadly), children of seniors (those children age 40 and up) often convince seniors to allow the adult child to use the lump sum or equity line features of the reverse mortgage for the best interests of the senior. What does this often mean? It means that the adult child often uses this money for his or her own benefit and not for the benefit of the senior.
7. Reverse mortgages are dramatically detrimental to heirs. A reverse mortgage devalues the equity in a home such that, in most cases, the home will not be worth transferring to heirs. While this is not the main focus of the reverse mortgage (the main focus is on the life of the senior), this eventuality causes great despair among heirs when the senior has passed away.

In summary, it is this author’s opinion that reverse mortgages are a wonderful tool to assist a senior who needs to be relieved of his or her monthly mortgage payment so that he or she can live a more meaningful and rewarding life. However, there are significant pitfalls to reverse mortgages, and all of us should be more aware of the “good, the bad, and the ugly” of reverse mortgages.

The Legal Aid Society has a specialized foreclosure program that focuses on the needs of low-income residents of Orange County. The Legal Aid Society specializes in reverse mortgage problems. If you need any further assistance on this or any other foreclosure matter please feel free to contact Attorney Mike Resnick, at Mike@legalaiddocba.org.

Michael L. Resnick, Esq., housing and homeless attorney with the Legal Aid Society of the Orange County Bar Association, has been a member of the OCBA since 1999.

LASWhat We Do... continued from page 15

Within two months, the case was reopened another time by the mother, ostensibly for visitation. She wanted the children to be required to visit with her, even if they did not want to do so. The mother filed contempt motions against the custodian for not forcing the children to attend visits with her. She also attacked the GAL for supporting the children’s positions at the hearings and not hers. In February of 2014, seven years after this case opened, and after multiple disruptions in permanency, the judge closed the case back down to permanent guardianship. After the hearing, the mother said something that caught everyone off guard. She said she was willing to surrender her parental rights.

This case has lingered in dependency for almost a decade. It began with an infant and a toddler who are now teenagers. The road to permanency has been a long and winding one. Both parents signed surrenders. The case is set to reopen – one final time – for adoption. This case has proceeded through different judges, different DCF attorneys, and different case managers. The only constant in the lives of the children and their uncle has been GAL Michael Sasso. His hard work and determination have helped to establish that, after all these years, the children will finally have the forever family they always wanted. And the paternal uncle, whom

the court was worried wasn’t mature enough to care for two small children, is set to adopt them.

Asked what she takes from this experience, Kate says, “Every GAL matters to the child he or she is assisting. For dependent kids, GALs can be advocates, friends, mentors, and above all, constants in their lives. I can speak from experience. Being a Guardian ad Litem will be the most rewarding job you will ever have.”

For more information about ways you can participate with the Guardian ad Litem program, please feel free to contact Kate York, Esq., at kyork@legalaiddocba.org. For information about how to become a donor for the Legal Aid Society, contact Donna Haynes at dhaynes@legalaiddocba.org.

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

James A. Edwards **Certified Circuit Court and Appellate Mediator**

*Personal Injury, Product Liability, Construction,
Contracts & Commercial Mediations*

- › Certified Civil Trial Lawyer
- › 30 years of Statewide Civil Trial and Appellate Experience
- › Trial, Appellate, Pre-Suit & Federal Mediation
- › Convenient Downtown Location with Free Parking
- › Multiple Conference Rooms

Contact Jim Edwards or Mary Wilson for scheduling: **407-425-7010**
jimedwards@zkslawfirm.com
315 E. Robinson Street, Suite 600, Orlando, Florida 32801





THE HEALTH LAW FIRM®



We are pleased to announce the association of
Lenis L. Archer, J.D., M.P.H.
as an attorney in the firm's Altamonte Springs office.

Lenis' practice will focus on the representation of health professionals and licensed health facilities in litigation, licensing and disciplinary issues, contracts, appeals, administrative hearings, regulatory matters, and Medicare and Medicaid defense.



Lenis Archer grew up in Central Florida. She is a graduate of Forest Lake Academy in Apopka. Lenis earned her Bachelor of Science from Oakwood University in Alabama, where she graduated cum laude. She also did postgraduate work in Biomedical Sciences at Loma Linda University in California. In May 2005, she earned her Master of Public Health (M.P.H.) from the University of South Florida with a concentration in Global Health. She graduated in May 2009, with her Juris Doctor (J.D.) from Florida A&M University College of Law.

Prior to joining The Health Law Firm, Lenis completed a federal clerkship with The Honorable Bernice B. Donald, then a United States District Court Judge in the Western District of Tennessee. In this role, she worked on a large variety of federal court civil and criminal matters, including employment discrimination and business litigation cases. Lenis also has hands-on experience in the health care field. While earning her M.P.H., she completed her externship in Florida Hospital's Infection Control Department. She currently teaches Legal and Ethical Aspects of Health Care to allied health students at Adventist University of Health Sciences in Orlando.



THE HEALTH LAW FIRM
WWW.THEHEALTHLAWFIRM.COM



BY APPOINTMENT
37 N. Orange Ave., Suite 500
Orlando, Florida 32801
(407) 331-6620

MAIN OFFICE
1101 Douglas Avenue
Altamonte Springs, FL 32714
(407) 331-6620

BY APPOINTMENT
201 E. Government St.
Pensacola, Florida 32502
(850) 439-1001

BY APPOINTMENT
155 E. Boardwalk Drive, Suite 424
Fort Collins, Colorado 80525
(970) 416-7456



Photos: Flo Boehm

2014 OCBA Gala & Silent Auction

April 5, 2014
The Alfond Inn, Winter Park

Platinum Sponsors

Holland & Knight LLP
 Jill S. Schwartz & Associates, P.A.
 Legal Aid Society of the Orange County Bar Association, Inc.
 Shutts & Bowen LLP
 The Maher Law Firm, P.A.

Gold Sponsors

Carlton Fields
 Cole, Scott & Kissane, P.A.
 King, Blackwell, Zehnder & Wermuth, P.A.
 Lowndes, Drosdick, Doster, Kantor & Reed, P.A.
 Winderweede, Haines, Ward & Woodman, P.A.

Silver Sponsors

Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.
 Canon Solutions America, Inc.
 Fisher Rushmer, P.A.
 Haliczzer Pettis & Schwamm, P.A.
 Kelley Kronenberg, P.A.
 Rumberger Kirk & Caldwell
 Upchurch Watson White & Max

Bronze Sponsors

Alana C. Brenner
 Barbara Perry and Company, Inc.
 Billings Morgan & Boatwright, LLC
 Curtis Protective Services, Inc.
 de Beaubien, Knight, Simmons, Mantzaris & Neal, LLP
 Dubois Law Group
 Faddis & Faddis, P.A.
 Imperium, P.A.
 Meenakshi A. Hirani, P.A.
 Men's Divorce Law Firm
 Nick Grounds - Prudential Financial
 The Johnston Law Firm, P.A.
 The Marks Law Firm, P.A.
 The Shannin Law Firm, P.A.





OCBA Bench Bar Conference

April 11, 2014

Loews Royal Pacific Hotel at Universal Orlando



Chief judges the Honorable Belvin Perry, Jr., Ninth Judicial Circuit, the Honorable Terence R. Perkins, Seventh Judicial Circuit, and the Honorable John M. Harris, Eighteenth Judicial Circuit presented an engaging lunch and learn session as part of the largest and most ambitious Bench Bar Conference ever offered by the Orange County Bar Association – “A Day on the Islands.”

The chief judges’ presentation was one of 60 sessions offered in 10 tracks and 12 practice areas during the one-day conference. A faculty of 52 judges and 85 attorneys and paralegals made presentations.

OCBA president Paul J. Scheck, Esq., noted that the conference was “an

opportunity to further develop the wonderful relationship we have with our local judiciary, allowing our members to not only obtain important and diverse CLE education, but at the same time gain invaluable exposure to our judiciary in a relaxed and informal setting.” More than 250 attorneys and paralegals attended the conference and earned up to 7.0 CLE credits.

The conference received positive reviews from members of the judiciary and attendees.

“All the attorneys and judges I spoke to praised the flawless execution, content of the programs, and quality speakers,” said Judge John E. Jordan, circuit judge of the Ninth Judicial Circuit.

The OCBA plans to offer the conference every other year. If you missed the conference, DVDs and virtual access to conference sessions will be available for purchase in the OCBA Store!



Photos: Flo Boehm

Labor and Employment Committee

continued from page 9

the unreasonable demand and negotiate towards an offer that is reasonable, or suggest a bracket that will bring down the unreasonable demand and establish a reasonable negotiation range.

NEXT TIME: We will complete our brief survey of cognitive biases.

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

¹Scott Plous, *The Psychology of Judgment and Decision Making*, 1993.

