

the Briefs

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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.

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the Briefs

Co-Editors

Nick Dancaescu, Esq. & Ian Forsythe, Esq.

Associate Editors

Vincent Falcone, Esq. & Laura Lee Shields, Esq.

Hearsay Columnist

Wiley S. Boston, Esq.

Side Bar Columnist

Sunny Lim Hillary, Esq.

YLS Columnist

Sunny Lim Hillary, Esq.



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President's Message

November 2012



Kristyne E. Kennedy, Esq.

Say Yes to No

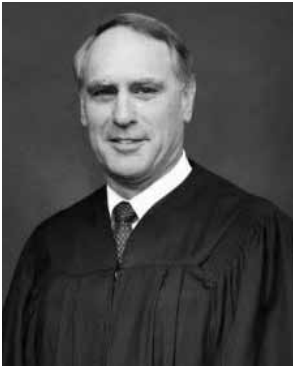
Do you sometimes feel like your calendar controls you instead of you controlling your calendar? Do you wonder, at the end of the day, why you did not complete the project you really needed to get done? Do you feel like portions of your day get away from you? Do you miss time with your family or friends because you have to stay late or work on weekends to catch up or get those large projects done? If so, maybe (like me) you need to recognize that saying “yes” too much can mean saying “no” to what is really important.

I was recently discussing this calendar conundrum with a friend of mine, and she gave me some interesting advice. In an effort to prevent herself from overcommitting her time and taking on too many projects or perhaps a borderline case (worse yet, a “favor for a friend” case), she told me that she keeps a couple of pictures of family or loved ones on her desk positioned to face her when she is working on the computer and talking on the phone. She said this helps her because every time she is saying “yes” to someone else, she looks at the photos and remembers she is saying “no” to her family.

As we commit to these projects, cases, or other tasks that require time during normal business hours, we have to make that time up somehow.

All too often we sacrifice our personal or family time. Recently, the OCBA lost two of its well-loved and respected long-time members, Chan Muller and Kirk Kirkconnell. These sad losses are an unfortunate reminder of those sayings like “life is short” and “you never know when today is going to be your last day.” I am not suggesting everyone stop working and run home to your families right now (although... perhaps for some that might not be a bad idea). I am simply challenging you (and, OK, me too) to say “no” once in a while, to protect your calendar a little, and to take time to enjoy life with your loved ones. Time is an attorney’s only asset. Make your time in the office and with your family and friends as valuable as possible.

Kristyne E. Kennedy, Esq., Cole, Scott & Kissane, P.A., has been a member of the OCBA since 2001.



The Honorable
John Marshall Kest



Council Wooten, Jr., Esq.

“The Day the Music Died”¹

There are so few heroes nowadays, so few we can look to, so few we can point to and tell our children and grandchildren, “There is somebody to use as your role model!” In the legal profession we have Atticus Finch,² a fictionalized attorney who represented Tom Robinson, a black man, who was accused of rape in rural Alabama in the 1930s. But Atticus was fictional; he was a creation of Harper Lee’s mind. Here in Orange County, in Central Florida, we need not go to fiction when we have real life “Atticus Finches” – or should we say, had.

Chan Muller and Kirk Kirkconnell left us at the end of August and the beginning of September of 2012, respectively. Their passing created a void that will be hard, if not impossible, to fill. Each represented the best of the legal profession, the best of criminal practitioners, the best examples of fatherhood and grandparents, and each the best example of a human being.

Yet, “void” may not be the correct term. While their passing leaves emptiness to those who knew them, to those who were represented by them, to the attorneys who “battled” them as opposing counsel, to judges who watched them as they appeared in their courtrooms, and certainly for their families, the “void” is actually a path... a road created by these giants of the profession as they moved through life. It exists for those who wish to follow. Their lives, as they lived them, confirm that the practice of law can be professionally done and still be successful. Their careers demonstrate that civility was alive and well, as long as Kirk and Chan provided the guidance. Their presence encouraged others to act in a professional manner; they continually demonstrated that when one acts with civility, it is contagious and causes others to do the same.

Each was the recipient of the OCBA William Trickle, Jr. Professionalism Award, Chan in 1999 and Kirk in 2007, the highest award given in Orange County for professionalism. Each was a Fellow in the American College of Trial Lawyers. Each was the recipient of a multitude of other awards for their services to the bar and the public. Each had served on governing bodies in the legal

profession. Both had plenty of reason to be unapproachable, aloof, and detached from the general practicing lawyer and to shy away from inquisitive young lawyers.

However, Chan and Kirk chose to be, well, just Chan and Kirk. If anybody had a question or issue regarding any matters, especially involving professionalism or ethics, they were always available. A phone call, pulling them aside at a meeting, or just a quick chat in the courthouse lobby was always an option. To say they were approachable would be a huge understatement. If time was not available, they would make it available. No question was too small or too insignificant; if a young lawyer had a problem, each was more than willing to assist where he could.

Kirk brought a common sense approach to the practice of law. His actions exhibited a love of the law, the profession, and a zealous belief that our constitutional rights must be protected for everybody, including those accused of the most serious crimes. Like the mythical Atticus Finch, Kirk appeared to believe that “[y]ou never really understand a person until



Kirk N. Kirkconnell, Esq.

you consider things from his point of view – until you climb into his skin and walk around in it.” While zealously representing each and every client, each action, each communication, each pleading, motion, and response was tempered by the overriding need to be civil and professional. Each lawyer was a respected fellow lawyer, not just an adversary; each judge, a person to be respected as a representative of the judicial branch of our government; and each client or witness, a human being who deserves respect and human kindness.

Chan will be remembered for his profound wisdom and his spontaneous humor. It was Chan’s belief that no person was beyond redemption. Each was entitled to another chance and the help, encouragement, and support to succeed. This belief, accompanied by his strong faith in and genuine affection for his fellow man, was vital to Chan’s diligent representation of his wide spectrum of clients. That spectrum was not governed by a person’s station in life, but by one’s need for

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OCBA Luncheon Thursday, November 29, 2012



James A. Beckman

Chair, University of Central Florida Department of Legal Studies

James A. Beckman is the first permanent chair of the Department of Legal Studies at the University of Central Florida, where he also holds tenure and the rank of associate professor. From 2000-2011, he served as a professor of law at the University of Tampa (UT), serving as an assistant professor of law from 2000-2006 and a tenured associate professor of law from 2006-2011. While at UT, he also served as the director of the UT's Law & Justice program from 2000-2011, and as the chair of the Department of Government, History and Sociology from 2007-2010. In 2011, Professor Beckman was selected as the chair of the newly founded Department of Legal Studies at UCF. Prior to entering academia, Professor Beckman served as an active duty military lawyer for the Army in the 1990s, serving on the staff and faculty of the United States Military Academy at West Point, as well as an active duty assignment at Fort Meade, MD. He also served as a litigation attorney for the United States Department of the Treasury in Washington, D.C. He has been a licensed

and active member of The Florida Bar since 1993.

Professor Beckman holds degrees from the University of Tampa (B.A.), The Ohio State University College of Law (J.D.), and Georgetown University's Law Center (LL.M. in International and Comparative Law). He has published numerous diverse articles on history and law and is the author of four books (with a fifth book under contract). He served as the editor of the two-volume work entitled, *Affirmative Action, an Encyclopedia* (Greenwood Press, 2004), which has been described as "inspired" and a "well-designed reference" and is in the collections of more than 850 college and university libraries worldwide, including such places as Harvard University, Yale University, Georgetown, Cambridge and Oxford universities, and the United States Supreme Court Law Library, among other places. Professor Beckman is passionate about history and loves spending time with his wife, Maria, and their multiple rescue animals.

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To ensure a proper luncheon count, RSVPs and CANCELLATIONS are requested no later than Wednesday, November 21, 2012. The OCBA is happy to provide 10 luncheons as part of your member benefits, but no-shows incur additional charges for the Bar and walk-ins cannot be guaranteed a seat.

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

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Stacy Ford, Esq.

Preservation of Error for Appeal: The Evidence Slice

Over the last year, the Appellate Practice Committee of the Orange County Bar Association has been writing and publishing, for your education and (let's face it) malpractice protection, a series of articles about the preservation of error for appeal. Each article has addressed different slices of the litigation pie: pre-trial error, jury selection, and jury instructions/verdict forms. Here, the focus is upon evidentiary errors. Still to come are articles on preservation of error in opening and closing arguments and in post-trial proceedings.

If litigation is a pie, the evidence "slice" is the one most likely to cause heartburn for a trial attorney. "Evidence" encompasses many ingredients. There are documents in all sorts of forms – legal instruments, business records, medical records, financial records, letters, emails, notes, etc. There are also transcripts of prior testimony, expert reports, and learned treatises. There is a wide array of physical evidence, including photographs and videos. Finally, there is witness testimony – lay and expert, direct, cross, and rebuttal. A trial attorney must keep a constant watch over all these evidentiary ingredients, ensuring no one item "goes bad" (such as a witness changing his story or authentication of a document being overlooked), avoiding a "boiling over" (such as a client losing his cool on the stand), and most importantly, maintaining the vision of the overall final product – one in which, hopefully, all flavors will blend together perfectly to create something the judge or jury will swallow with a smile.

Someone once told me that a really good cook is able to make a delicious meal and clean the kitchen at the same time. That's because a good meal tastes even better when you know the pots don't need scrubbing when you are done eating. Likewise, a good trial attorney, while putting together all those ingredients in the heat of trial, is always thinking about what may happen after the verdict is in – making sure he or she will be ready for any "clean up." As an appellate practitioner, I can tell you that the "clean up" is a lot easier if you have planned ahead by properly preserving error. That's because, in the absence of proper preservation, what could have been a simple rinse and dry (for example, the trial court erred in admitting obvious hearsay that was highly and unduly prejudicial) turns into a soak-scrub-and-repeat job (or in appellate terms: proving fundamental error).

Some trial attorneys recognize that it is difficult to stay focused on trial while constantly planning

the appeal. Because of this, many bring in an appellate practitioner to second chair and handle preservation issues. For lawyers who opt to juggle all those plates alone, here is a limited list of evidentiary errors that the appellate courts have found were unpreserved for appellate review in the absence of a timely and specific objection:

admission of testimony regarding reports or records containing hearsay,¹

prior testimony in the absence of proof that the witness was unavailable for trial,²

parol evidence,³

documentary evidence containing redactions,⁴

documents not divulged previously during discovery or on pretrial statements,⁵

an expert's testimony as to a subject area outside of his established expertise,⁶

an expert witness's reference to an outside source to backup his opinion,⁷

evidence of similar wrongdoing to show propensity,⁸ and

testimony by a non-competent witness suffering from mental retardation and psychiatric problems.⁹

Of course, a complete list of evidentiary issues that must be preserved in order to obtain appellate review would be much longer.

Another evidentiary matter fraught with potential for unpreserved error is the introduction of evidence that goes "off theory," *i.e.*, evidence that supports a different theory than that pled by the party introducing it. In such a case, the opposing party may view the evidence as inconsequential to the material elements of the pled action and choose not to object, thinking "no harm no foul." But if no objection is made to the evidence, the introducing party may later assert the new theory was tried by implied consent, seek to amend the pleadings to conform to the evidence, and then easily defeat any appeal by showing that no timely objection was raised to the evidence.¹⁰ As you can see from this example, a desire to "choose your fights wisely" can lead down a dangerous path, where unpreserved error masquerades as harmless until it is too late.

Once a lawyer identifies the multitude of potential evidentiary issues that may arise in a trial, the next step is knowing exactly how to preserve

them. A well-prepared trial lawyer tries to undertake as much issue-spotting in advance and file a motion in limine to be heard before trial even begins. But is that enough? And what do you do if an objection or motion in limine is granted against admission of your evidence? Trial lawyers well know that it can feel awkward to take steps obviously designed to establish a record of a judicial error when you are still conducting a trial before the same judge who you hope will ultimately rule in your favor in the war (if not every battle).

Section 90.104 of the Florida Statutes states that a court may predicate error on the basis of admitted or excluded evidence when a substantial right of the party is adversely affected and, when the ruling is one admitting evidence, a “timely” objection or motion to strike appears on the record. Such an objection must state the “specific” ground if the specific ground was not apparent from the context. Alternatively, when the ruling is one excluding evidence, the substance of the evidence must have been made known to the court by “offer of proof” or was apparent from the context within which the questions were asked. Further, this statute states that, if the court has made a “definitive ruling” on the record admitting or excluding evidence (either at or before trial), a party need not renew an objection or offer of proof to preserve a claim of error for appeal.

Let’s consider each of those requirements in turn.

What constitutes a “timely” objection may seem obvious. But this requisite can still trip up a trial lawyer trying to serve a clean and well-presented plate of evidence to a jury. The rationale of the contemporaneous objection rule is to offer the trial court the opportunity to correct any mistake and to prevent a litigant from allowing an error to go unchallenged so it may later be used for a tactical advantage.¹¹ How does that play out in real life? Take this as an example: In a product liability case, defense counsel cross-examined the plaintiff about a cocaine habit that he suffered from 14 years prior to the trial. When presented with the issue, the Fifth District Court of Appeal found the questioning clearly amounted to an improper attack on the plaintiff’s character, but also noted no contemporaneous objection was made by the plaintiff’s counsel, and therefore the issue was not preserved for review other than under the difficult fundamental error standard, which it did not meet. In so ruling, the court noted that plaintiff’s counsel had made a strategic decision not to object at the time of the offensive testimony, in

order not to draw attention to it, instead moving for mistrial at a later stage. But the court ultimately suggested that such a “judgment play” proved fatal to any hope of a reversal on that point.¹²

Something that clients (and some attorneys) struggle to understand in an appeal is the difference between judicial error, which may be curable on direct appeal, and attorney error. A client is often hard-pressed to grasp the reasoning behind the prerequisite of preservation of error, in the face of knowledge that “unfair” or “false” testimony has been presented against him or her. You certainly do not want to be in the position of explaining that the appellate court will not “fix it” because you failed to object to it. Take for instance the case where a witness changed his testimony at trial from testimony given at a prior deposition. The Third District Court of Appeal held that the questioning attorney failed to preserve for review the issue of false testimony by not raising a timely objection or an appropriate in-trial motion when confronted with such changed testimony, deciding instead to impeach the witness and emphasize to the jury the inconsistent statements. The court found, even if the witness knowingly gave and used false testimony, the opposing attorney made “a tactical decision to take her chances with the jury” and “gambled and lost.”¹³

It must be kept in mind that not only a “timely” objection should be made, but also a “specific” one. An appellate court will consider the grounds to the admissibility of evidence that were specifically made at trial and cannot consider those objections to admissibility of evidence which are raised for the first time on appeal.¹⁴ Thus, where a party objects on one ground that proves improper and then, on appeal, argues that the evidence should have been excluded on another ground, the appellate court can and will reject the argument for lack of preservation.¹⁵ For example, in one case the court concluded, on the question of the admissibility of statements allegedly made by a corporate party’s employee relating to preventive measures attempted by the party, that the matter was not properly preserved for review because the “bare hearsay objection made below did not elucidate the double hearsay/scope of employment argument ... now offer[ed] as a basis to exclude the evidence.”¹⁶ Of course, the need for a “specific” objection requires a significant amount of thinking on your feet, especially when you sense that testimony is objectionable but are struggling to place your finger on an exact reason. Perhaps the best practices are to think through

all potential testimony and prepare a list of potential objections in advance and to bring another trial lawyer, or better yet an appellate practitioner, as second chair with whom you can quickly consult regarding potential grounds after saying that (timely) word “objection.”

Another best practice that many attorneys utilize is the pre-trial motion in limine. However, counsel are cautioned to be certain that a “definitive ruling” on such a motion is on the record, before relying on it as preservation of an error. Here again, counsel can run into problems when trying to avoid “stirring the pot” too much by not renewing an objection to evidence that, counsel believes, the court already ruled in pre-trial motions would be admissible. An illustration of this is where a party files a motion in limine and both sides present argument thereon, but the court reserves its ruling. If the evidence is later admitted without a renewed objection, the party effectively waives the objection, despite the presence in the record of a written motion and argument thereon. In such cases, the court cannot review any claimed error resulting from admission of that testimony.¹⁷ Perhaps a less obvious example is where the court may rule in part on a motion in limine, laying out some general guidelines, but does not hold that any specific testimony may or may not be introduced. Thus, where a judge simply stated that he was not willing to rule on anticipated evidence out of context, deciding to allow testimony concerning a party’s prior injuries but not making an unequivocal ruling on a motion in limine regarding other matters related to an earlier accident, the court on appeal held that it was incumbent upon the opposing party “to object on a question-by-question basis in order to preserve the matter for appellate review.”¹⁸

Finally, when a court does rule against you on an evidentiary issue, it is incumbent upon you to ensure that a proper proffer of the evidence is made. If a party largely fails to identify, through a proffer, any specific evidence that was wrongfully excluded because of the trial court’s ruling, such makes it impossible for an appellate court to evaluate these claims.¹⁹ Rule 1.450 of the Florida Rules of Civil Procedure addresses making a record of excluded evidence. It states:

In an action tried by a jury if an objection to a question propounded to a witness is sustained by the court, the examining attorney may make a specific offer of what the attorney expects to prove by the answer of the witness. The court may require the offer to be

continued page 26



The Honorable Belvin Perry, Jr.

Judge Perry Wins Hoeveler Award

Ninth Circuit Chief Judge Belvin Perry was presented with the 2012 William M. Hoeveler Judicial Award for exemplifying “not merely competence, but dedication to the ideals of justice and demonstrated diligence in inspiring others to the mission of professionalism.”

The award was presented to Perry, who has been elected chief judge by his peers nine times, by Sean Desmond, chair of The Florida Bar’s Standing Committee on Professionalism.

“As chief judge of the Ninth Circuit, Perry has demonstrated leadership and innovative skills,” according to the committee. “He instituted the creation of the Business Court Division to handle complex commercial cases and introduced new technologies. Recently, while sitting in the criminal division, Judge Perry presided over the Casey Anthony murder trial, a case which garnered such intense national scrutiny that some questioned whether the defendant could obtain a fair trial. Judge Perry kept a firm hand on the conduct of the lawyers while modeling the very best qualities of a judge despite the intense spotlight. For that moment, Judge Perry was the face of the judiciary and brought great credit to himself and his profession.”

This article was originally published in *The Florida Bar News*, September 15, 2012. It is reprinted with permission of The Florida Bar.

Professionalism Award Nominations Sought

Outstanding Professionalism Deserves to be Recognized

The Orange County Bar Association is one of the most active in the country, and its members are shining examples of professionalism. It is always a pleasant but difficult task to identify who is among the “best of the best” when it comes to professionalism in our legal community. Each year, the OCBA Professionalism Committee and the Orange County Bar Association recognize extraordinary professionalism demonstrated by our more experienced or senior lawyers, more recently admitted lawyers, and judges

by presenting awards named to honor those great professionals who are no longer with us, yet who still guide us: William Trickle, Jr. (attorneys practicing 15 years or more); Lawrence G. Mathews, Jr. (attorneys practicing less than 15 years); and Judge James G. Glazebrook (judiciary).

The recipients of these awards are announced and honored during an OCBA luncheon. Each award winner then shares his or her remarks during a bar luncheon, annual dinner meeting, or Young Lawyers Section meeting so that our members can learn more about their views, tips, and observations on how to practice with professionalism. Additionally, each of the award winners is asked to write an article

for the *The Briefs* so that all can benefit from their collective wisdom and practical examples.

Members of the Orange County Bar Association are asked to submit nominations for these awards by using the appropriate form(s), which can be found on the OCBA’s website. You may submit supplemental information if you feel that it is appropriate. Please send your completed nomination form to the OCBA’s executive director, Brant Bittner, at the OCBA by mail, fax, or email. Nominations will be open until Friday, December 14, 2012.

For more information, please call the OCBA office at 407-422-4551.



Richard S. Dellinger, Esq.

Celebrating 225 Years of the Constitution

On September 17, 2012, Justice Teaching volunteers from all over the state visited classrooms to celebrate the 225th anniversary of the signing of the U.S. Constitution. The Orange County Bar Foundation supported Justice Teaching during Constitution Week by funding local Justice Teacher's training sessions, providing Justice Teaching volunteers, and providing Justice Teaching handouts, including pocket Constitutions, for the event. I had the pleasure of teaching the Constitution as a Justice Teaching volunteer at the newly refurbished Oak Ridge High School on Oak Ridge Road in South Orlando.

The debates that framed the establishment of the Constitution continue today. This single six-page document has generated more controversy than all of the pleadings ever filed in this county, combined.

In 1781, thirteen sovereign states established a "League of Friendship" loosely governed by the Articles of Confederation. The Articles conferred no power to tax, no commercial policy for regulation of trade between the states, and no money to engage in wars, and made it difficult to settle disputes between the states. Recognizing that the Articles were insufficient, a "small, boyish looking" 36-year-old James Madison from Virginia proposed establishing a strong national government to regulate commerce, raise money, and settle disputes. Mr. Madison secured invitations for all of the states to send delegates to Philadelphia to revise the Articles of Confederation. This led to the 1787 Constitutional Convention. Soon thereafter, 74 delegates were appointed and 55 people actually attended this Constitutional Convention. Rhode Island initially refused to attend. Patrick Henry refused to attend, claiming that he "smelled a rat" because of the concern over "big government."

The attendees were impressive people of the time. Ben Franklin, Alexander Hamilton, and George Washington helped frame the debates. Notable patriots such as Thomas Jefferson and John Adams were abroad on foreign missions and were unable to attend. The oldest attendee at the Convention was Ben Franklin, who was 81 years old, and the youngest attendee was John Dayton, who was 27 years of age.

There was no "sunshine" in Philadelphia during the Constitutional Convention: Meetings were held in secret, and the only time the public would hear about what was happening was when the attendees bragged about or continued their arguments in the streets, hotels, or local pubs. Attend-

ees brought three plans to the Convention: a plan proposed by Virginia delegates for a strong central government, which delineated three branches of government that had checks and balances over one another; a plan proposed by New Jersey for a loose central government with a loose confederation of sovereign states; and a plan proposed by Alexander Hamilton for a government that continued to have a strong central ruler modeled after the British system.

Negotiations were tense, and some of the issues delegates argued about are not necessarily matters that we should be proud of today. The delegates spent a substantial amount of time arguing about how representation and taxation would be handled in slave-owning states. Ultimately, the delegates infamously agreed that the slaves in each state would only be counted as 3/5's a person for taxation and representation matters. In addition, Southerners refused to sign the documents unless slavery would remain intact for 20 more years, and the final Constitution did just that at Art. I, Sec. 9 and Art. IV, Sec. 2. Fortunately, slavery was eliminated from the Constitution in the 13th Amendment in 1865, the 14th Amendment in 1868, and later the 15th Amendment in 1870.

The Constitution was signed on September 17, 1787, at the Pennsylvania State House in Philadelphia, Pennsylvania. The Convention was adjourned at 4:00 p.m., and all the attendees met for a farewell dinner at the nearby City Tavern. The six-page handwritten document was then printed all night so there would be sufficient copies for the delegates to take to their home states.

After the Constitution was distributed, the debate began between the Federalists and the Anti-Federalists. The Federalists supported the Constitution and supported a strong central government to assist with regulation of commerce. The Anti-Federalists favored states' rights and were, furthermore, concerned with the lack of a bill of individual rights. The Anti-Federalist position was espoused by an author who only went by the name Cato in his essays. The Federalist position was set forth in the *Federalist Papers* written by Alexander Hamilton, John Jay, and James Madison.

After debating for nearly a year, nine states ratified the Constitution. The amendments, including the Bill of Rights, were later added to the document. The first twelve amendments to the Constitution were proposed by James Madison one year later and were ratified by the states during the next two

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Shane E. Fischer, Esq.

Interview with the Honorable Jenifer M. Davis

The Honorable Jenifer Davis received her bachelor of arts degree and her master's degree in sociology from the University of Florida and her juris doctor from the University of Florida Levin College of Law. She has been a member of The Florida Bar since 1991 and became a board certified criminal trial lawyer in 2004. She became a circuit judge in 2007 and has served in the criminal and domestic divisions in Orange County. In Osceola County, she presided over dependency, delinquency, domestic violence, juvenile drug court, and domestic cases. In addition to her duties as a circuit judge, she has taught courses as an adjunct for criminology, sociology, and law at Barry University School of Law, University of Florida, University of Central Florida, and University of North Florida. She has lectured at the Statewide Conference for Circuit Judges, Statewide Public Defender Conference, The Florida Bar evidence seminar, and participated as faculty at the Prosecutor/ Public Defender Training program at the University of Florida. She currently serves on the Criminal Procedure Rules Committee and previously served on the Ninth Judicial Circuit Grievance Committee, the OCBA's Professionalism Committee, and co-chaired the Criminal Law Committee.



The Hon. Jenifer Davis

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

A: The people working within it are hard-working and passionate about what they do. Whenever you have smart people working hard in an adversarial system, I believe you do get the truth, and a good justice system is the result.