²Michael A. Roberto, *The Art of Critical Decision Making*, 2009.

³Emily Fusting, *Making the Brain a Friend Not a Foe: What Interventionists Should Know about Neuroscience*, 6 Am. J. of Med. 41, 44 (2012).

⁴Michael A. Roberto, *supra*.

⁵Scott Plous, *supra* at 230.

⁶*Id.* at 121.

⁷Michael A. Roberto, *supra* at 14.

⁸Scott Plous, *supra* at 35.

⁹*Id.*

¹⁰*Id.* at 145.

¹¹Scott Plous, *supra*; Michael A. Roberto, *supra*; Program on Negotiation at Harvard Law School, *Conflict Management – Evenhanded Decision Making*, <http://www.pon.harvard.edu> (2008).

OCBA Store



Register for Seminars, Luncheons, Events, and purchase CDs, DVDs, and Virtual CLE!

www.orangecountybar.org/store
Login for Member Pricing!

For your next mediation please consider:



Patrick C. Crowell

Certified Circuit Civil, Family and Appellate Mediator

With more than 30 years legal experience in various matters including:

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

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

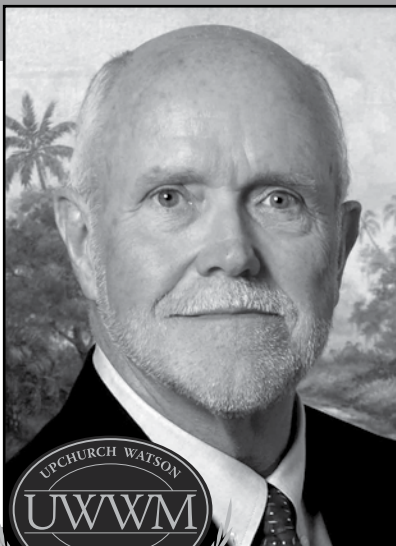


407-251-1131

www.patrickcrowell.com

Patrick C. Crowell, P.A.

4853 S. Orange Avenue, Suite B
Orlando, FL 32806



Howard R. Marsee

MEDIATOR | ARBITRATOR | SPECIAL MASTER

Certified Circuit Civil Mediator Since 1996 – Over 1,000 Mediations

AV Rated Civil Trial Attorney

Qualified to Mediate State & Federal Cases

Experienced Special Master and Arbitrator of Complex Matters

Tiered Rate Structure to Accommodate Both Small and Large Cases

Upchurch Watson White & Max | Maitland | 800-863-1462 | www-adr.com

Conference Facilities Available

Hearsay...



Christine A. Wasula, Esq.

It's hard to believe that June is already here and summer is upon us. It's time for the annual changing of the guard, with former *Hearsay* columnist **Nick Shannin, Esq.** taking over the reins as OCBA president and bringing the same wit and charm to the monthly luncheons as he brought to this column for so many years. Nick is now the second recent *Hearsay* columnist who has risen to the ranks of OCBA president. (**Kristyne Kennedy, Esq.** is the other who comes to mind). Does this mean that an OCBA presidency is in the near future for me? And that I'm headed for bigger, although not necessarily better, things? Probably not, as I have neither the wardrobe nor the stage presence to successfully pull off the position. Although I managed to get elected treasurer of my junior class at Lake Mary High School, my one and only speech was a complete disaster. But here's a heartfelt congratulations to Nick on his elevation to higher office, and I'm looking forward to his entertaining speeches at the monthly lunches!

The OCBA Social Committee hosted another successful event on April 5, with the 17th Annual OCBA Gala at the Alford Hotel in Winter Park. The event was co-hosted for the second year in a row by **Kim Webb, Esq.** and **Jill Schwartz, Esq.**, with the firm of **Jill S. Schwartz & Associates, P.A.**, and it was widely attended by the legal elite in our community. Some of our Gators members were conspicuously absent, as they were busy having their hearts broken in Dallas. But for those who made it, it was a rousing night of good company, good food and, most importantly, strong drinks. Congratulations to Kim and Jill on a job well done!

With respect to professional accomplishments, on May 1, the *Orlando Business Journal* presented its 16th Annual Women Who Mean Business awards, and named the unstoppable **Mayanne Downs, Esq.**, with **GrayRobinson**, as Woman of the Year, and **LaShawnda Jackson, Esq.**, with **Rumberger, Kirk & Caldwell**, as a Woman to Watch. You may have heard of these two ladies, as they have both appeared in this column on numerous occasions in recognition of their many awards and accomplishments.

In addition to being recognized as a Woman Who Means Business, **Leticia M. Diaz, Esq.**, Dean of **Barry University School of Law**, was also named as one of 2014's Most Powerful & Influential Women by the Florida Diversity Council. The award was presented to Leticia and 12 other Central Florida business professionals during the 5th Annual Florida Diversity & Leadership Conference at Orlando's Rosen Plaza Hotel. Leticia, who has been at Barry Law since its founding and has

served as its top administrator since 2007, is the first female Cuban-American dean of an ABA-accredited law school in the United States. Her professional involvement has included serving on the advisory committee for the ABA Commission on Hispanic Legal Rights and Responsibilities. She has also taken a leading role on Hispanic issues, including penning an article on the DREAM Act that was entered into the Congressional Record.

Tracy de Lemos, Esq., of the law firm of **Winderweede, Haines, Ward & Woodman, P.A.**, has been appointed to the Board of Trustees of the Winter Park Library. The Winter Park Public Library is governed by an administrative board of trustees that meets as a group monthly. Their focus is on setting organizational and fiscal policy and fundraising. Members represent a wide variety of businesses, organizations and the community at large, bringing their diverse backgrounds and talents to the board.

Vivien Monaco, Esq., counsel in **Burr & Forman's** Orlando office, has been named to the board of directors for the Greater Orlando Builders Association, where she will serve as the Osceola Chapter representative. The Greater Orlando Builders Association represents and promotes the building industry within Central Florida and organizes educational programs to encourage higher standard practices throughout the industry. In addition, the association monitors and takes a proactive role in governmental and regulatory activities that impact the construction industry. As a member of the board of directors, which serves as the governing body of the association, Vivien will assist in establishing policy, direction, and objectives for the organization.

Jamie M. Blucher, Esq., of the **Zimmerman Kiser Sutcliffe** law firm, recently graduated from the Leadership Orlando program, Class 86, which was led by William G. Oakley, President/CEO of Goodwill Industries of Central Florida, Inc. Leadership Orlando is America's largest Community Leadership Program (CLP), with a thirty-year history of encouraging, cultivating, and recruiting emerging leaders to better serve the Central Florida region. As part of the program, Jamie also received a certificate recognizing completion of "Board Orientation: Introduction to Non-Profit Board Service" from the Rollins College Philanthropy & Non-Profit Leadership Center. As a group community service project, Leadership Orlando's Class 86 collected more than 20,000 diapers for The Howard Phillips Center, which is expected to serve more than 225 families in need.

And finally, congratulations to **Carlos Burruero, Esq.**, who has joined his wife, **Bertha**

Burruezo, Esq., as a shareholder at **The Burruezo Law Firm**, which will now be known as "**Burruezo & Burruezo**." (Wow, I just said Burruezo a lot of times!). I've noticed a recent trend in husband and wife law firms (and by trend, I mean two), and I love that these couples are voluntarily agreeing to spend more time together, unlike most lawyers, who use work as an excuse to get away from their spouses. Congratulations to these two for bucking conventional wisdom.

In keeping with tradition, I have offered the incoming president my resignation as *Hearsay* columnist, but he has not yet accepted it, so I will continue on in my current position until: (1) he accepts it, or (2) the public backlash against the column becomes too great to ignore. Just kidding! I have received a lot of compliments from our readers, and I appreciate those who have taken the time to let me know that they are enjoying the return of the column. So please keep sending your newsworthy items to our communications manager, Peggy Storch, at peggys@ocbanet.org, or me at chris@tadyates.com. See you next month!

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

Professionalism Committee continued from page 6

fessional matters. The referee in Gardiner's case found that a one-year suspension of Gardiner's license was appropriate. However, The Florida Bar has appealed the referee's findings to the Florida Supreme Court and continues to seek a complete revocation of her license to practice.

Avoiding personal relationships between the advocate lawyer and the impartial judge is essential to ensure that each case is adjudicated according to the facts and the law of each individual case. It is clear that blurring the lines of the quintessential requirement of fairness in the judicial system can reflect poorly on the character of an attorney or a judge, and The Florida Bar may seek to penalize those who cross the line.

Caroline Johnson Levine, Esq., was a criminal prosecutor for ten years and now practices civil litigation defense. Additionally, she is an appointed member of The Florida Bar's Standing Committee on Professionalism and the Senior Lawyers Committee. She has been a member of the OCBA since 2013.

¹*The Florida Bar v. Scheinberg*, 129 So. 3d 315, 316 (Fla. 2013); see also *Loureiro v. State*, 133 So. 3d 948, 950 (Fla. 4th DCA 2013) (indicating that Loureiro was charged with brutally stabbing his friend, arguably because of issues of jealousy related to a female).

²*Scheinberg*, 129 So. 3d at 317.

³*Loureiro*, 133 So. 3d at 951; see generally *id.* at 951-57 (reversing the second trial's outcome and remanding the case for a third trial because of an issue of improper Miranda warnings and the suppression of Loureiro's second confession to law enforcement). The State of Florida is currently attempting to appeal this decision to the Florida Supreme Court.

⁴*Scheinberg*, 129 So. 3d at 318 (quoting *Rose v. State*, 601 So. 2d 1181, 1183 (Fla. 1992)).

⁵*Id.*

⁶*In re Adams*, 932 So. 2d 1025, 1027 (Fla. 2006).

⁷*Scheinberg*, 129 So. 3d at 318.

⁸*Id.* at 319.

⁹*Id.* at 317-18.

“

In law it is good policy to never plead what you need not, lest you oblige yourself to prove what you can not.

—Abraham Lincoln

”

KELAHER LAW OFFICES

- :: Rated "AV" by Martindale-Hubbell
- :: Listed in Martindale-Hubbell's "Bar Register of Preeminent Lawyers"
- :: Listed in Leading American Attorneys
- :: Board Certified Civil Trial Lawyer by the Florida Bar
- :: Past President, Academy of Florida Trial Lawyers
- :: Recognized by the Wall Street Journal as one of the top attorneys in Florida



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



Representing victims of legal malpractice in Central Florida for over 30 years...

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

www.kelaherlaw.com



Crystal Espinosa Buit, Esq.

Interview with Magistrate Maria M. Hinds

The Honorable Maria Hinds is a magistrate for the Ninth Judicial Circuit and is currently assigned to domestic relations cases, Baker Act hearings, and mediation fee hearings. Magistrate Hinds attended law school at the University of Florida and has spent her entire legal career with the Ninth Judicial Circuit. Instrumental to the implementation of the Ninth Judicial Circuit Magistrate Program, she previously served as the administrative magistrate for the circuit.

Ms. Buit: *Where did you grow up?*

Magistrate Hinds: I grew up mostly in Bridgeton, New Jersey, which is in South Jersey, but I also spent part of my childhood in Alabama. My mother is from Alabama and my father is from New Jersey, by way of Italy. I used to jokingly tell people I had *Sling Blade* on one side and *The Godfather* on the other.



Magistrate Maria M. Hinds

Q: *I'm sure those were very different atmospheres growing up. How would you compare them?*

A: I guess this dates me some, but I remember when I left school in Alabama that it was still segregated. I can even remember riding the school bus and passing a small motel down the road from where I lived. There were still the remnants of a cross burning in front of the motel because they had rented a room to an interracial couple the night before.

Q: *How did that impact you growing up?*

A: Well, I was really young. I was only in grade school. As a kid, you were really too young to completely understand what it meant. But it did have an impact on me. I remember by the time I got into high school, one of the first editorials I wrote as an editor for the school newspaper was how unfair it was for there to be prejudice against people because of the color of their skin.

Q: *Where did you go to school for your undergraduate degree?*

A: After I finished high school in Jersey, I went to Jacksonville State University, which is in northern Alabama. The school is in the mountains and is very pretty. I really enjoyed living in the South.

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

A: University of Florida. But I went to law school later in life. After I received my undergraduate degree in English and political science, I actually got

my master's degree from UCF in exercise physiology and became a personal trainer.

Q: *What made you decide to switch career paths and go to law school?*

A: I had always thought it was something that I wanted to do. When I was much younger, right after undergraduate school, I took the LSAT. I was living in Alabama at the time and went to Birmingham with a friend to take it. We stayed at a friend's house, and I actually met my former husband there. I ended up getting married and having twins instead of going to law school. After my children were older, I finally decided that I would go. Both of my children were in undergraduate school at UF at the same time I was there for law school. It was fun. They would come over to the law school to see me, and everybody thought I was the parent and they were the law students.

Q: *Can you tell me about your early years of practice?*

A: Well, I had a little bit of an unusual career path because I was 52 when I graduated from law school. I have actually been with the circuit court my entire legal career. Judge Roche and I were friends before she was a judge and I was an attorney. By the time I became an attorney, she was a judge, so she called me and said, "You know they have these positions in the court for staff attorneys. I think you should apply." So that's what I did. I was first hired as a staff attorney and spent my first two years in Osceola County in criminal working primarily with Judge Whitehead and some of the other judges. I was then transferred to Orange County and worked in civil, doing some family law and juvenile work. In 2002, I think, Judge Perry made me senior staff attorney, supervising all of the staff attorneys for Orange and Osceola counties.

Q: *How did you become involved with the magistrate program?*

A: In 2004, with Revision 7, we got funding for the magistrate program, and Judge Perry asked if I would help start it. At the time, neither of us was even sure what that entailed because not all of the circuits had magistrate programs, and those that did were funded mostly by their counties. After we got the funding for six slots, Judge Perry asked me to go to Miami and observe their program, which I did. I then developed all of the forms here and sat on the committee to help hire the other five magistrates. It was a huge job. Getting a new

program into the court system requires a lot of education of everyone to understand where you fit in and how the program is supposed to work.

Q: *Having worked for the circuit court your entire legal career, how would you say the magistrate program has impacted the Ninth Judicial Circuit since its implementation?*

A: I think it's a big help to the domestic judges, specifically, because domestic cases have so many *pro se* litigants, which usually requires more case management because there are no attorneys to help with the work. The magistrate system is well-suited to those situations because we can take a little more time, which offloads some of that work from the judges.

Q: *What would you say is the hardest part about your job?*

A: I think the hardest part of family law is the involvement of people's emotions – their anger, their disappointment, their sadness. It's hard because you can't really resolve a lot of those issues. It's not just black-letter law. You can make a parenting plan, divide their property, and look at the guidelines to decide what child support is supposed to be, but you can't resolve a problem like, "I tried to call her to make sure I'm picking up the kids and she won't answer the phone." You can't resolve those issues no matter what you do and no matter what you say. A lot of the parties are just going to leave and behave the way they want to behave, which is difficult when you know that it impacts their children. It's the emotion [involved in the case that is difficult] and sometimes it is very, very sad. I have had divorce cases where people sit in here and cry because their whole life is just falling apart. Often, people just want you to hear their story. You may think that because you are impartial that it doesn't affect you, but at the end of the day you are really worn out when you go home.

Q: *In addition to the disappointment and sadness experienced by parties in family law cases, you mentioned sometimes having to manage negative behavior by parties because of their anger. What would you say is the worst conduct that you see from attorneys on a daily basis?*

A: What upsets me about attorneys is when they are really ugly with each other or with the other litigants without good reason. From this vantage point, you really see what is good lawyering and what is not. I've had some really experienced, professional lawyers in here, for example, when maybe the other side didn't have a lawyer and they were very polite and helpful in

the matter. On the other hand, I've also had attorneys who just want to attack the other person and be very unprofessional. That upsets me.

What I also see a lot of in family law, which I don't like, are attorneys who are unprepared. Some attorneys in front of me are excellent – they come in ready, they know what they want to do, they know what their issues are, and they have their evidence lined up. But there are a lot of attorneys – maybe even more so in these difficult economic times – who feel like they can just fall into family law and not bother with doing their homework. So they come in unprepared to ask even the most basic of questions. That's really surprising to me.

Q: *Why do you think this is so common among attorneys?*

A: I have always thought that more mentoring is needed in the field of law. When you're a doctor you go through rotations and residency, which allows you to be a doctor before you're actually a doctor. With us, it's like, "Here's your diploma. Have fun. Hope you can find the courthouse." If there is no one to help, you can't totally blame young lawyers because they are just trying to figure it out the best they can. But young lawyers really do need to seek out help from those who have been doing this for a while, and also be willing to do some research and reading. Sometimes I just want to say, "Hey, do you know that there is a book called the *Rules of Court*."

Q: *What advice, then, would you give to young attorneys?*

A: Be as prepared as you can be and seek help. Most attorneys are more than happy to help. In fact, most of us can't shut up. So ask the basic stuff, like: "What are the things that I should know?" and "What shouldn't I miss?"