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

A: The public's perceptions of lawyers and judges have diminished. Non-lawyers have lost faith in the system for various reasons. The attitudes alter the awe of the courtroom into a disappointing casualness.

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

A: Sentencing. It is challenging trying to figure out what is right for society, the victim, and the accused, and determining what is the proper

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

A: I wish I had been more deliberate as a lawyer. When I practiced, I did the research, read the law, and knew the arguments, assuming that the judge already knew the law. However, I failed to realize that judges didn't always have an expertise in the specific area and needed to be educated on what the current state of the law was, as well as why the facts of that lawyer's case best fit with established legal principles. I also wish I knew how hard judges worked to make the right decision, and how often they have to make difficult decisions with limited facts.

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

A: One of the most memorable moments I ever had as a judge was the sentencing of a defendant who killed his childhood friend. After the jury came back guilty following the week-long trial, we proceeded to sentencing. The victim's family and friends spoke, but the victim's father's testimony was, by far, the most compelling. In addition to hearing about how much he loved his son, he also spoke about how much he loved the defendant, like the defendant was another son, almost as important as the first.

Later the defendant's father testified on his son's behalf. He said, "I don't know what happened, but I know I love my son." The son/defendant started to cry. The father continued: "I hope that one day, if I'm walking on the street and reach out my hand, the (victim's) family can reach back and embrace it." At that moment, the victim's father stood up, held his arms out, and embraced the defendant's father in the middle of the courtroom gallery. There was hardly a dry eye in the courtroom. I realized that no Hollywood law drama can ever duplicate the raw emotion that occurs in a courtroom. I recognized the importance of community restoration within the criminal justice system.

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

A: My father. He reminded me to do whatever I want to do, but to make sure I do it well, that I care about what I do, and that I do it with humility.

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

A: Sentencing. It is challenging trying to figure out what is right for society, the victim, and the accused, and determining what is the proper

punishment for a defendant while considering any potential rehabilitation opportunities. It's also hard, but important, to retain your objectivity even though the situation is inherently emotional.

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

A: Attorneys who bicker or whine rather than practice law.

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

A: Start with a statute. Research it well. Argue the facts slowly enough for the judge to be able to adequately digest and process what you are trying to say. Too many attorneys want to skip the statute and want to argue jury instructions instead, or case-law without understanding the statute or information. Additionally, practice law because you love practicing law. Practice law in a way that you can feel good about who you are and what you are contributing to society.

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

A: I am originally from Ballston Spa, New York (population 5,000). Coincidentally, Judge Doherty is also from there. In 1972, our house burned down and my parents divorced (no, there was no causation). My mother came down here for vacation, liked the area, and decided to stay. One of my earliest memories of Orlando is seeing plywood at Disney with a sign saying, "Coming Soon, Tomorrowland."

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

A: I hang with my children/family. Both of my children are adopted (14 and 10), and my happiest day is the day we became

a family. I spend most of my free time with them. Additionally, I have a big, extended family that often gathers. I'm one of eight kids, and most of us live local.

Q: *What is your favorite vacation destination?*

A: My family recently took a trip through Italy and Croatia. I had no expectations of Croatia, but I found the country beautiful. I would love to live there and help develop the justice system there for a little while.

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

A: Dave Matthews Band. Jazz (Louis Armstrong). Alternative. Independent music.

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

A: I would have taught elementary school.

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

A: Fictional: Atticus Finch in *To Kill a Mockingbird*. His relentless search for what

is right and just had a profound impact on me. There are many great lawyers in Central Florida, some of whom personify justice, and I am lucky to work among such masters.

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

A: It's important that we all serve. It's important to have good judges. I hoped that if I were a judge, I would listen carefully, judge fairly, and serve well. On a selfish side, as a child I use to sneak to the courthouse and watch trials. I am a bit of a criminal justice system geek.

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

A: For a day, I'd love to be part of the film industry, watching how they take the shots, edit the film, and put the whole production together. It's fascinating to see how they construct emotion through the editing process and how they construct a story.

Q: *Which case has stretched the longest dur-*

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Professionalism Committee

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and constitutional right to diligent and professional legal counsel. In and out of the courtroom, Chan treated everyone with respect and courtesy, and while an ardent advocate, he was always a gentleman. His positive outlook and his optimistic spirit were contagious, lifting the spirits of all those around him.

Yes, Chan and Kirk are gone. Like the music, they have died, but like the music, they will live on as examples of professionalism in the practice of law. Each has taught us that civility is alive and well in Central Florida and that it exists in the criminal bar and in the overall bar. To those who believe that one cannot be civil in his or her practice and still be successful, look to Kirk and Chan. To those who believe that good lawyers don't care about abstract concepts such as professionalism, learn from Chan and Kirk. And for those who are looking for heroes in the practice of law and examples of how law should be professionally practiced, Mr. Muller and Mr. Kirkconnell have given us our superheroes. It is up to us to follow their legacy, to review and "amp

up" the music of civility, and to follow the road ploughed and travelled by these two Titans of the legal profession.

As we move through our practice of law everyday, whether it is in the courtroom, our law office, or in depositions in some remote location, keep in mind the music of professionalism that Chan and Kirk heard everyday. Like a tune one cannot get out of one's mind, professionalism and civility need to be forever present until they are embedded not only in our minds but our very being. Thank you, Kirk and Chan, for doing your part to place the legal profession back on the pedestal where it once sat. We will take it from here!

The Honorable John Marshall Kest, Ninth Judicial Circuit Court, has been a member of the OCBA since 1979.

Council Wooten, Jr., Esq., has been a member of the OCBA since 1990.

¹With apologies to Don McLean's song, "American Pie." Knowing both Kirk and Chan, we suspect Mr. McLean would be honored to have his musical lyric heading an article drafted around them. It has been suggested that McLean's line suggested it was the "day" that innocence and optimism died. We are all hopeful that the dates of Kirk's and Chan's deaths will signal the days that professionalism was revived in Central Florida.

²Character in *To Kill a Mockingbird*, a novel by author Harper Lee published in 1960.

Foundation News

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years. The Constitution continued to be amended, with last amendment to the Constitution ratified on May 7, 1992.

The Constitution has continued to generate controversies. In 1919, alcohol was prohibited, but the Amendment was ultimately repealed in 1933. The document, which contains so many individual rights, did not contain women's suffrage rights until 1920 when the 19th Amendment was added. And, despite the fact that 18-year-olds were serving their country in the military for many years, they were not given the right to vote until the 26th Amendment in 1971.

The Constitution continues to be a very controversial document. Just as there was debate over whether it was needed before the Constitutional Convention and debate between Federalists and Anti-Federalists after the Constitutional Convention, the same questions about whether or not the Constitution allows for big government or small government continues today.

Our Constitution has stood the test of time, and on September 17, 2012, the OCBA Foundation was happy to celebrate the Constitution's 225th birthday.

Richard S. Dellinger, Esq., president of the OCBA Foundation, Inc., is a partner with Lowndes, Drosdick, Doster, Kantor & Reed, P.A. He has been a member of the OCBA since 2000.

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Donna A. Haynes



Michael R. Resnick, Esq.

Protecting and Preserving Homes

The desire for homeownership is deeply rooted in the American Dream. Owning a home carries with it the hopes of material well-being, social status, family safety and stability, and neighborliness. President Lyndon Johnson promoted homeownership as part of his strategy for addressing the urban ills of the 1960s, declaring, "Owning a home can increase responsibility and stake out a man's place in his community. The man who owns a home has something to be proud of and reason to protect and preserve it."¹

The risks associated with homeownership in Central Florida are all too apparent to us in light of the economic crisis that has befallen our country over the past several years. Central Florida has one of the highest foreclosure rates in the United States, and homeowners in our community, especially low-income homeowners, are now at far greater risk for losing their homes even though they have done nothing wrong to justify a job loss or other financial tragedy.

"Mary," a client of the Legal Aid Society, is one of those at-risk, low-income homeowners who has worked long and hard in pursuing her dream of owning her home. Mary is 60 years old and has been living in her Orlando home for the past 27 years. Despite becoming divorced in 1997 and receiving no monetary support from her ex-spouse for the home, Mary was able to keep her monthly mortgage payments current until June 2011, when she lost the job she had held for ten years.

Since then Mary has worked part-time in an effort to pay her monthly bills and to save her home. Sadly, Mary was forced to stop paying her monthly mortgage in December 2011 because of lack of mon-

ey, even though the remaining balance on her mortgage was only \$3,790. In July 2012, she was served with a foreclosure complaint and is now facing the loss of her home.

What can we do as a community to help save Mary and homeowners in similar situations from losing their homes when the threat of loss is through no fault of their own? As a community, what can we do to keep a 60-year-old woman from becoming destitute and homeless?

Legal Aid is currently providing Mary with legal representation to help reduce her monthly payment to an affordable amount. She wholeheartedly agrees with former President Lyndon Johnson's belief that "the man who owns a home has something to be proud of and reason to protect and preserve it."

The Legal Aid Society, through the efforts of housing attorney Michael Resnick, attempts to provide significant legal assistance to low-income homeowners who are involved in mortgage foreclosures. The primary focus of Mike's work is to assist families with children, senior citizens, and the disabled in maintaining stable and affordable housing. For more information on housing-related issues, please feel free to contact Mike Resnick at MResnick@legalaidocba.org.

To make a donation to the Legal Aid Society, please go online to www.legalaidocba.org, or contact Donna Haynes at dhaynes@legalaidocba.org, or 407-515-1850.

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

Michael L. Resnick, Esq., housing attorney at the Legal Aid Society, has been a member of the OCBA since 1999.

¹Lyndon B. Johnson. "Special Message to Congress on the Urban Problems: 'The Crisis of the Cities'," February 22, 1968. <http://www.presidency.ucsb.edu/ws/index.php?pid=29386>.





Rachel D. Gebaide, Esq.



Jill Davis Simon, Esq.

Florida Court Says Pregnancy Discrimination in Employment is Legal Under State Law

On July 25, 2012, Florida's Third District Court of Appeal held that Florida law does not prohibit employment discrimination on the basis of pregnancy. While the holding may seem shocking, the court's reasoning was consistent with legal precedent, although there is a split among the federal and state courts in Florida on the issue. The recent decision sheds light on the uncertainty for employers and employees as to the current status of state law on the issue of pregnancy discrimination.

In *Delva v. The Continental Group, Inc.*, Case No. 11-2964, the plaintiff, Peggy Delva, sued her former employer, The Continental Group, Inc., for pregnancy discrimination under Florida law based on the Florida Civil Rights Act, Section 760.10, Florida Statutes, provides that it is an unlawful employment practice for an employer to "discharge or to fail or refuse to hire any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, national origin, age, handicap, or marital status." Although the Florida Civil Rights Act prohibits discrimination on the basis of sex, the statute does not specifically prohibit pregnancy discrimination.

The Florida Civil Rights Act is patterned after Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-2 (Title VII), the federal law which also prohibits employment discrimination on the basis of sex. In 1978, the United States Supreme Court held in *General Electric Co. v. Gilbert*, 429 U.S. 125 (1976), that discrimination on the basis of pregnancy was not sex discrimination under Title VII. In direct response to the *Gilbert* decision, Congress amended Title VII by enacting the Pregnancy Discrimination Act of 1978 (PDA), which specifies that sex discrimination under Title VII includes discrimination on the basis of pregnancy. Florida has not similarly amended the Florida Civil Rights Act to specify that pregnancy discrimination is included within the prohibition of sex discrimination under Florida law, and it is the lack of such an amendment that underlies the controversy surrounding this issue.

In the *Delva* opinion, the Third District Court of Appeal adopted a reasonable interpretation of the Florida Civil Rights Act that had previously been adopted by the First District Court of Ap-

peal in *O'Loughlin v. Pinchback*, 579 So. 2d 788 (Fla. 1st DCA 1991), concluding that because the Florida legislature has not amended the Florida Civil Rights Act, it must not intend for the law to prohibit pregnancy discrimination.

A contrary, yet arguably equally reasonable, interpretation of the law was adopted in 2008 by the Fourth District Court of Appeal in *Carsillo v. City of Lake Worth*, 995 So. 2d 1118 (Fla. 4th DCA 2008). In that decision, the Fourth District Court of Appeal concluded that because the Florida Civil Rights Act is patterned after Title VII, it should be given the same construction as Title VII. When Congress passed the PDA in 1978, it explained that it intended to prohibit discrimination based on pregnancy when it enacted Title VII in 1964. The *Carsillo* court reasoned that because it was the intent of Congress to prohibit pregnancy discrimination in 1964, and because the Florida Civil Rights Act must be construed in the same manner as its federal predecessor, it follows that sex discrimination under the Florida Civil Rights Act includes pregnancy discrimination. The court noted that this conclusion was also consistent with the expressed intent of the Florida legislature for the Florida Civil Rights Act to be liberally construed in favor of victims of employment discrimination, and that other states with similar fair employment laws have interpreted sex discrimination to include pregnancy discrimination, including Louisiana, Pennsylvania, and Iowa.

Furthermore, the Florida Commission on Human Relations (FCHR), which was established by the Florida legislature to administer the Florida Civil Rights Act, has taken the position that while there is no specific prohibition against discrimination based on pregnancy under Florida law, pregnancy-based discrimination is prohibited by the Florida Civil Rights Act within the context of "sex" discrimination. See *Bailey v. Centennial Employee Mgmt. Corp.*, F.C.H.R. Order No. 02-027 (Fla. Comm'n on Human Relations May 31, 2002). Importantly, a plaintiff who wishes to bring a claim for pregnancy discrimination is required to file an administrative claim of discrimination with the FCHR and exhaust her administrative remedies prior to filing a complaint in court. After the administrative claim is filed, the FCHR will investigate the complaint and determine whether there is reasonable cause to believe that a discriminatory practice occurred.

In the event that the FCHR timely determines that there is reasonable cause, the aggrieved person may either file a private civil claim in court within one year after receiving the FCHR's determination or request an administrative hearing. The FCHR may conduct the administrative hearing, or the FCHR may request for the case to be heard by an administrative law judge. Both the FCHR and the administrative law judge have the authority pursuant to Section 760.11, Florida Statutes, to issue orders and provide the aggrieved party with affirmative relief from the discrimination, including back pay.

In *Delva*, the Third District Court of Appeal certified conflict with the Fourth District Court of Appeal's *Carsillo* decision, which provides a constitutional basis for the Florida Supreme Court to accept jurisdiction to hear this issue. Until the Florida Supreme Court resolves the conflict between the jurisdictions, or the Florida legislature amends the Florida Civil Rights Act to clarify that sex discrimination includes pregnancy discrimination, a plaintiff in Florida who has a potential claim for pregnancy discrimination may or may not be permitted to bring a cause of action under Florida law, depending on which court has jurisdiction over the plaintiff's case. It is apparently well-settled in the First and Third Districts that a plaintiff who files a lawsuit in a trial court of one of those jurisdictions cannot bring a cause of action for pregnancy discrimination under Florida law, while plaintiffs filing in the trial courts under the jurisdiction of the Fourth District can proceed with such a claim. Plaintiffs in the Second and Fifth Districts will continue to be uncertain as to whether they may bring a cause of action for pregnancy discrimination under Florida law.

Interestingly, a plaintiff filing in federal court cannot be certain whether her state law claim for pregnancy discrimination will be recognized, as federal courts also have not unanimously ruled one way or the other on the issue of whether the Florida Civil Rights Act covers pregnancy discrimination. Within the Middle District, some opinions hold that Florida law prohibits pregnancy discrimination in employment, while others hold just the opposite. *Compare Terry v. Real Talent, Inc.*, 2009 WL 3494476 (M.D. Fla. Oct. 27, 2009) (holding that because the Florida statute is patterned after Title VII, which considers pregnancy discrimination to be sex discrimination, Florida law bars such discrimination), *with Boone v. Total Renal Labs., Inc.*, 565 F. Supp. 2d 1323 (M.D. Fla. 2008) (holding that the Florida Civil Rights Act does not provide a cause of action for pregnancy discrimination).

What are the other effects of the uncertainty on this issue? For one, if plaintiffs can only sue employers for pregnancy discrimination under federal law, then such claims will be heard in federal courts, which are perceived to be more favorable to employers. In addition, plaintiffs have only a 90-day window after receiving their federal "right to sue" letter to file their complaint in court. Additionally, the conflict between the Florida District Courts of Appeal may result in forum shopping in the instances where plaintiffs' suits against their employers may properly be brought in more than one jurisdiction. Furthermore, as mentioned in the *Delva* opinion, in certain cases, the Florida Civil Rights Act allows a more extensive remedy for plaintiffs than the federal law, and such remedies will be unavailable to plaintiffs bringing claims for pregnancy discrimination. While plaintiffs may recover back pay, compensatory damages, punitive damages, and attorneys' fees under both state and federal law, the Civil Rights Act of 1991, 42 U.S.C. § 1981a – which provides for monetary damages in employment discrimination cases – imposes statutory caps for both compensatory and punitive damages at various levels based on an employer's number of employees. For example, under federal law, the combined damage cap for an employer who has between 15 to

Orange County Bar Association Election Notice

Nominations are now being accepted for officer and/or board positions for the

Orange County Bar Association

**Legal Aid Society of the
Orange County Bar Association, Inc.**

**Young Lawyers Section of the
Orange County Bar Association**

Nominating petitions will be available on the OCBA website homepage.

The nomination deadline is February 1, 2013.

Details about the number of positions open for election will be published and posted as soon as they are available.

If you have any questions, please contact Brant Bittner, Executive Director, at 407-422-4551 or brantb@ocbanet.org.

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100 workers is \$50,000. The Florida Civil Rights Act does not limit or cap compensatory damages in actions against private employers, although it caps punitive damages alone at \$100,000, regardless of the size of the employer.

We can speculate that the Florida legislature might respond to the *Delva* decision by amending the FCRA to prohibit pregnancy discrimination consistent with federal law. Until the Florida legislature acts, or the Florida Supreme Court resolves the split in the circuits, federal law provides the only statewide protection against pregnancy discrimination in Florida for covered employees. Nevertheless, and regardless of whether the fair employment laws apply, employers are always encouraged to implement fair employment practices to attract and retain the best talent available.

Rachel D. Gebaide, Esq., a partner and chair of the Labor & Employment Group at Lowndes, Drosdick, Doster, Kantor & Reed, P.A., has been a member of the OCBA since 1999.

Jill Davis Simon, Esq., an associate at Lowndes, Drosdick, Doster, Kantor & Reed, P.A., has been a member of the OCBA since 2012.



Deborah A. Cook, Esq.

Interview with the Honorable Daniel P. Dawson

In Judge Daniel P. Dawson's words, he is "just a little bit different."

Judge Dawson is practically "homegrown." He moved to Orlando at the age of six and grew up in south Orlando, where he still lives. He graduated from Oak Ridge High School and received his undergraduate degree from the University of Florida and his juris doctor from Stetson University College of Law.

While he was a student in law school, Judge Dawson secured a job with the Florida state prosecutor's office, and he was quickly assigned to the juvenile division. He had no expectations; like a ball of clay, he was molded into an attorney with a passion for juvenile justice. He became involved with statewide juvenile prosecutors and state policy, developing an interest that lasted a lifetime. Judge Dawson became Juvenile Division Chief of



The Honorable
Daniel P. Dawson

the Ninth Judicial Circuit. Over the years, he has chaired several juvenile justice committees, including The Florida Bar Juvenile Rules Committee, the State Prosecuting Attorney's Association, and the Department of HRS, Family, Children and Youth Statewide Advisory Committee.

After eleven years of public service, Judge Dawson decided to run for judge. There were multiple competitors for the seat in 1991, but Judge Dawson's experience and his platform promoting juvenile justice prevailed. It is evident that Judge Dawson is indeed a "little bit different," because a juvenile platform is unusual. It is also customary to assign the newer judges on the bench to the juvenile courts. Perhaps the assumption is that judges can do the least amount of harm in juvenile court while learning the judicial role. Ironically, Judge Dawson could not be assigned to the juvenile court despite his experience and political platform. His role with the prosecutor's office, particularly as division chief, precluded him from presiding because of conflict of interest issues. He was assigned to Orange County Criminal Court and even in the adult division had to continually disclose his conflict of interest for persons he had known when they were juveniles.

After his 20 years on the bench, Judge Dawson continues his passion for juvenile law. Of those last 20 years, more than 15 were spent serving in

the juvenile courts in Osceola and Orange counties. Judge Dawson's courtroom is friendly and informal. He advocates that attorneys and parties talk to each other before trial and believes that pretrial communication expedites many juvenile issues. Judge Dawson's days are frequently long; he sometimes sits on the bench for more than eight hours. His style is to let everyone participate, including parents, grandparents, Guardians ad Litem – anyone who might make a difference in helping to determine the best interest of the child. Judge Dawson never accepts a shortcut. It does not bother him if his style makes his day longer.

Juvenile law can be exhausting. Judge Dawson finds child abuse and child neglect cases the most taxing. "Tough cases involving children always remind you of your own child." Judge Dawson's philosophy is that at the end of each day he wants to be able to look back and know he did his very best. Even with the best of intentions, however, he says, "If I did my best, bad things can still happen."

Last year, Judge Dawson had surprise quadruple bypass heart surgery. Through reading he discovered that sitting for long periods of time is one of the primary causes of heart problems, and he has modified his daily activities. To get a little movement during his work day, he walks the staircase between his chambers and the courtroom instead of taking the elevator. His recovery has been speedy, and today he plays full-court basketball with players half his age.

Sports have been a longtime passion for Judge Dawson. Keeping with the theme of "being a little bit different," he is a San Francisco 49er's and New York Yankees fan. He was influenced in his youth to be a fan of these two teams, and he has remained a fan through thick and thin; the good times and the bad.

Judge Dawson also has a broad range of musical preferences. The latest music on his iPod includes Cage the Elephant, Stone Sour, and Death Cab for Cutie. The last concert he attended was Sick Puppies.

Like everything else, Judge Dawson is likely to approach retirement a "little bit different," as he anticipates always being engaged in juvenile issues and policies, perhaps embracing a role with a not-for-profit agency. No matter what he chooses, he will continue to say at the end of each day: "I did my best."

Deborah A. Cook, Esq., has been a member of the OCBA since 2010.



Jack Lensky
Orlando Magic



Dr. Al Torres, Kristyne Kennedy, Esq., OCBA
President; Felipe Guerrero, Esq.



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Dr. Al Torres, Nemours Children's Hospital

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Jessica K. Hew, Esq.



Paul C. Perkins, Jr., Esq.

Central Florida Diversity Mentoring Project Stage One: Food and Fun

Most successful, seasoned lawyers, regardless of race and gender, can trace their success to the training and nurturing they received early in their careers from an experienced lawyer. Mentorship is an important component to the success of every lawyer. The Florida Bar's Equal Opportunity in Law Section, together with its steering committee of the OCBA Diversity Committee, OCBA Young Lawyers Section, Young Lawyers Division of The Florida Bar, Hispanic Bar Association of Central Florida, Central Florida Gay and Lesbian Law Association, Greater Orlando Asian American Bar Association, Central Florida Association of Women Lawyers, and Paul C. Perkins Bar Association have instituted the Central Florida Diversity Mentoring Project. The project encompasses two stages: a picnic and mentoring.

Stage one, the project's inaugural picnic, was held this year at Florida A & M University College of Law on September 8, 2012. The picnic provided an opportunity to foster relationships between law students and attorneys and judges from the Central Florida area in an informal and comfortable environment. Although all law students were invited, the majority of participating law students were from Florida A & M University, Barry University, and the University of Florida. Special appearances and addresses were made by Florida Bar president, Gwynne A. Young, judges Emerson Thompson, Wilfredo Martinez, and Kathleen Clarke, and Florida A & M University dean, Reginald Green. Judge Keith White and Florida Bar YLD president-elect, Melanie Griffin, also participated in the event presentation.

Sponsorships allowed the Diversity Mentoring Project's organizers to provide a wonderful, catered picnic and a "spin doctor," whose energy inspired a lively dance-off among attendees between the grassy knoll and patio! Sponsors also distributed substantive information on their organizations and much needed information as to their respective practice areas.

The event gave law students interested in the Central Florida legal community an opportunity

to establish relationships with practicing attorneys, regardless of whether the students will ultimately practice in the area. Law students were encouraged to meet mentorship partners, exchange contact information, and develop ongoing relationships. To encourage the development of these relationships, the committee maintains a list of mentees and volunteer mentors.

Mentorships range from law- and business-related advice and training to practical issues, such as where to live or what churches and civic organizations to join. Mentorship also helps mentees hone their skills in leadership and training – skills that are transferable to other important aspects of life.

The September 8 picnic was an exciting kick-off event for Central Florida's newest law student outreach program. Stage two – mentoring – will be an ongoing process. If you are interested in assisting the Central Florida Diversity Mentoring Project as a law student mentor, please contact one of the project's co-chairs, Jessica K. Hew (jhew@burr.com), Harley Herman (hsh54@dbksmn.com), or Lindsay Oyewale (lnoz@dbksmn.com).