Q: *On that topic, what do you wish attorneys would do more of, or better, in your courtroom?*

A: Be prepared, be on time, and be courteous in the courtroom. You can represent your client with a pretty strong hand without it being uncivil to the other party or without doing underhanded things. Like an attorney who claims: "Oh, I didn't get that," when the other attorney clearly sent it. Well, you've had the same address for 10 years, how is it that you didn't get it? Judges work hard to be objective to make sure that a client doesn't pay for bad lawyering, but judges do remember both the good and bad reputations of attorneys. For example, if an attorney is always on time and prepared, but cannot make a certain deadline, a judge is more likely to cut him or her some slack than an attorney who never makes a deadline. Your reputation as an attorney is the most important thing you have.

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

A: Well, I'll tell you, my first love has been and still is English literature. I keep trying to write a couple of novels, but I don't get very far because I do a lot of writing here and am tired by the end of the day. I might take a shot at being an English professor, or maybe just throw caution to the wind and be a writer.

Q: *Any parting words of advice?*

A: Make some room for having fun and find balance. It can be very hard to do, but it's important. I remember I used to bring case files home all the time, but I eventually learned to separate myself from work. Work late if you need to, but once you leave the office, leave work behind.

Crystal Espinosa Buit, Esq., is an attorney with the law firm of Lowndes, Drosdick, Doster, Kantor & Reed, P.A. She has been a member of the



JAMES F. PAGE, JR., ESQ., MEDIATOR

■ 31 years statewide trial lawyer

■ Supreme Court Certified Circuit Mediator since 2001

■ Engaging, enthusiastic, and patient negotiator

Online scheduling available. Up-to-date calendar at www.pagemediation.com or call cell at 407-341-0069.

Certified Electronic Discovery Specialist by www.aceds.org Association of Certified Electronic Discovery Specialists.



YLS on the move



Jill D. Simon, Esq.

On April 5, 2014, members of the YLS attended the **OCBA Gala** at the Alford Inn in Winter Park for an evening of entertainment by C'nergy, food, drinks, and a silent auction. Proceeds from the Gala and silent auction benefited the Legal Aid Society of the OCBA, Inc. and the OCBA Foundation, Inc. The YLS hosted and sponsored a happy hour following the Gala. Thank you to all who attended the Gala and YLS happy hour!

On April 10, 2014, **Judge John Marshall Kest** presented his **April Brown Bag Lunch**, "What Do You Do When the Jury Retires?" Brown Bag Lunches are held in the Judicial Conference Room on the 23rd floor of the Orange County Courthouse from 12:00 p.m.-1:15 p.m. CLE is available. While not required, an RSVP to Judge Kest's judicial assistant, Diane Iacone (407-836-0443, or ctjadi1@ocnjcc.org), will assist in allowing for sufficient copies of the outlines, chairs, and bottled water to be prepared. Please feel free to bring your lunch and eat while you learn. If you've missed past lunches, electronic copies of the outlines from previous sessions are available from Diane. Simply send her an email and request past programs. The next **Brown Bag Lunch** will be held on **Thursday, June 12, 2014**, on the topic, "Protective Orders: When, How and Why to Use Them."

The **YLS April Luncheon** was held on April 23, 2014. The YLS welcomed **LaShawnda Jackson, Esq.**, the recipient of the **OCBA 2014 Lawrence G. Mathews, Jr. Young Lawyer Professionalism Award**. LaShawnda is a former YLS president and currently sits on the OCBA Executive Council. She will continue to serve on the Executive Council in the coming year. LaShawnda also serves on The Florida Bar Young Lawyers Division Board of Governors. She is a partner at Rumberger Kirk & Caldwell and practices in the areas of casualty defense, product liability, and insurance coverage. Following her years at the University of Florida and while practicing in Orlando, LaShawnda has been named Florida Super Lawyers Rising Star in 2009, 2010, 2011, 2012, 2013, and was a finalist in the *Orlando Business Journal's* 40 Under 40 list for 2013. In addition, she was given The Florida Bar Young Lawyers Division Di-

versity Award in 2006. The OCBA Lawrence G. Mathews, Jr. Young Lawyer Professionalism Award is awarded to attorneys practicing fewer than 15 years who have demonstrated the following qualities: career service, services to the community, services to the profession, consistent ethical conduct, courteous demeanor, high moral standards, and professional behavior that transcends mere ethical standards and rules. In summary, the award seeks to recognize a practicing attorney whose conduct and career stands as a model of success built on unquestioned professionalism. The YLS congratulates LaShawnda and thanks her for her leadership and dedication to the OCBA. As always, the YLS would like to thank its luncheon sponsors: **BMO Harris Bank, Cross, Fernandez & Riley LLP, Florida Lawyers Mutual Insurance, ProServe USA, Raymond James, Ricoh Legal, Smith Group Investigative Services, US Legal, and Westlaw.**

Congratulations to the following individuals who were elected to serve two-year terms on the YLS Board of Directors, beginning June 1, 2014: **Michael Barber, Esq., Amber Davis, Esq., Charity Johnson, Esq., Heather Kozlowski, Esq., and Brett Renton, Esq.**

The **June YLS Luncheon** will take place on **June 18, 2014**, at GrayRobinson, P.A., 301 E. Pine St., Orlando, FL 32801, from 11:30 a.m. to 1:00 p.m. Casual attire is perfectly appropriate. For a three-course meal, the cost is only \$10 for all young lawyers and for judges. Please RSVP to yls.ocba@gmail.com **no later than June 13, 2014**. When you RSVP, please provide a practice area or hobby to be included on your nametag. A late charge of \$4 will be added for all RSVPs made after the deadline. YLS is charged for anyone who RSVPs, so show up if you RSVP, or let us know if you cannot make it. We look forward to seeing you at the luncheon!

If you're not receiving YLS email blasts and would like to be added to the list and find out more about our section, its committee, and its events, please email yls.ocba@gmail.com.

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



Michelle Gerena

Diversity – Do You Spanglish?

The term “Spanglish” is used to describe the result of mixing English and Spanish in everyday conversation. It is “culturally significant as an identity marker.”¹ The impact a client from a different culture has on a law firm ultimately serves to expand the firm’s business. However, it is important to clients to have a base of people in a firm to whom they can go – those who have an understanding of a client’s language and culture.² While many culturally diverse clients speak English, communication may miss its mark if English is not a client’s primary language.

The *Merriam-Webster Dictionary* defines diversity as the “quality or state of having many different forms, types, ideas, etc; the inclusion of different types of people (as people of different races and cultures) in a group or organization.”

We often misperceive that others are culturally identical to ourselves and incorrectly assume we are working within an atmosphere of mutual understanding. Not surprisingly, both clients and the firm staff become frustrated when a matter appears not to be handled in an efficient manner and in the most productive way. It is as if the client and the staff are not speaking the same language, or operating on the “same wave length.” That is because many times they are not.

Language is the fundamental way people communicate with one another. The legal profession measures up to a reference group standard. In this case the firm’s clients. The standards of the legal professional are set by a social structure that creates “the framework that surrounds us, consisting of the relationship of people and groups, which gives direction to and sets limits on behavior.”³ “The sociological significance of social structure is that it guides our behavior.”⁴

Providing legal services to culturally diverse clients can become challenging if legal staff does not understand, first, the characteristics of different populations and second, the ethical issues that may arise from misunderstandings and miscommunication.

A lawyer, paralegal, or administrative staff person must understand the culture of each client by knowing the characteristics of different populations without overgeneralizing those characteristics. For example, “family is the foundation of the Puerto Rican culture and communication by telephone, as well as visits ... are signs of being caring and are strongly encouraged and valued.”⁵

Ethical issues arise when a client’s behavior is contrary to our country’s policies, procedures, and/or laws. Upon taking the responsibility of representing such a client, the client must have a clear understanding of his or her ethical duty to appropriately follow the prevailing policies, procedures, rules and/or laws. The client must fully comprehend the implications and impact a cultural behavior may have on handling a matter in the most efficient way. Communicating the litigation management philosophy to the client and firm staff will help to ensure that each will work together to achieve the best result in an efficient and cost-conscious manner consistent with the law firm’s ethical obligations.

To understand cultures, one first must understand each person’s core story values. “Great stories communicate values in a way we can understand and engage with our emotions.”⁶

Michelle Gerena, Financial Manager, Broussard & Culen, P.A., has been a member of the OCBA since 2011.

¹*Puerto Rican Values*, <http://www.everyculture.com/No-Sal/Puerto-Rico.html>. Web 4/10/14.

²*The New Face of Law Firm Diversity*, alanet.org. Web 4/10/14.

³Henslin, James M., *Sociology A Down to Earth Approach*. 9th ed. Southern Illinois University, Edwardsville. 99 (2008).

⁴*Id.*

⁵*Cultural Differences*, <http://www.ldldprojects.net/cultures/puertorico/differences/family.html>. Web 4/10/14.

⁶Moratin, Edward, *The Power of Story*, <http://www.slideshare.net/storysoapbox/the-power-of-story-mla-handout>. Web 1/28/14.



Elliott Wilcox, Esq.

“Hey, You’re Just Like Me!”

Have you ever “binge watched” an entire TV series?

Thanks to online streaming, you can now sit on your couch and watch several episodes, an entire season, or even the entire series, back-to-back without interruption. (Warning: Don’t binge watch too much *Breaking Bad*, or you’ll be convinced it’s okay to turn your law office into a criminal enterprise!)

My most recent binge-a-thon was watching Netflix’s Emmy Award-winning *House of Cards*. If you enjoy taking a peek behind the curtains of power, it’s a great watch.

The main character is Francis Underwood, wonderfully portrayed by Kevin Spacey. If you haven’t watched it yet, you’ll probably want to start this evening, so let’s see if I can describe him without giving away any spoilers.

When we first meet Underwood, he’s the majority whip for the Democratic Party. He’s a powerful, serious man who knows what he wants and will do anything (yes, *anything*) to get it.

He’s manipulative...

He’s deceptive...

He’s ruthless...

He’s immoral...

And yet, despite all of those flaws, I kinda like the guy.

I can identify with him, and empathize with why he does what he does (even when that stuff is really, *really* bad).

You might wonder, “How in the world can you identify and empathize with someone so bad?”

The answer, it turns out, is simple: Video games.

That’s right, video games.

In one scene, Underwood returns home after a particularly stressful day in the Capitol. Needing to unwind, he sits down on the couch, turns on the TV, and fires up his PlayStation to shoot bad guys and blow stuff up.

As I was watching that scene, I thought to myself, “Hey, I do that too! He’s just like me!”

After a full day in court arguing motions to suppress or persuading jurors to vote “not guilty” in a DUI case, one of my favorite ways to relax is to plop down on the sofa for a little bit and shoot some bad guys.

With that single scene, the writers managed to create a connection between the two of us.

Suddenly, I’m a bit more willing to forgive the character’s errors and malfeasances because I can identify with him. I’m more willing to give him the benefit of the doubt, because why would someone “like me” do something completely bad? Most importantly, I’m more willing to listen to him and more open to be persuaded by him because we already have a bond in place.

Here’s the important lesson: When you create connections between you and your audience, you create instant bonds that help you become much more persuasive.

Dr. Robert Cialdini, author of *Influence* and *Yes! 50 Scientifically Proven Ways to be Persuasive*, describes this phenomenon as the “liking” principle of influence.

According to Cialdini, “People prefer to say ‘yes’ to those they know and like.”

We are easily persuaded by people we like. You already knew that. But what you may not have known is how subtle the affinity can be and still be effective. That “liking” can develop in obvious ways, such as being physically attractive, demonstrating similarities to your listener, or giving someone a compliment. (By the way, you look really nice today!)

But the influence can be less obvious, too. Did you know that even something as random as having the same or similar name to someone increases your chances of persuading him or her? In a 2005 experiment, Dr. Randy Garner, a professor of behavioral science, mailed surveys to complete strangers and asked them to return the surveys. All of the surveys were identical except for one minor change: The request was signed by a person whose name was either similar or dissimilar to the recipient’s. For example, Cynthia Johnston might receive a request from the similarly-named Cindy Johanson.

According to the study, “Those who received the survey from someone with a similar-sounding name were nearly twice as likely to fill out and return the packet as those who received the surveys from dissimilar sounding names (56% compared to 30%).”

Just having that one tiny commonality between the sender and recipient nearly *doubled* the response rate!

Here's how you can apply this principle to your presentations. The next time you're getting ready to make a presentation, invest some extra time learning about your audience. Do you know the judge's background? Do you know about your potential client's biggest concerns? Did you invest a few minutes to glance at the wealth of information that they broadcast for your consumption on their Facebook pages and other online repositories?

Invest the time to discover your audience's challenges, preferences, attitudes, beliefs, and life experiences, and you'll become magically more persuasive. It can be as simple as an offhand "Go Gators!" to a fellow UF alum, or as complex as using neuro-linguistic programming skills to "match and mirror" your audience's body language.

No matter what you choose to do, if you can find commonalities with your audience, you can open doors that would otherwise be closed to you and encourage someone to listen who might otherwise ignore you.

If something as silly as playing video games can influence me to like and identify with someone who seems to exhibit a textbook case of antisocial personality disorder, just imagine how influential a nice person like you can become by using the same techniques!

Elliott Wilcox, Esq. has been an OCBA member since 2001. He limits his courtroom practice to defending drivers accused of DUI. Contact him at OrlandoDUIfirm.com or (407) DUI-HELP.

Help Is On The Way...

Legal & Secretarial Support Available

A semi-retiring attorney (40+ years) and legal secretary (30+ years) are moving into support roles, offering their services to the legal community.

Legal // Howard A. Speigel, Esq.:

Coverage of hearings in county and circuit cases, Bankruptcy (chapters 7 & 13)

Secretarial // Barbara Holland:

Preparation of pleadings and electronic filing in county and circuit cases, Bankruptcy (chapters 7 & 13) document preparation & electronic filing, wills & estate documents, letters & miscellaneous documents. Mobile Notary/Signing Agent certification for remote document execution. Special project oversight; excellent people skills.

Call, fax, or e-mail for a price list.

Law Office of Howard A. Speigel, P.A.

Tel: 407-647-5700

Fax: 407-647-8272

e-mail: hspeigel@speigellaw.com



The Law Office of **Christian D. Smed, P.A.** is pleased to announce that

MICHAEL R. WALSH, ESQ.

has associated with the firm as "Of Counsel."

Mr. Walsh is **Board Certified in Marital and Family Law** and brings more than 50 years of experience practicing in Central Florida.

Our office is available for representation, association, or consultation in all types of marital and family law disputes and litigation, including related appeals.

1270 Orange Avenue, Suite B
Winter Park, Florida 32789

Tel: (407) 644-2978 Fax: (321) 248-0474

chris@smedlawfirm.com mwalsh@smedlawfirm.com

www.divorcelawyerinorlando.com

Rainmaking



Michael Hammond, Esq.

Do You Run Your Practice?

Or does your practice run you? It's a simple question and many of us know the answer only too well. We don't always feel like we're in the driver's seat or that we're in control. How many times have you heard – or said: “I have no control over my time,” or, “There are just not enough hours in the day”? These statements reflect the helplessness that many attorneys feel much of the time. But this helplessness, this feeling of being out of control, is a learned response. Time management is really *self-management* – the control we have over the actions we take within the time we have. It's not really about managing time itself; instead, it's all about choosing what you do with the time you have.

Reactive or Proactive?

Attorneys tend to approach time management either by passively responding to the demands imposed upon them by their environment – the reactive style, or by proactively creating their own work environment – the proactive style. One approach imprisons you, the other sets you free. Those who feel that they cannot control their work day or that they are at the mercy of other people or events throughout their day are operating in the reactive style. Unfortunately, most attorneys are operating in the reactive mode, juggling constant interruptions, and responding to the most recent or the loudest people demanding their time and attention. Inexorably, managing from crisis to crisis becomes an acceptable way of not only doing business, but living life.

The Reactive Trap

Once the reactive mode becomes natural to attorneys, it's easier to become resigned to the belief that this is just the way it has to be, that there is no other way. You've fallen into the trap when you find yourself thinking, “I'm not sure anyone can help me and, even if they could, I don't have the time or energy to get help.” This trap then becomes the reason – or the excuse – for not learning the skills necessary to take control of your practice. Once the trap is sprung, the feelings of helplessness continue, the stress continues to build, and burnout may loom on the horizon. The only hope is to recognize your reactive approach and take action to break the cycle.

Are You Reactive?

To see if you are reactive, review the following list of indicators. If you can check more than three items, chances are you're functioning reactively:

- Operating with a survival mentality – not working toward a long-term vision for your practice; but focusing instead only on how you will make it through the day, the week, and the month;
- Constantly handling crises, putting out fires, doing damage control and, as a result, never feeling like you have time to do your best work;
- Working harder to generate income, while unsure if your practice is really profitable;
- Practicing “threshold law,” often working with anyone who comes through your door regardless of profitability or your area of expertise;
- Feeling like you are doing all the work yourself; delegating very little – either out of a general distrust for the work of others or because you have no one to delegate to;
- Multi-tasking all the time and even being proud of your ability to multi-task; and
- High staff turnover and you feel burnout is imminent.

There are times when the ability to react to circumstances is a necessary and highly valued skill. However, if your only plan is to react, your productivity will always be pegged to your rate of speed and your level of “busyness.” When reacting becomes the norm rather than the exception, it's possible to become addicted to the adrenaline rush that has enabled you to crisis manage.