For the Central Florida Diversity Mentoring Project to enjoy continued success in the future, it is essential that private firms and organizations support the project by providing financial support and by providing mentors to the students and young lawyers that attend. With the enthusiastic support of Central Florida and the legal community, success going forward is assured!

Jessica K. Hew, Esq., a partner at Burr & Forman LLP, is a member of the firm's Diversity Committee; co-chair of the Central Florida Mentoring Project; treasurer of the Florida Bar Equal Opportunity Law Section; and immediate past president of the Greater Orlando Asian American Bar Association. She has been an OCBA member since 1995.

Paul C. Perkins, Jr., Esq., a shareholder at Paul & Perkins, P.A., is chair of the OCBA Diversity Committee. He has been an OCBA member since 2009.

Hearsay ...



Wiley S. Boston, Esq.

Happy Thanksgiving to all Orange County Bar Association members. At this time of year it is appropriate to reflect on the tremendous contributions that our organization makes to the community through mandatory *pro bono* contributions and fees in lieu of service. As you know, the good works of our membership do not stop with support of Legal Aid, and in this column I would like to recognize just a few members, who have recently been brought to my attention, for their noteworthy contributions to the public good:

Senior Judge Emerson R. Thompson, Jr. of the Fifth District Court of Appeal took office this year as first vice president of The Florida Bar Foundation, a statewide charitable organization that works on behalf of Florida's legal profession to expand access to justice. He has served on the Foundation board since 1995, and previously served from 1991 to 1993. Prior to his retirement in 2008, Thompson served in all divisions of Florida courts. He was appointed to the Fifth District Court of Appeal in 1993 and served as Chief Judge from 2000 to 2003, as well as having served as Chief Judge of the Ninth Judicial Circuit from 1989 to 1991.

Baker Hostetler Orlando attorney **Tiffany Payne** was recently appointed to the Juvenile Diabetes Research Foundation's Board Committee, and she works to raise money and awareness in the Central Florida community for individuals who are affected by type 1 diabetes.

Many law firms and individuals joined the Orange County Bar Association Young Lawyers Section and the Central Florida Association for Women Lawyers in the annual school supply drive to benefit Rock Lake Elementary School. As one example of several, **Holland & Knight** attorneys and staff are proud to have raised \$1,400 and collected eight large boxes of supplies that they donated to this effort.

Congratulations to **Timothy Moran**, the 2012 recipient of The Florida Bar Young Lawyers Division Pro Bono Award, which recognizes the public service or legal aid performed by a young lawyer (under the age of 36 or one who has not practiced for more than five years in any jurisdiction) who provides outstanding contributions to those in need of legal services.

In connection with Legal Aid, congratulations to **Nick Shannin** of Shannin Law Firm, P.A., for receiving the Orange County Bar Association Legal Aid Society Award for Outstanding Service as Trustee 2004-2012. Nick's honor is well deserved, and he is always the first to acknowledge that the numerous volunteer *pro bono* attorneys from the ranks of OCBA membership deserve all the credit for carrying the organization over the years.

Finally, congratulations to former Orange County Bar Association president **Tad A. Yates** for being elected chair of the Judicial Nominating Commission for the Ninth Judicial Circuit.

Again, the above are just a few of many examples of why we can all be proud of the OCBA throughout the year. Other examples of public and community service for this column may be submitted to Peg Storch at peggys@ocbanet.org.

Wiley S. Boston, Esq., Holland & Knight LLP, has been a member of the OCBA since 1996.



YLS on the move



Sunny Lim Hillary, Esq.

On September 22, the Young Lawyers Section of the Orange County Bar Association travelled to Gainesville, Florida, for the **5th Annual YLS Gator Bus Trip**. The YLS members enjoyed beautiful, sunny weather as the Florida Gators crushed the Kentucky Wildcats 38-0 in their first Southeastern Conference home game of the season. All seats on the bus and all tickets in the YLS block were sold out, and Bus Trip Committee chairs **Rob Rogers** of Holland & Knight LLP and Assistant Public Defender **Katy McGinnis** plied the YLS members and guests with food and refreshments. Special thanks to YLS Bus Trip sponsors **Scruffy Murphy's** and **Circuit County Judge-Elect Adam McGinnis**.

The **21st Annual YLS Charity Golf Tournament** was a HUGE success! Held on Friday, September 28, 2012, at the Grand Cypress Golf Club, the YLS raised more than \$22,000! All of the proceeds will go toward YLS scholarships and the numerous charitable projects that the YLS works on throughout the year. A BIG thank you to golf tournament chair **Jerry Hanberry** and his committee for their time and dedication in organizing one of the biggest events of the year. Because of their efforts, the YLS quickly sold out of team spots and sponsorship opportunities—months before the tournament.

Thank you to the attorneys and judges who came out to City Hall on Thursday, October 4, 2012, to celebrate the admission of Orlando's newest attorneys to The Florida Bar. Every year, the YLS hosts the annual **Fall Oath of Admissions Ceremony**. This year, **Chief Judge Belvin Perry, Jr.** was our guest speaker.

The last Brown Bag Lunch for 2012 was held on Thursday, October 11, 2012. The topic, *Putting it all Together: Trying a Case from Start to Finish*, was a fitting end to this year's series of seminars. The seminar combined the teachings discussed in the previous lunches by explaining how to prepare and try a case in an organized manner. Electronic copies of all twenty-eight Brown Bag Lunch out-

lines are available by emailing Diane Iacone at cjadi1@ocnjcc.org. The first **Brown Bag Lunch** of the new year is scheduled for **Thursday, January 10, 2013**, on the topic, *Motions to Dismiss, Motions to Strike and Motions for Summary Judgment*. Thank you to **Judge John Marshall Kest** for his commitment to the YLS.

The next **YLS Luncheon** will be held on **Friday, November 23, 2012**, from 11:30 a.m. to 1:00 p.m. at The Citrus Club. If you plan to attend, please **RSVP to yls.ocba@gmail.com no later than Tuesday, November 20, 2012**. A \$4 late charge will be added for all RSVPs made after November 20. The YLS is charged for anyone who RSVPs, so please be sure to show up if you RSVP. If you RSVP and know you cannot make it, please let us know as early as possible. We look forward to seeing you at the YLS Luncheon!

If you want to join the YLS email blast list and find out more about our section and its committees and events, please email yls.ocba@gmail.com.

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



The Annual Fall Oath of Admissions Ceremony, with guest speaker, The Hon. Belvin Perry, Jr.

Appellate Practice Committee

continued from page 7

made out of the hearing of the jury. The court may add such other or further statement as clearly shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. In actions tried without a jury the same procedure may be followed except that the court, upon request shall take and report the evidence in full unless it clearly appears that the evidence is not admissible on any ground or that the witness is privileged.

Even when the trial court has granted a motion in limine, ruling that certain evidence should be excluded, an offer of proof may still be necessary if the claimed evidentiary error is to be preserved for appellate review. This can be done without violating the order in limine by offering the excluded evidence at trial outside the presence of the jury and asking that excluded documents be marked for identification with a number and described fully in the record.²⁰ Of course, if you intend to rely on a proffer made at the time that a pre-trial motion in limine is heard, you need to be certain a court reporter is present. Otherwise, the appellate court will not have the benefit of the proffer, upon which to conclude, that the evidence was improperly excluded.

The foregoing is intended to present a recipe for preserving evidentiary errors and to avoid getting burned on appeal. In closing, if anyone should object to my overindulgence in cooking analogies, all I can say is that I strongly suspect that I am a much better appellate practitioner than a cook.

Stacy Ford, Esq., a partner at Pohl & Short, P.A., is a civil and commercial litigator and appellate practitioner. She has been a member of the OCBA since 2007.

¹*Zuniga v. Eisinger*, 954 So. 2d 634, 636 (Fla. 3d DCA 2007).

²*W.R. Grace & Co.- Conn. v. Dougherty*, 636 So. 2d 746, 749 (Fla. 2d DCA 1994).

³*Thal v. Roth*, 173 So. 2d 174 (Fla. 3d DCA 1965).

⁴*Arena Parking, Inc. v. Lon Worth Crow Ins. Agency*, 768 So. 2d 1107, 1110 (Fla. 3d DCA 2000).

⁵*Am. United, Inc. v. Kroll Realty, Inc.*, 443 So. 2d 217, 218 (Fla. 4th DCA 1983).

⁶*Gray v. Adams Grading & Trucking, Inc.*, 956 So. 2d 505, 508 (Fla. 1st DCA 2007).

⁷*Cordoba v. Rodriguez*, 939 So. 2d 319, 322 (Fla. 4th DCA 2006).

⁸*S.C. v. State*, 471 So. 2d 1326, 1328 (Fla. 1st DCA 1985).

⁹*Id.*

¹⁰*Cordoba v. Rodriguez*, 939 So. 2d 319, 322 (Fla. 3d DCA 2006).

¹¹*Williams v. Lowe's Home Centers, Inc.*, 973 So. 2d 1180, 1185 (Fla. 5th DCA 2008).

¹²*Id.* (quoting *Haist v. Scarp*, 351 So.2d 1120 (Fla. 4th DCA 1977)).

¹³*KMart Corp. v. Hayes*, 707 So. 2d 957 (Fla. 3d DCA 1998).

¹⁴*Tabasky v. Dreyfuss*, 350 So. 2d 520, 521 (Fla. 3d DCA 1977).

¹⁵*Id.*

¹⁶*Kloster Cruise Ltd. v. Grubbs*, 762 So. 2d 552, 555 (Fla. 3d DCA 2000).

¹⁷*Tolbert v. State*, 922 So. 2d 1013, 1017 (Fla. 5th DCA 2006).

¹⁸*Williams v. Lowe's Home Centers, Inc.*, 973 So. 2d 1180, 1185 (Fla. 5th DCA 2008).

¹⁹*Health First, Inc. v. Cataldo*, 92 So. 3d 859, 867 (Fla. 5th DCA 2012).

²⁰*Brantley v. Snapper Power Equip., a Div. of Fuqua Indus., Inc.*, 665 So. 2d 241, 243 (Fla. 3d DCA 1995).

Editors' Note

April 2013 Brief's theme is environmental issues.

Submission deadline: Feb. 15, 2013

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Sunny Lim Hillary, Esq.

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

CFAWL

The Central Florida Association for Women Lawyers' annual **Fall Into Fashion** on October 4, 2012, was a blast! Held at Ember, local fashion leaders **Cherise, Ginger, Bella,** and **John Craig** contributed to the fashion show. Proceeds benefited A Place for Children located inside the Orange County Courthouse. Everyone enjoyed cocktails, hors d'oeuvres, and networking while taking in the latest fashion trends.

GOAABA

Through a joint effort of the **Florida Bar Equal Opportunity in Law Section**, a committee of the Orlando minority bar associations and the Orange County Bar Association (Diversity Committee and YLS), a **Diversity Mentoring Picnic** was held on **September 8, 2012**, in Orlando. The Greater Orlando Asian American Bar Association and other Orlando voluntary bar associations, including the Hispanic Bar Association of Central Florida, the Central Florida Gay and Lesbian Law Association (CFGLLA), and CFAWL, as well as law firms and other legal vendors, set up booths to introduce students of FAMU College of Law and other law schools to the many different facets of the Orlando legal community and profession. Everyone enjoyed hamburgers, hot dogs, and music. Hats off to co-chairs **Jessica Hew, Harley Herman,**

and **Lindsay N. Oyewale**, and to the committee, for their success! And, thank you to our wonderful sponsors! Take a minute to read the article on this event and see the list of sponsors in this issue of *The Briefs* (pages 22 and 23).

On October 4, 2012, GOAABA attended the **YLS Fall Oath of Admissions Ceremony** at City Hall to celebrate the admission of Orlando's newest attorneys to The Florida Bar. This year, **Chief Judge Belvin Perry, Jr.** was the guest speaker.

HBACF

On September 29, 2012, the Hispanic Bar Association of Central Florida held its annual **Family Day** at Moss Park. Members, their families, and guests came out to enjoy the bounce house, fun games, swimming, and a great spread of traditional Latin food. Thank you to **Laura Pichardo** for helping to organize this event.

This column is about and for you! I invite you to send information about your bar's upcoming activities as well as news about recent events to my attention for possible publication! If you have photos, please send along with captions and IDs! I may be reached at sunny@hillarylaw.com.

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



More outtakes from the Diversity Mentoring Picnic

Photos: Courtesy of FAMU College of Law





Robert B. Branson, Esq.