Adrenaline Addiction

Adrenaline enables us to fight harder or run faster and has been essential to our survival as a species. This “fight or flight” instinct is our natural response to imminent danger. It's our *emergency* energizing system. It was never intended to be used every day, all day long, as a way of helping us cope with daily life. Unfortunately, it is precisely this adrenaline rush that many attorneys rely on every day to get the job done.

Attorneys routinely rely upon their adrenaline to kick in and carry them through crisis situations. They will often describe their practice as “dealing with one crisis after another.” In fact, one of the symptoms of excessive reliance on adrenaline is that working to get something done is often dependent upon the pressure of a looming deadline. After a trial or hearing, where the adrenaline has been exhausted, many attorneys often find them-

selves not doing much of anything. Once their stores of adrenaline have been drained, it is difficult if not impossible to function at their normal speed.

Are You An Adrenaline Addict?

You might be an adrenaline addict if you find that more than a few of the following characteristics apply to you:

- You cannot go more than five minutes without checking your smart phone;
- You check your email in the middle of the night;
- You race from meeting to meeting with no time in between;
- You chronically “over-promise” and “under-deliver;”
- You always feel overwhelmed;
- You’re usually running late; and
- You arrive at the office first thing in the morning and are already feeling behind.

These are just a few of the telltale signs of adrenaline addiction. Medical studies show a critical link between the hormone cortisol, triggered by adrenaline release, and heart disease. Adrenaline is the most potent stimulant created by our sympathetic nervous system and there are a host of negative consequences that accompany a constant adrenaline drain. It’s a created response to stress and increases heart rate, pulse rate, and blood pressure – there is a high price to pay for the bursts of energy you may have come to depend on. Chronic stress can be a gateway to depression. The important point to remember is that we are not built to have adrenaline coursing through our veins 24/7; but, unfortunately, that’s exactly what happens with adrenaline addicts.

In his article, *The Painful Reality of Adrenaline Addiction*, Patrick Lencioni goes on to explain:

Unlike other addicts whose behavior is frowned upon, adrenaline addicts are often praised for their frantic activity, even promoted for it during their careers... When confronted about their problem, adrenaline addicts (I’m a recovering one myself) will tell you about their endless list of responsibilities and all the people who need their attention. And while they’ll often complain about their situation, they’ll quickly brush off any constructive advice from spouses, friends or co-workers who “just don’t understand.”

In the next article we will discuss practical steps attorneys can take to transition to the proactive style and away from the reactive style, along with the increase in stress and the resulting dependence on adrenaline that often accompanies that approach to your practice.

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

ACER

19 years
serving
Central
Florida



Acer Legal Resources, Inc

Process Serving & Investigations

407- 895 - 5200

www.acerlegal.com

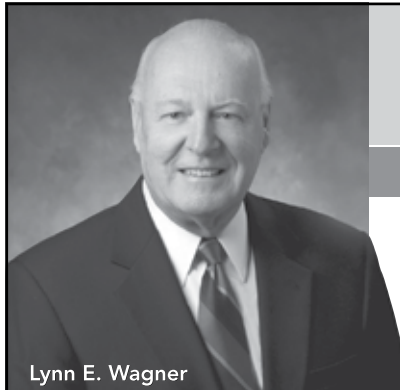
Orange, Seminole
& Osceola

Nationwide



617 Irvington St. Orlando, FL 32803

Investigative #A2700002



Lynn E. Wagner

WAGNER RESOLUTION SERVICES

MEDIATION | ARBITRATION

*Florida Supreme Court Certified Circuit
Civil and Appellate Court with 35 years
of experience.*

- Employment
- Personal Injury
- Commercial
- Construction

390 N. Orange Avenue · Orlando, FL 32801 · Phone: 800-278-0978 · Fax: 800-866-0188
Email: lynnwagner@wagner-adr.com • www.WagnerResolutionServices.com

“Our Business let’s you Focus on Your Business”

Dytech has been helping law firms take advantage of the latest technology in the market while ensuring their networks are managed, secure and reliable.

Laptops, Smartphones, Tablets and other technologies have become important tools for your business. As this technology evolves, the security risks they present are often overlooked. We understand how today's regulations apply to you and your business.

DYTECH
GROUP

Computer Networking

IT Provider for the
Orange County Bar Association

OCBA Members ONLY!
One Month Free with a
12 Month Contract

Sales@Dytech.com • www.Dytech.com • (407) 678 - 8300

**The Young Lawyers Section of the
Orange County Bar Association Presents**
An Afternoon at the State Courthouse



This seminar provides helpful hints for area attorneys as they practice before the Circuit and County Judges of the Ninth Judicial Circuit. It is also intended to provide insight into local judicial practices and procedures, and is designed for attorneys, law students, paralegals, and other legal professionals. The seminar is open to the public.

Friday, June 20, 2014

Seminar From 12:00 p.m.-5:00 p.m.
Orange County Courthouse • 425 N. Orange Avenue,
Orlando, FL • Jury Assembly Room – First Floor
\$10.⁰⁰

Make checks payable to OCBA - YLS.

Please RSVP and send payment by Friday, June 13 to:

Paige Carlos at pcarlos@cherylaw.com or 407-487-1630

Paige Carlos, Law Offices of J. Bernard Chery, P.A.

1310 W. Colonial Dr., Ste. 10

Orlando, FL 32804

New Members

Regular

Haben A. ABRHA

Lenis L. ARCHER

Stanley P. ARONSON

Aaron S. BAGHDADI

Paul R. BERG

Whitney S. BOAN

Larry D. CARY, II

Dena M. GARAS

Michael A. MILLS

Vivien J. MONACO

Sarah L. MORGAN

Karl E. PEARSON

Pamela J. PEDLOW

La-Zondra C. RANDOLPH

Katherine S. SCHWARTZ

Ryan M. SCIORTINO

Monica SIMS

Joseph J. ST. ANGELO

Mark B. STANLEY

Brian A. WATSON

Associate

Tony HERNANDEZ III

Thomas L. RIEGLER

Kimberly L. ARONSON

Law Student

Thomas K. FICHTELMAN

Ashley N. RICHARDS

Loren VASQUEZ

KANE & ASSOCIATES CERTIFIED PUBLIC ACCOUNTANTS

BUSINESS VALUATIONS FORENSIC ACCOUNTING

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

www.kane-cpa.com

670 W. Fairbanks Avenue, Winter Park

(407) 644-6066

Associate

Lenis L. Archer, J.D., M.P.H. – *The Health Law Firm*

Gennifer L. Bridges, Esq. – *Burr & Forman LLP*

Associate

Teresa A. Herrmann, Esq. – *Jill S. Schwartz & Associates, P.A.*

Senior Counsel

Brenda J. Newman, Esq. – *Alvarez, Sambol & Winthrop, P.A.*

Speaking Engagements

Christopher E. Brown, Esq., and **Lenis L. Archer, Esq.**, attorneys with The Health Law Firm, spoke to Florida Hospital family medicine residents and medical students. The lecture took place on Wednesday, April 9, 2014, at Florida Hospital East Orlando. This presentation gave the residents and students an overview of common family medicine malpractice lawsuits.

Michael C. Caborn, Esq., a partner with Winderweede, Haines, Ward & Woodman, P.A., recently spoke at a seminar, "Collection Law from Start to Finish" organized by the National Business Institute (NBI) in Orlando. His presentations, "The Impact of Bankruptcy on Collections" and "Avoiding Ethical Tangles in Collections" covered developments from the United States Court of Appeals for the Eleventh Circuit and local bankruptcy courts regarding the dismissal of bankruptcy cases.

Claramargaret H. Groover, Esq., of counsel to Becker & Poliakoff, Orlando, presented a paper at the ABA Forum during the Construction Industry Annual Meeting in New Orleans in April, on resolving construction defects during construction and the application of random sampling by experts to prove the owner's losses.

Joanne M. Prescott, Esq., a Florida Bar board certified workers' compensation attorney and shareholder with the law firm of Zimmerman Kiser Sutcliffe, P.A., was a featured speaker at The 2014 Florida Bar Workers' Compensation Forum, a three-day education event held April 9-11 in Orlando, Florida. Her presentation included the topics, "Temporary Indemnity Benefits" and "Average Weekly Wage."

Larry D. Smith, Esq., Southern Trial Counsel | PLC, participated in an American Bar Association roundtable webinar entitled, "Successful Tips for Diverse Litigators." The April 2014 presentation was aimed at helping young minority lawyers across the country.

Events

June 20 – An Afternoon at the State Courthouse. YLS program for new attorneys and the public. 12:00 p.m.-5:00 p.m. Orange County Courthouse, Jury Assembly Rm., 425 N. Orange Ave., Orlando, FL 32801. Cost: \$10 per person. Contact: Paige Carlos, Esq., at pcarlos@cherylalaw.com. Registration deadline: June 13, 2014. See OCBA web calendar for details.

Seminars

June 3 – Mediation 101. Paralegal Section Lunchtime Seminar. 11:45 a.m. -1:00 p.m. OCBA Center. Speaker: Rebecca Palmer, Esq. CLE: 1.0. For more information and to register, see the OCBA website calendar.

June 10 – Dissolution of Marriage, Part 2. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Marks St. Senior Recreation Complex, 99 E. Marks St., Orlando, FL 32803. Speaker: Angel Bello-Billini,

Esq. CLE: pending. To register, contact Marilyn Carbo at mcarbo@legallaidocba.org.

June 12 – Protective Orders: When, How and Why to Use Them. Brown Bag Lunch with Judge John Kest. 12:00 p.m.-1:15 p.m. Orange County Courthouse, 23rd Flr. Judicial Conf. Rm., 425 N. Orange Ave., Orlando, FL 32801. CLE: 1.5. To register, contact Diane Iacone at ctjadi1@ocnjcc.org, or 407-836-0443.

June 16 – 2013 Intellectual Property Law Update. IP Committee **Major Seminar.** 12:00 p.m.-4:00 p.m. OCBA Center. Speakers: Michael Colitz, III, Esq.; Amber N. Davis, Esq.; Julee Milham, Esq.; and Cian O'Brien, Esq. CLE: 3.5 (including 2.5 Business Litigation; IP Law 3.5 Certification Credits). Fee: \$35 for OCBA members; \$50 for non-members. Register through the OCBA Store.

June 18 – An Overview: VA's Disability Appeals Process & U.S. Court of Appeals for Veterans Claims. Veterans Committee **Major Seminar.** 12:45 pm.-6:00 p.m. OCBA Center. Speakers: Everett McKeown, Esq.; Ryan Casson, Esq.; Al Tetrault, Esq.; and Jodee Kayton, Esq. CLE: 3.0 pending. Fee: \$35 for OCBA members; \$50 for non-members. Registration deadline: June 16, 2014. Sponsored by Gang & Associates, LLC and Veterans Legal Advocates, P.A.

June 24 – Immigration Law and Dependent Youth: Special Immigrant Juvenile Petitions. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Marks St. Senior Recreation Complex, 99 E. Marks St., Orlando FL 32803. Speakers: Bethanie Barber, Esq. and Camila Pachon Silva, Esq. CLE: pending. To register, contact Marilyn Carbo at mcarbo@legallaidocba.org.

July 8 – Defense to Debt Collection Cases. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Marks St. Senior Recreation Complex, 99 E. Marks St. Orlando, FL 32803. Speakers: Michael Resnick, Esq.; Jamos Mobley, Esq. CLE: pending. To register, contact Marilyn Carbo at mcarbo@legallaidocba.org

July 10 – Topics of Interest to Anyone Who Handles Social Security Disability Claims. Social Security Committee **Major Seminar.** 12:30 p.m.-5:00 p.m. OCBA Center. CLE: pending. Speakers: Walter Hnot, Esq.; Paul Morgan, Esq.; Richard A. Culbertson, Esq.; Hon. Barry LaBoda, administrative law judge; Shea Fugate, Esq.; Sarah Fay, Esq. Fee: \$45 for OCBA members; \$55 for non-members. Registration deadline: July 8, 2014. Register at the OCBA Store.

July 10 – Your Family and Your Practice: Tips to Balance the Two. Brown Bag Lunch with Judge John Kest. 12:00 p.m.-1:15 p.m. Orange County Courthouse, 23rd Flr. Judicial Conf. Rm., 425 N. Orange Ave., Orlando, FL 32801. CLE: 1.5. End of the year annual ice cream cone social! To register, contact Diane Iacone at ctjadi1@ocnjcc.org, or 407-836-0443.

July 15 – Save the Date. Paralegal Section Seminar.

July 22 – Securing Appropriate Psychotropic Medication and Enhanced Placement for Youth with Mental Health Needs: A Step-By-Step Guide. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Marks St. Senior Recreation Complex, 99 E. Marks St., Orlando, FL 32803. Speaker: Coravious Cowart, Esq. CLE: pending. To register, contact Marilyn Carbo at mcarbo@legallaidocba.org.

July 31 – Internal Threat – Beware of the Enemy Within. Seminar topic: inner-office threats to data integrity. Presented and sponsored by DIRIGA. 11:30 a.m.-1:00 p.m. OCBA Center. CLE: none. Fee: Free. To register, please see link on OCBA website calendar.

Announcements

CLASSIFIED ADS

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

EMPLOYMENT

BOGIN, MUNNS & MUNNS, P.A. -Orlando law firm with 10 Central Florida offices, seeks experienced domestic attorney to head up its domestic practice. Prefer 5+ years experience. Great opportunity to join growing practice. Email resume to Mary@boginmunns.com.

BOGIN, MUNNS & MUNNS, P.A. - Orlando law firm with 10 Central Florida offices, seeks experienced employment law attorney to head up its employment/labor law practice. Great opportunity to join growing practice. Submit resume to KBJ@boginmunns.com.

ASSOCIATE ATTORNEY POSITION. Newsome Melton, a plaintiff's product liability firm with offices in downtown Orlando, is looking for an associate attorney. We need someone who has at least three years of experience and who is comfortable and competent to take depositions and handle hearings. Willingness to travel is necessary. Candidates should have strong academic credentials, should be hungry to work and learn, and should want to represent people who have been catastrophically injured by defective products. If you meet this description, and want to be a plaintiff's lawyer, this job is for you. Competitive pay with

excellent benefits. If interested, please send an email to segarra@newsomelaw.com.

MISCELLANEOUS

CONTRACT ATTORNEY available for individual projects, research, appearances, document review, preparation of agreements or pleadings. Over 18 years of civil litigation and transactional experience. Call 407-252-0314 or e-mail stephenjacobs@law@gmail.com.

FOR SALE. Solid Rosewood Executive Desk Set by Dyrland, Denmark. Desk L6'11" D3'2" H2'4.5". Lighted bookcase w/bar L6'3" D1'9" H6'4.5". Orig. \$14,000; asking \$7,000. Excellent condition. Buyer arranges move. Red Leather Executive Desk Chair. Orig. \$800, asking \$300. Photos available. Email claireap@mac.com.

OFFICE SPACE/SALE/RENT/LEASE

HWY. 17-92 AND MAITLAND BLVD. (140 Tonia Cove). 8,342 SF office building on 3 acres with lake view includes 4,100 SF engineer-ready pad and land for 8,250 SF building. 6.4/1,000 parking ratio. Christi Davis/Morrison Commercial Real Estate 407-440-6644.

Law Office Space Available. Downtown Orlando. Located off of North Orange

Avenue. East accessibility to 408 and I-4. Walking Distance from the courthouse. Two-story building with good size office for an attorney and secretarial space. Set up for office use (internet, telephone, copier, fax). Conference room. Possible referrals. Please call 407-244-5522 if interested.

OFFICE SPACE FOR RENT THORNTON/EOLA PARK AREA. 609 E. Central Blvd.@ Eola Dr. Offices for 1 professional & 1 staffer. Phone system, furnished, conference rooms, kitchen privileges, Reception room. Possible referrals. Law Offices of William Sheaffer. Call Carol. 407-423-1066.

UPSCALE, CLASS-A OFFICE SUITE (The Plaza, South Tower, 8th Floor) available for lease. The suite consists of 6 executive window offices, 1 internal office, 4 built-in secretarial stations, conference room, kitchenette, supply/server room along with a beautiful reception area (2,461 SF). If you are interested in viewing/leasing the suite, please contact Kristin; 407.758.3872. \$5500/month.

OFFICE SPACE SHARED Downtown Kissimmee Office - Use of Conference Room, Reception and Break Area included. Most Utilities Included. Referrals Possible \$500 Monthly 407-518-7160.

OFFICE SPACE AVAILABLE FOR RENT. Close to Downtown Orlando. Easily accessible with free parking. Conference and kitchen facilities. Copier/fax available. Reception area. Please call John Pierce at (407) 898-4848.

UPSCALE, CLASS-A OFFICE EXECUTIVE SUITE AVAILABLE (The Plaza, South Tower, 8th Floor). An Executive Suite consists of 1 private, executive window office and shared access to a conference room, kitchenette, supply/server room and welcoming reception area. This space is ideal for a solo practitioner (lawyer, engineer, appraiser, web designer, architect, etc.) If you are interested in this Executive Suite opportunity and possessing one of the most powerful addresses in Florida, don't hesitate to contact Kristin [407.758.3872]. \$1,000/month.