Tammy Branson, CBA

Mortgage Modification Mediation Program in the United States Bankruptcy Court Middle District of Florida

Great things are happening for borrowers in the Orlando Division of the Middle District of Florida – Florida bankruptcy courts are establishing programs to allow debtors to seek modification of their mortgages through bankruptcy mediation, and it is working.

Orlando was the first bankruptcy court in the nation to establish a mortgage modification mediation program. Chief Judge Karen S. Jennemann and Judge Arthur B. Briskman announced the program in April of 2010, and the program has been very successful. The percentage of completed mediations that resulted in a modified mortgage is approximately 70%! By contrast, in the Florida state court system, the number of mediations that resulted in a modified mortgage is lower than 4%.

The program was set up to help debtors efficiently work through the request to modify their mortgage to an affordable payment. The process of applying for a modification has been a nightmare over the last few years, and borrowers have often had to submit their documentation many times, having been told it was never received, and having waited months on end with no answer from their servicer. This program ends the lost documents as debtors provide their documents through their counsel to the servicers' counsel and the mediation order deadlines hold all parties accountable.

Once the program was announced, Laurie K. Weatherford, the Orlando Chapter 13 Trustee, along with consumer and creditor attorneys and servicers worked together to get the program up and running smoothly to avoid these issues. It has been a challenge to provide the vast number of documents needed because most bankruptcy attorneys don't speak "mortgage underwriting" lingo, and most of the mortgage underwriters don't speak "bankruptcy," but the process has become smoother for all sides with each passing month.

Tampa and Jacksonville have recently begun to implement mortgage modification mediations, and Milwaukee has a mediation program which started in 2011. Rhode Island and the Southern District of New York also have loss mitigation programs. By the time this magazine goes to press, there may be more courts participating in similar programs. Since the Bankruptcy Code will not allow the unilateral altering of the treatment of a secured first mortgage claim on a debtor's homestead, and millions of Americans

are delinquent in their mortgages, we sure hope more mortgage modification mediation programs become available.

Most of the modifications granted are through President Obama's Making Homes Affordable Program (HAMP), and there are also other non-HAMP modifications now being offered. Under the HAMP program, servicers who took Troubled Asset Relief Program (TARP) funds are obligated to modify borrowers' mortgages if 31% of their gross income is less than their current monthly mortgage payment (to include principal, interest, taxes and property insurance, and any association fees). The HAMP modifications have reduced borrowers' mortgage interest rates to as low as 2% for the first five years, and increases 1% per year until it reaches the Freddie Mac published rate at the time of the modification (which is currently around 3.5%). Servicers will also defer and sometimes forgive a portion of the principal balance in order to bring the payment down to 31%. In our office last month, about 38% of the modifications have included principal *forgiveness* up to as much as \$275,000 in one case. In another, the debtor's payment was reduced to \$71 per month through a principal forgiveness.

The biggest reason this program works is the communication among mortgage companies, debtors, and their respective counsel. It gives borrowers a voice. When borrowers request a modification outside of the court system, the borrowers almost never get to speak to the underwriter or the individual who will make the decisions about their modification. Many denials are wrongfully issued, and the debtors are not given the opportunity to fully understand the denial or properly rebut it. This program enables borrowers to have that voice to explain situations and changes in income, turning denials into approvals. In situations where a modification is not possible or is not in the debtors' best interest, the program gives closure to the difficult decisions debtors must make to surrender their homes.

The bad news is that the HAMP program is scheduled to end December 31, 2013. The good news is that servicers are offering a variety of non-HAMP modifications. Chase has the "Champ" program, which reduces borrowers' payments to 20% of their gross income. HAMP Tier II rolled out June 1, 2012, to assist borrowers if they fail

HAMP and reduces payments to 25% of the borrowers' gross income.

Even better news is that five of the largest servicers – Bank of America, JP Morgan Chase, GMAC/Ally, Citimortgage, and Wells Fargo – signed consent judgments with the United States of America in the District Court for the District of Columbia for wrongdoing in state and bankruptcy courts. Forty-nine states joined in the settlement. The settlement has many bankruptcy issues: the end to fraudulent affidavits and motions for relief from stay; erroneous proof of claims; and misapplying Chapter 13 payments. The settlement also includes new loan modifications with better terms and compliance with HAMP for borrowers, including those in bankruptcy. The settlement states that if a trustee in a bankruptcy identifies servicers that are not complying with the judgments, the United States Trustee's Office should be notified.

The loan modification portion of the judgment includes at least \$20 billion for principal forgiveness to bring mortgages closer to market value. Under the settlement, the path to reaching an affordable payment is first to reduce the mortgage balance closer to value and then to reduce the interest rate and/or term of loan. The judgment provides that any continued non-compliance

by these servicers can result in a fine no greater than \$1,000,000.

We have already received numerous letters that our borrowers are eligible. We have already received several loan modifications through the settlement program. One forgave \$185,000 and another \$209,000! We hope to see many more. This settlement is our government taking action, and I am proud our bankruptcy courts will have a key role in carrying out the settlement.

For more information see the Department of Justice website at www.justice.gov/ust/ea/public_affairs/consumer_info/nms.

Our court systems across the nation, especially in the hardest hit states, can make

a difference to the millions of Americans currently in foreclosure who need their mortgage modified and choose to seek bankruptcy protection. If you are interested in the Orlando Mortgage Modification Mediation Program please contact us, Robert Branson at rbranson@bransonlaw.com, or Tammy Branson at tammy@bransonlaw.com, or call 407-894-6834, and we can provide contact information for our court and those who have been instrumental in the process.

Robert B. Branson, Esq., Law Office of Robert B. Branson, has been a member of the OCBA since 2010. Co-author **Tammy Branson, CBA**, is also with the Law Office of Robert B. Branson.

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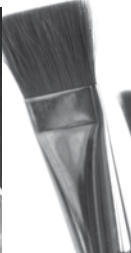
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Editors' Note

Got Art?



What's your passion? Do you play a musical instrument, sing with a group, or compose **music**? Have you acted in a play recently, or produced a film or script? Are you a fine or graphic artist? Are you a **dancer or choreographer**? If you're a **photographer**, has your work been published? Maybe you're a poet or **novelist**. Perhaps you're a culinary artist. Send us a couple of paragraphs about your participation in an artistic endeavor – along with photos and captions!

If your heart belongs to the law, send your ideas for substantive articles that **explore the intersection of arts and the law or legal profession**.

We're looking forward to bringing you an exciting **February 2013** issue, so contact us as soon as possible – but no later than November 15 – for publication consideration.

Peggy Storch, Communications Manager

(Article submission deadline for February 2013 issue: December 15, 2012)



Bethany D. Gibson



Jeffrey S. Elkins, Esq.

What to Know About E-Service and the Future of E-Filing

Just as researching case law using books is largely nonexistent today – except to torture first-year law students – the implementation of the new e-service and e-filing rules may soon eliminate the transmission of actual paper documents. This article will discuss Florida Rule of Judicial Administration 2.516 (which is the new e-service rule), some issues to keep in mind concerning the rule, and the future of e-filing.

Florida Rule of Judicial Administration 2.516 requires documents served in a court proceeding to be sent to all parties by email. The rule went into effect on September 1, 2012, for civil, probate, small claims, family, and appellate matters. It applies to criminal, traffic, and juvenile matters after October 1, 2013.

As with many rule changes, there are many practical issues to address concerning e-service. The first matter an attorney should consider is which email addresses to designate for service. The rule requires an attorney to designate a primary email address upon appearing in a proceeding.¹ Of note, however, the rule permits the designation of up to two secondary email addresses.² Since every document must be served on the primary and secondary email addresses, an attorney should designate a paralegal and/or legal secretary as the secondary email address to make sure that nothing is overlooked. The secondary email addresses can vary from one case to another. So, an attorney who works with several legal secretaries or paralegals should list the appropriate email addresses of the individuals who will be the most involved in the case. Lastly, while it is not necessarily good practice to include a client as the secondary email address, it is not prohibited.

An attorney may be excused from e-service under very limited circumstances, and only if he or she does not have an email address and does not have Internet access at the office.³ An attorney must petition the court to be excused from e-service in each case in which he makes an appearance. If excused from e-service, the other service provisions under Florida Rule of Judicial Administration 2.516(b)(2) will apply. A pro se litigant is not required to participate in e-service, but may elect to do so.⁴ Accordingly, service on pro se parties is not changed unless the litigant chooses to participate in e-service.

All documents are required to be served by email unless there is an express exception under the rule. The requirements applicable to service an initial

pleading have not been changed and, therefore, such service is not permitted by email. The most notable exception to e-service is that applications for witness subpoenas and other documents personally served by formal notice do not have to be served by email.⁵ In addition to, but not in lieu of, being served by email, a document may also be served by any other means provided in subsection (b)(2).

Another matter to note concerning the new rule is when a document is deemed to be served and the computation of time after service. Service is complete on the date the email is sent.⁶ Email service, however, is treated as service by mail for the computation of time. So, even though a document is delivered almost instantaneously by email, a party is still afforded five extra days to respond – as if the document was served via U.S. mail under the old rule – unless the document is also served by another method, such as facsimile, under subsection (b)(2). If the sender learns that the email did not reach the address of the person to be served, the sender must immediately send another copy by email or by another means authorized by the rule.⁷

The rule also specifies the format in which a document must be emailed and the size of the attachment. All documents must be served in PDF format, and the attachments cannot exceed 5 MB.⁸ If the attachment exceeds 5 MB, the document must be divided and sent in separate emails. Since there are typically multiple email addresses, it is a good idea to list them all in a document or make a contact group with your email software for ease of reference.

Although e-service is mandatory for attorneys, judges and their judicial assistants may not accept courtesy copies by email. An attorney should check with each judicial assistant to determine the judge's procedures.

The legal system's march towards modernization will also affect filing. As of December 1, 2012, e-filing is mandatory for the Supreme Court. E-filing becomes mandatory on April 1, 2013, for district courts of appeal, probate, civil, family, and small claims matters, and appeals to circuit courts for those types of cases. E-filing is required as of October 13, 2013, for criminal, traffic, and juvenile cases, and appeals to the circuit court for them.

Florida Rule of Judicial Administration 2.525(a) defines electronic transmission of documents to include the case maintenance system (CM), electronic court filing system (ECF), statewide or local electronic portal (e-portal), or some other

method authorized by the Supreme Court. Although electronic filing using the e-portal system is not yet mandatory, it is available now at www.myflcourtagency.com. All attorneys are encouraged to obtain credentials now. Importantly, only attorneys can obtain access to the e-portal, but an attorney can share his credentials with

staff. Lastly, a serving party is required to comply with the e-service rule even if an e-filing system automatically sends the document to all counsel of record.

Stay tuned as more information comes out regarding the new e-filing system and requirements.

Bethany D. Gibson, a paralegal to David H. Simmons & Daniel J. O'Malley at de Beaubien, Knight, Simmons, Mantzaris & Neal, LLP, has been a member of the OCBA since 2012.

Jeffrey S. Elkins, Esq., an attorney with Shutts & Bowen LLP, has been a member of the OCBA since 2012.

¹Fla. R. Jud. Admin. 2.516(b)(1)(A).

²Fla. R. Jud. Admin. 2.516(b)(1)(A).

³Fla. R. Jud. Admin. 2.516(b)(1)(B).

⁴Fla. R. Jud. Admin. 2.516(b)(1)(C).

⁵Fla. R. Jud. Admin. 2.516(a).

⁶Fla. R. Jud. Admin. 2.516(b)(1)(D).

⁷Fla. R. Jud. Admin. 2.516(b)(1)(D)(ii).

⁸Fla. R. Jud. Admin. 2.516(b)(1)(E).

Judicial Relations Committee: Davis
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ing your tenure as a judge?

A: A racketeering case with seven co-defendants. Three co-defendants were tried in a three-week trial, and later that year the others were tried. It had the makings of a fascinating film.

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

A: I'd love to have the ability to fly. It'd be so much fun to fly, especially on a beautiful, clear day.

Q: *How do you deal with the burden of deciding cases or issues that are important to peoples' lives?*

A: I really try to feel it and absorb all of the variables that affect people. It's easy to shut yourself off or become hardened. I try to watch and listen to what people are saying and doing to see where they're coming from. It's very emotionally draining, which is why after a full day dealing with the emotions of a courtroom, I enjoy playing with my kids and seeing things from a child's perspective.

Shane E. Fischer, Esq., is chair of the Solo and Small Firm Committee. He has been a member of the OCBA since 2001.

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What a Difference a Year Can Make: Have a Yearly Marketing Retreat to Assess the Health of Your Marketing Efforts

As we mentioned in the first part of this series, holding an annual marketing retreat means you are forced to step off the treadmill for a few hours each year to fine-tune your marketing efforts and plan for the coming year. By doing this, you dramatically increase the effectiveness and strategic value of your client development efforts. In the first article, we discussed why these retreats are valuable, who should attend, and what you should examine in your efforts to check the health and validity of your current marketing efforts. This part of the series will focus on how to set up a retreat and create a successful agenda.

When to Schedule the Retreat

The best way to make sure that the retreat actually happens is to schedule the time well in advance. To do this, identify several potential dates – or ask your secretary or office manager to identify them for you – and then meet with the rest of the potential attendees to arrive at a mutually convenient time. It is best to plan the coming year in early fall: September, October, or November. Avoid December, if possible, because of the overload of extra activities most attorneys experience during the holidays. If you are unable to find a date in the fall, the beginning of the new year will also work well. In fact, some firms prefer holding their retreats in early January because of the optimism and renewed enthusiasm they feel at the beginning of the year. Whatever date you decide upon should be far enough out so that all of those invited will be able to attend.

Retreat Facilitators

Keep in mind that good retreat facilitators become booked up well in advance during the most popular months. Once you commit to a date, try to hire a facilitator right away since it may be difficult to locate one at the last minute.

We recommend you find someone with experience in leading group discussions and skilled at setting marketing strategies and who can be objective and keep things moving in a productive and constructive manner. If you don't have anyone in mind, talk to attorneys in your area who have done retreats before or search online for a qualified person. Potential facilitators are often professors in business schools, practice advisors, or consultants to law firms. You should first be able to interview this person over the phone or meet in person to see whether there is a match.

For the best results, it is imperative that your facilitator has the skills and experience to do the following:

- Educate and bring credibility to the idea of marketing, especially for reluctant or first-time marketers
- Share ideas that other firms have under taken so the firm is not spending extra time re-inventing the wheel
- Manage the group discussion appropriately, drawing out new ideas from the participants
- Give realistic feedback on the validity of the proposed marketing plans

It is generally a good idea to have an outside professional moderate your marketing meeting. An authentic evaluation of the entire team's strengths and weaknesses is best done by an outsider who may assign a pre-retreat assessment. If you are tempted to lead your own retreat, or have your firm's best rainmaker take charge, keep in mind most *intuitive* rainmakers do not entirely understand what it takes to develop new clients. They often do what they do well, but unconsciously, and have a hard time breaking down the process and making it understandable or in some cases, appealing, for the other personalities in attendance.

Of the many different disciplines required of an attorney, marketing can be the most difficult to adopt. Bringing in an outside retreat facilitator provides the opportunity to educate the inexperienced and to bring the group together to brainstorm in ways that are not possible on an individual basis.

If your marketing retreat is going to emphasize client development education – and most of them should – ask the facilitator to focus on the principles of *relationship-based* marketing with an emphasis on how this type of marketing is the least complicated, the least expensive, and the most ethical and effective way to conduct a marketing campaign. It should be made clear to those who are inexperienced that *relationships* form the basis for referrals.

Prior to the Retreat

Assignments in advance of a retreat are an excellent way to motivate your group into action, and most good facilitators will ask for work to be done up front. Fortunately, people are much

more likely to complete a pre-work assignment if they have to face the facilitator and the rest of the group at the retreat and admit that they failed to carry out their assignment.

In order to discuss the successes and failures of the past year, the following assignments should be given to your office manager, marketing assistant, the marketing partner, or the team member(s) most closely involved with keeping client development statistics. Ask this person to:

- **Prepare** a report on the following data: the number of inquiries generated by different referral sources, including print ads and those referrals generated by clients; the percentage of phone inquiries that converted to in-office consultations; and the percentage of consultations that converted to paying clients. This will allow you to compare referral sources and analyze advertising expenditures.
- **Create** a list of marketing activities from the prior year. This will allow you to analyze what worked and what didn't.
- **Prepare** a report on the productivity of your website as a referral vehicle, and identify additional work to be done. This will allow you to measure the success of your current site and plan your next round of improvements.
- **Compile** a "Client Service Innovation Report" in which any improvements to client care are listed along with feedback from clients or team members about their effectiveness. This will allow you to gauge the effectiveness of your current client service program and plan for future improvements.
- **Compile** a list of potential referral sources by name or profession that the firm might target for cultivation. This will allow you to pinpoint actual individuals or types of professionals to focus on in your marketing plan.
- **List** opportunities for cross-selling between partners, where applicable. This will allow you to focus on introductions as part of your marketing plan.

Set Marketing Objectives

Your overall objective in hosting a marketing retreat is to come away with a client development plan that is well thought out and, ideally, agreed upon by the team. In fact, one of the most valuable aspects of holding a retreat like this is to have your team help to create the client development plan. Team members are much more likely to implement that which they helped to create.

Your plan should contain a variety of client development activities: from the larger annual events you might host to the small, weekly actions each attorney will undertake. It should target the number of new clients each practice area will attract, as well as the new referral sources it will cultivate. Your plan should contain enhanced client service initiatives as well, given that many of the best referrals will come from your clients. Generally speaking, the better the service, the greater the number of referrals.

Listed below are examples of initiatives we typically find in a marketing plan generated by small to mid-sized firms.

Cultivate Referral Sources to Increase Referrals 20%

- **Increase the time spent with referral sources**
 - a. Strategy: Each attorney will dedicate three lunches a week to cultivating referral sources.

- b. Strategy: Purchase season tickets and offer them to different referral sources.
- c. Strategy: Use marketing lunches to introduce referral sources to one another (this is especially useful if you don't have a lot of business you can send these sources – and only applies when referrers are not competitors).

- **Thank referral sources for referrals they send**

- a. Strategy: Attach thank you cards to new file when opened and present to attorney.

- **Refer business to referral sources, whenever possible**

- a. Strategy: Reward referral sources by sending business, whenever possible.

- **Conduct satisfaction interviews to see how well your sources think you are taking care of their referrals**

- a. Strategy: Use your marketing lunches to check-in with referral sources on their perception of your service.

Improve Service to Provide Better Care and Earn More Referrals

- **Make clients feel more welcome and taken care of during each visit to your office**

- a. Strategy: Offer clients a selection of beverages when they arrive.

- **Enhance your level of communication with clients**

- a. Strategy: Each client receives a check-in call on a regular (weekly, monthly) basis.

- **Build more rapport with key clients**

- a. Strategy: At the conclusion of each large case or matter, invite the client out to lunch to get to know him or her better and get feedback on performance.

This list is not exhaustive and represents a mere sampling of initiatives which may or may not reflect your needs. In the final part of this series we'll give sample initiatives for the firm that wants to build its reputation and raise its profile.

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

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

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Cassandra M. HERNANDEZ

5121 Fairfax W.
Lakeland, FL 33813
863-450-5168

Earl I. HIGGS

*Cohen Battisti & Malik,
Attorneys at Law*
1211 Orange Ave., Ste. 200
Winter Park, FL 32789
407-478-4878

Keith J. KANOUSE, JR.

The Tech Law Firm
390 N. Orange Ave., Ste. 2300
Orlando, FL 32801

Valerie L. LIMOGE

Pastoor Limoge, P.A.
37 N. Orange Ave., Ste. 500
Orlando, FL 32801
407-488-1820

James M. MILLER

Law Offices of James M. Miller
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Dale J. PALESCHIC

Dell Graham
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Gainesville, FL 32602
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Ashley M. RIDGEWAY WASHINGTON

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Orlando, FL 32818
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Marvin E. ROOKS

Barry University School of Law
6441 E. Colonial Dr.
Orlando, FL 32807
321-356-6154

Erich E. SCHUTTAUF

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Thakurdin & Associates, P.A.*
7901 Kingspointe Pkwy., Ste. 9
Orlando, FL 32819
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Jo A. SHUMARD

Jo Shumard
408 Turkey Run
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407-927-0767

Joshua T. TILLOTSON

Tillotson Law, P.A.
6735 Conroy Rd.
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Joseph B. TOWNE

Gregory Martin & Associates, P.A.
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Michael A. VALVERDE

Mitchell & Valverde, P.A.
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Associate

Patricia R. FITZGERALD

Patricia R. Fitzgerald, P.L.
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Zach J. MCCORMICK

PO Box 1305
Mt. Dora, FL 32757
352-509-5878

Jeanne A. VAN PELT

*The Law Offices of Jeremy
Thakurdin & Associates, P.A.*
7901 Kingspointe Pkwy., Ste. 9
Orlando, FL 32819
407-574-2300

Affiliate

Heather L. ANDERSON

Starwood Vacation Ownership, Inc.
515 S. Deerwood Ave.
Orlando, FL 32825
407-418-7703

Hugh F. BROCKINGTON II

The Brockington Group
PO Box 1998
Umatilla, FL 32784-1998
352-669-5117

Andrew BUNCHUK

*The Law Offices of Jeremy
Thakurdin & Associates, P.A.*
7901 Kingspointe Pkwy., Ste. 9
Orlando, FL 32819
407-589-0252

Judith FLORES

Orange County Public Schools
1445 W. Amelia St.
Orlando, FL 32801
407-317-3200

Robert L. FRESCHLIN

*Walton Lantaff Schroeder
& Carson, LLP*
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407-425-3250

Michael D. GRAF

Orange County Public Schools
1445 W. Amelia St.
Orlando, FL 32801
407-317-3200

Karen HIGGINS

Law Office of Manuel Socias, P.A.
822 Menendez Ct.
Orlando, FL 32801
407-841-8181

Morgan B. LEA

Orange County Public Schools
1445 W. Amelia St.
Orlando, FL 32801
407-317-3200

Fran Y. ZELLNER

Muller & Sommerville, P.A.
1150 Louisiana Ave., Ste. 2
Winter Park, FL 32789
407-647-8200

Law Student

Erik J. ARROYO

431 E. Central Blvd., #815
Orlando, FL 32801
941-539-8646

Sarah J. BERES

879 Wolfe Brook Terr., Apt. 710
Winter Park, FL 32792
772-708-3333

Paul D. BRILL

677 Jamestown Blvd., Apt. 1041
Altamonte Springs, FL 32714

Matthew C. FREY

7767 Casasia Ct.
Orlando, FL 32835
407-721-6140

Kate S. MILLER

David F. Allen, P.A.
2431 Lee Rd.
Winter Park, FL 32789
407-599-9000

Luciane F. TAVARES

905 Lake Lily Dr., C425
Maitland, FL 32751

Thomas J. VAN FECHTMANN

1301 E. Genesee St.
Syracuse, NY 13210
401-450-9382

Jennifer J. WATSON

10048 Savannah Bluff Ln.
Orlando, FL 32829
216-215-1747

Paralegal Student

Mary M. BRICKER

12030 Pasteur Dr., Apt. 415
Orlando, FL 32826
954-913-3385

Shannon D. GENTRY

895 Lormann Cir.
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Anthony N. GONZALEZ

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Jamie Billotte Moses, Esq. – *Fisher, Rushmer, Werrenrath, Dickson, Talley & Dunlap, P.A.* – Appellate Specialist

Speaking Engagements

Earnest DeLoach, Jr., Esq., Young DeLoach, PLLC, spoke at Gateway High School in Kissimmee, Florida, to an AVID (Advancement Via Individual Determination) class on *Striving for Excellence* on September 14, 2012. He was also the guest speaker at the Hot Topic - The League of Women Voters of Orange County on the topic, *All You Want to Know about Merit Retention and the Amendments*, at the Sorosis Club on October 10, 2012.

Robert Dietz, Esq., shareholder with Zimmerman, Kiser & Sutcliffe, P.A., and committee member of the Workers' Compensation Institute, was a speaker at the 67th Annual Workers' Compensation Educational Conference in Orlando. He presented the topic, *Great Moments in History and the Mediation Techniques Required to Accomplish the Outcome*.

James Edwards, Esq., shareholder with Zimmerman, Kiser & Sutcliffe, P.A., was also a presenter at the 67th Annual Workers' Compensation Educational Conference in Orlando. He presented the topic, *Advanced Mediation Techniques in regard to Online Dispute Resolution*.

Ian L. Gilden, Esq., Ian L. Gilden, P.A., recently presented *Ethical Issues in Electronic Filing and Electronic Service* to the Orange County Bar Association's Estate, Trust and Guardianship Committee.