PROFESSIONAL SERVICES

EDR, ACCIDENT RECONSTRUCTION, & VEHICLE TECHNICAL EXPERT -Relocated from South Florida to the Orlando Metropolitan area. Expert witness for 28 years. Robert McElroy, Ph.D.-website, www.forensicaccident.com; email, rmcelroy@forensicaccident.com; phone 352-633-7696.

increase your exposure:
increase your exposure:
increase your exposure:
increase your exposure:

For a mere 50¢ per word more, your classified ad in The Briefs can be posted on the OCBA website.

(For magazine advertisers only.)

For details, contact: Candice Disorbo

407-422-4551 x. 226

candiced@ocbanet.org

EXPERTISE
INTEGRITY
EXCELLENCE



Commercial Litigation | Bankruptcy

Marital Dissolutions | Estate & Gifting

Expert Witness Testimony

8626 N. Himes Ave. | Tampa, FL 33614
ph 813-936-0313

121 S. Orange Ave., Suite 1500 | Orlando, FL 32801
ph 407-217-6900

CPA CFF[®]
Certified in Financial Forensics

CPA ABV[®]
Accredited in Business Valuation

www.stahlconsulting.com



BURRUEZO & BURRUEZO
— Employment Law Strategies & Solutions —

BURRUEZO LAW IS PLEASED TO ANNOUNCE
THE EXPANSION OF ITS PRACTICE WITH THE ADDITION OF
CARLOS J. BURRUEZO, ESQ.
AS A SHAREHOLDER

THE FIRM WILL NOW BE KNOWN AS
BURRUEZO & BURRUEZO, PLLC

EMPLOYMENT
AND
WORKPLACE
LAW

BUSINESS
LAW

GENERAL
CIVIL MATTERS

MEDIATIONS
AND
ARBITRATIONS

WE HANDLE A VARIETY OF MATTERS, WITH A PARTICULAR
FOCUS ON LABOR & EMPLOYMENT CASES, INCLUDING:

Overtime and Minimum Wage Compensation • Unpaid Wages
National Origin, Race, Sex, Age, Religion and Disability Discrimination
Sexual and Other Forms of Harassment • Retaliation • Whistleblower
Employment Contracts and Non-Compete Litigation

Bertha L. Burruezo, Esq.
Carlos J. Burruezo, Esq.

941 Lake Baldwin Lane, Suite 102
Orlando (Baldwin Park), Florida 32814

407.587.6552
www.BurruezoLaw.com



Receivership Service

Four Reasons To More Aggressively Use Receiverships In Commercial Real Estate

- > Lower Cost
- > More Control And Less Uncertainty
- > Protecting Collateral
- > Cooperation Among Creditor Classes

Visit: services.traxfinancial.com/receiving-services
And Download Our Free Report



200 S. Orange Ave
Suntrust Center 28th Floor
Orlando, FL 32801

<http://traxfinancial.com/receiver-services/>
info@traxfinancial.com
Offices: 407.309.4993

Have your clients been court ordered to take a parenting course?

Refer them to the OCBA's Parent Education and Family Stabilization Course Online!

Clients simply study the online course materials at their leisure and answer the quiz questions! No long lectures. No books to read. No classroom time.

- Register now – start immediately.
- Multiple choice and true / false questions.
- Open-book test.
- Do the course in sections. Go on and off line as many times as you like.
- Website available 24 hours a day, 7 days a week.
- Live phone personnel available for registration or questions during business hours.

Find the online Parent Education and Family Stabilization Course at:

<http://home.uceusa.com/Parenting/index.aspx?host=ocbanetparenting>

This course is required by law in order for the concerned parties to obtain a final judgment of dissolution of marriage in Florida when there are children involved. It is provided by the University of Continuing Education and approved by the Florida Department of Children and Families.



Upchurch Watson White and Max MEDIATION GROUP *is pleased to announce that*



JEFFREY M. FLEMING

will join the firm's distinguished panel of mediators on June 1, 2014.

A graduate of the Florida State University College of Law, Jeff enjoyed a successful private practice as a Board Certified Civil Trial Lawyer in Central Florida and served for 11 years as Judge in the Ninth Judicial Circuit.

Jeff's commitment to excellence in mediation will greatly enhance our ability to meet our clients' needs for sophisticated neutral services in a wide variety of cases.



jfleming@uww-adr.com
800-863-1462
www.uww-adr.com

Upchurch Watson White & Max...

...helping you & your clients find the path to common ground.

DAYTONA BEACH MAITLAND/ORLANDO JACKSONVILLE WEST PALM BEACH PLANTATION MIAMI BIRMINGHAM

JUMP START YOUR CAREER!

New Lawyer Training Program The Fundamentals of Practice in Orange County

August 1 & 2, 2014

- Learn how to navigate the legal system from the experts – judges, court officials, & seasoned attorneys
- Tips on court procedures & processes
- The nuts & bolts of starting your own practice

Fee: \$175 Includes breakfasts, lunches, receptions, & OCBA student membership!
Take this dynamic, two-day training program & learn how to practice with confidence – and success – in Orange County!

For more information and to apply, visit the OCBA website at <http://orangecountybar.org/newlawyertraining>, or contact Karen Fast, Membership Manager, at karenf@ocbanet.org or 407-422-4551, ext. 225.



OCBA
New Lawyer Training Program



Sponsored by:



INSURANCE COVERAGE AND BAD FAITH

We represent individual and corporate policyholders
in disputes with insurance companies.

VER PLOEG
&
LUMPKIN

For more information about our
practice, please visit our website at
www.vpl-law.com

or call us at 407.380.9312

Capital Plaza Two
301 East Pine Street, Suite 790
Orlando, Florida 32801

Helping businesses and individuals in coverage and
bad faith disputes with their insurance companies since 1995.

The hiring of a lawyer is an important decision that should not be based solely upon advertisements. Before you decide, ask us to send you free written information about our qualifications and experience.

OCBA Calendar

JUNE - JULY

No June Luncheon
Join us at the Florida Bar Annual
Convention • June 25-28

June

Note: No June Luncheon – Florida Bar Annual Convention is June 25-28 at Gaylord Palms Resort and Convention Center, Kissimmee.

3 Paralegal Section Seminar
Mediation 101
11:45 a.m. • OCBA Center

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

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

5 ADR Committee
12:00 p.m. • OCBA Center

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

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

LAS Lunchtime Training
Dissolution of Marriage, Part 2
12:00 p.m. • Marks St. Senior Center

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

Veterans Committee
12:00 p.m. • OCBA Center

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

12 Brown Bag Lunch with Judge John Kest
Protective Orders: When, How, and Why to Use Them
12:00 p.m. • Orange County Courthouse
23rd Flr. Judicial Conf. Rm.

13 Criminal Law Committee
12:00 p.m. • OCBA Center

16 Intellectual Property Committee Major Seminar
2013 Intellectual Property Law Update
12:00 p.m. • OCBA Center

17 Solo & Small Firm Committee
12:00 p.m. • OCBA Center

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

Veterans Committee Major Seminar
An Overview: VA's Disability Appeals Process & U.S. Court of Appeals for Veterans Claims
12:45 p.m. • OCBA Center

YLS Luncheon
11:30 a.m. • GrayRobinson, P.A.

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

24 LAS Lunchtime Training
Immigration Law and Dependent Youth: Special Immigrant Juvenile Petitions
12:00 p.m. • Marks St. Senior Center

Real Property Committee
12:00 p.m. • OCBA Center

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

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

July

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

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

3 ADR Committee
12:00 p.m. • OCBA Center

4 Independence Day
OCBA Office Closed

8 LAS Lunchtime Training
Defense to Debt Collection Cases
12:00 p.m. • Marks St. Senior Center

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

9 Veterans Committee
12:00 p.m. • OCBA Center

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

OCBA Executive Committee
4:30 p.m. • OCBA Center

10 Social Security Committee Major Seminar
Topics of Interest to Anyone Who Handles Social Security Disability Cases
12:30 p.m. • OCBA Center

Brown Bag Lunch with Judge John Kest
Your Family and Your Practice: Tips to Balance the Two
12:00 p.m. • Orange County Courthouse,
23rd Flr. Judicial Conf. Rm.

11 Criminal Law Committee
12:00 p.m. • OCBA Center

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

15 Paralegal Section Seminar
Topic: TBA – Save the Date
11:45 a.m. • OCBA Center

16 Elder 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
12:00 p.m. • OCBA Center

22 Real Property Committee
12:00 p.m. • OCBA Center

LAS Lunchtime Training
Securing Appropriate Psychotropic Medication and Enhanced Placement for Mental Health Needs: A Step-By-Step Guide
12:00 p.m. • Marks St. Senior Center

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

24 OCBA Luncheon
11:30 p.m. • Church Street Ballroom

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

29 Solo & Small Firm Committee
12:00 p.m. • OCBA Center

30 Paralegal Section Membership Meeting
11:45 a.m. • OCBA Center

31 Internal Threat – Beware of the Enemy Within
11:30 a.m. • OCBA Center