Joanne Prescott, Esq., shareholder with Zimmerman, Kiser & Sutcliffe, P.A., appeared on the Focus on Ethics and Professionalism panel during the Breakout for Attorneys session at the 67th Annual Workers' Compensation Educational Conference in Orlando. The panel focused on how to address ethical issues with professionalism and avoid potential trouble with the bar association.

Andre T. Young, Esq., Earnest DeLoach, Jr., Esq., and Nikie N. Lomax, Esq., Young DeLoach, PLLC, presented an Estate Planning Workshop in Orlando on August 29, 2012. They spoke on the topic, *Get Your House in Order*, to a group of senior citizens at the Dr. James R. Smith Neighborhood Center. They also facilitated the same workshop, presented by Alpha Kappa Alpha Sorority, Incorporated, the Delta Omicron Omega Chapter, on August 29, 2012.

Andre T. Young, Esq., Young DeLoach, PLLC, spoke to the 1L students at Barry Law School on the topic, *Surviving Law School*, on September 13, 2012.

Events

Nov. 8 – OCBA & Orlando Shakespeare Theater – *RACE*. 6:00 p.m. reception sponsored by Jill S. Schwartz & Associates, P.A.; 7:00 p.m. performance. Lowndes Shakespeare Theater.

Nov. 15 – OCBA Joint Happy Hour. 5:30 p.m.-8:00 p.m. Harry Buffalo (formerly Mojo Bar & Grill). See ad this issue.

Jan. 30 – Annual Winter Wine & Cheese Social. Information TBD.

Seminars

Nov. 12 – *Practical Pointers for Drafting under the New Power of Attorney Statute*. Estate, Guardianship & Trust Committee. 11:45 a.m.-1:00 p.m. OCBA Center. CLE: pending. Speaker: Joseph M. Percopo, Esq. To register, contact: ajparalegal1@aol.com.

Nov. 12 – Social Security Committee Seminar. 12:00 p.m.-2:00 p.m., OCBA Center. For more information, contact Richard Culbertson, Esq. at culbertsonlaw@msn.com.

Nov. 13 – *Tenant Law Update*. Legal Aid Society Lunchtime Training. 12:00 p.m.-1:30 p.m. Marks Street Senior Center, 99 E. Marks St., Orlando, FL 32803. CLE: pending. Speaker: Michael Resnick, Esq. To register, contact: Marilyn Carbo at mcarbo@legalaidocba.org or 407-841-8310 x. 3121.

Nov. 20 – *Practical Tips for Transitioning to a Paperless Office*. Solo & Small Firm Committee. 12:00 p.m.-1:00 p.m. OCBA Center. CLE: pending. Speaker: C. Todd Smith, Esq. To register, contact: ocbasolos@gmail.com.

Dec. 4 – *Special Education Law for Dependency Cases*. Legal Aid Society Lunchtime Training. 12:00 p.m.-1:30 p.m. Marks Street Senior Center, 99 E. Marks St., Orlando, FL 32803. CLE: pending. Speaker: Bethanie Barber, Esq. To register, contact: Marilyn Carbo at mcarbo@legalaidocba.org or 407-841-8310 x. 3121.

Dec. 4 – *U.S. Trademark Registration: The Attorney's Role from Clearance to Renewals*. Seminar co-sponsored by OCBA and LawReview CLE. 9:00 a.m.-12:30 p.m. OCBA Center. CLE: 3.0 pending. Speakers: Courtney M. Dunn, Esq. and James T. Hetz, Esq. Fees: \$75. Free continental breakfast. To register, contact: mariew@ocbanet.org.

Dec. 6 – *The Florida Innocence Commission: A Discussion of Current Law and the Commission's Recommendations*. OCBA Criminal Law Committee in conjunction with the ABA's White Collar Crime Committee. 1:30 p.m.-4:30 p.m. OCBA Center. CLE: pending. Speakers: The Hon. Belvin Perry, Jr.; the Hon. Patricia J. Kelly; R. Alex Acosta, dean FIU College of Law. Moderator: Hank Cox, Esq., former president of The Florida Bar. Fee: \$25 (ABA WDCC Committee members, OCBA members, judges, government attorneys); \$40 all others. Registration deadline and contact person: TBA.

Dec. 10 – *Case Law Update on Estates, Trusts & Guardianships*. Estate, Trust & Guardianship Committee. 2:45 p.m.-4:00 p.m. OCBA Center. CLE: pending. Speaker: David Brennan, Esq. To register, contact: ajparalegal1@aol.com.

Dec. 11 – Immigration Topic: TBA. Legal Aid Society Lunchtime Training. 12:00 p.m.-1:30 p.m. Marks Street Senior Center, 99 E. Marks St., Orlando, FL 32803. CLE: pending. Speaker: Camilla Pachon, Esq. To register, contact: Marilyn Carbo at mcarbo@legalaidocba.org or 407-841-8310 x. 3121.

Dec. 11 – *Everything You Ever Wanted to Know About Litigating a Case in Probate Court*. Seminar co-sponsored by OCBA and LawReview CLE. 9:00 a.m.-12:30 p.m. OCBA Center. CLE: 3.0 pending. Speakers: Alexander S. Douglas, II, Esq.; Russell R. Winer, Esq.; Linda C. Hankins, Esq.; Carla DeLoach Bryant, Esq.; Jason S. Palmisano, Esq. Fees: \$75. Free continental breakfast. To register, contact: mariew@ocbanet.org.

Dec. 19 – *Forensic Examination of Insurance Policies*. Insurance Law Committee. 12:00 p.m.-1:00 p.m. OCBA Center. CLE: pending. Speaker: Dennis Wall, Esq. To register, contact: rich.barry@gray-robinson.com or cshaw@laborlawyers.com.

Jan. 7 – Topic TBA. Legal Aid Society Lunchtime Training. 12:00 p.m.-1:30 p.m. Marks Street Senior Center, 99 E. Marks St., Orlando, FL 32803. For information, contact: Marilyn Carbo at mcarbo@legalaidocba.org or 407-841-8310 x. 3121.

Jan. 10 – *Motions to Dismiss, Motions to Strike, and Motions for Summary Judgment*. Brown Bag Lunch with Judge John Kest. 12:00 p.m.-1:15 p.m. Orange County Courthouse, 23rd Flr. Judicial Conference Room. CLE: 1.5. Please feel free to bring your lunch, and tell security you will be attending the Brown Bag Lunch. Registration requested, but not required. Contact: Diane Iacone at 407-836-0443 or ctjadi1@ocnjcc.org.

Other News

Barry University School of Law – More than 81 percent of Barry University Dwayne O. Andreas School of Law graduates who took The Florida Bar Exam for the first time in July 2012 passed the exam. The 81.7 percent passage rate is the highest in the school's history, topping the previous mark of 80 percent that Barry Law School graduates achieved on the February 2008 exam. It is the fourth highest of the 11 law schools in Florida and above the state average of 80.2 percent.

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

100%

Congratulations to Members of the OCBA's 100% Club

Allen, Norton & Blue, P.A.
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Bodiford Law Group
Bonus McCabe Law Firm
Bull and Associates, P.A.
Burr & Forman LLP
Calandrino Law Firm, P.A.
Camy B. Schwam Wilcox, P.A.
Carr Law Firm, P.A.
Carsten & Ladan, P.A.
Chaires, Brooderson & Guerrero, P.L.
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Colling Gilbert Wright & Carter, LLC
Cullen & Hemphill, P.A.
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Dellecker Wilson King McKenna Ruffier & Sos, LLP
Dewitt Law Firm, P.A.
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Fassett, Anthony & Taylor, P.A.
Fishback, Dominick, Bennett, Stepter, Ardman,
Ahlers & Langley, LLP
Fisher, Rushmer, Werrenrath, Dickson, Talley & Dunlap, P.A.
Frank A. Hamner, P.A.
Frank Family Law Practice
Gregory S. Martin & Associates, P.A.
Grossman & Grossman, P.A.
Harris, Harris, Bauerle & Sharma
Higley & Szabo, P.A.
Hilyard, Bogan & Palmer, P.A.
Infocus Family Law Firm, P.L.
James H. Monroe, P.A.
Kelley, Kronenberg, Gilmartin, Fichtel, Wander,
Bamdas, Eskalyo & Dunbrack, P.A.
King, Blackwell, Zehnder & Wermuth, P.A.
Korshak & Associates, P.A.
Kosto & Rotella, P.A.
Law Offices of Thomas H. Justice III, P.A.
Law Offices of Walter F. Benanati Credit Attorney, P.A.
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Lewis & Crichton, Attorneys at Law
Lynn B. Aust, P.L.
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Mark M. O'Mara, P.A.
Marshall, Dennehey, Warner, Coleman & Goggin, P.A.

McClane Partners, P.A.
McMichen, Cinami & Demps
McMillen Law Firm, P.A.
McShane & McShane Law Firm, P.A.
Men's Divorce Law Firm
Michael R. Walsh, P.A.
Mooney Colvin, P.L.
Morgan, White-Davis & Martinez, P.A.
Murrah, Doyle and Wigle, P.A.
N. Diane Holmes, P.A.
Neduchal & MaGee, P.A.
Nishad Khan, P.L.
Ossinsky & Cathcart, P.A.
Page, Eichenblatt, Bernbaum & Bennett, P.A.
Provencher & Simmons, P.A.
Ringer Henry Buckley & Seacord, P.A.
Rumberger, Kirk & Caldwell, P.A.
Sawyer & Sawyer, PA
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Snure & Ponall, P.A.
Southern Trial Counsel, PLC
Stovash, Case & Tingley, P.A.
Swann Hadley Stump Dietrich & Spears, P.A.
Tangel-Rodriguez & Associates
The Aikin Family Law Group
The Brennan Law Firm
The Carlyle Appellate Law Firm
The Draves Law Firm, P.A.
The Elder Law Center of Kirson & Fuller
The Johnston Law Firm, P.A.
The Llabona Law Group
The Law Offices of Terry L. Bledsoe, P.A.
The Law Offices of Trevett and Bonham, P.L.
The Marks Law Firm, P.A.
The McMahon Law Group, P.A.
The Rosenthal Law Firm, P.A.
The Skambis Law Firm
The Smith Family Law Firm, P.A.
Troutman, Williams, Irvin, Green, & Helms, P.A.
Vose Law Firm, LLC
Warner + Warner, P.L.
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Wieland, Hilado & DeLattre, P.A.
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Wilson McCoy, P.A.
Winderweedle, Haines, Ward & Woodman, P.A.
Wolff, Hill, McFarlin & Herron, P.A.
Wooten, Kimbrough and Normand, P.A.
Yergey and Yergey, P.A.
Young DeLoach, PLLC

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

CLUB

CLASSIFIED ADS

To reply to BRIEFS box number, address as follows:

Briefs Reply Box # _____

c/o Orange County Bar Association,

P.O. Box 530085 • Orlando, FL 32853-0085

EMPLOYMENT

ORLANDO FIRM SEEKS BILINGUAL ATTORNEY

with 3-5 years experience in personal injury including trial experience. Outstanding opportunity to join long established firm with excellent benefits and compensation package. Send resume in confidence to reply box 701.

PLAINTIFFS PERSONAL INJURY FIRM

located in Orlando is seeking an experienced and hardworking attorney to join our growing practice. Position requires a minimum of 3 years' experience handling various types of personal injury, PIP and other first party insurance uses with experience in taking expert depositions, making court appearances including jury trials, and mediations. Highly motivated applicants must have outstanding advocacy and negotiation skills and proficiency at law office computer systems. The firm seeks individuals who are team players, detailed, accomplishment driven, and have a desire to help others. Excellent academic background and proven research and writing skills required. Great opportunity for achievement oriented attorneys to join a successful law firm. Attorney must be plaintiff oriented and an experienced litigator. Must also be a team player, detailed, accomplishment driven, and have a desire to help others. Email resume to Dawn Brown at dbrown@brehnelaw.com.

EXPANDING DOWNTOWN ORLANDO LAW FIRM

has immediate opening for 7+ years experienced insurance defense litigation attorney; PIP a plus. Experience must include taking depositions, mediations, hearings and trial. Candidate must be an excellent writer. Great benefits and competitive base salary commensurate with experience and abilities combined with excellent bonus structure for performance. If you meet the criteria and are interested in joining a dynamic team, send your resume, cover letter and writing sample to insureddefensefirm@yahoo.com.

BOGIN, MUNNS &

MUNNS, an AV rated law firm, with ten offices in Orlando and Central Florida, seeks experienced

real estate attorney for real estate practice, including residential closings. Creative compensation arrangements available with great opportunity for growth and advancement. Send resume in confidence by fax to 407-578-2128 or e-mail to bmm@boginmunns.com.

"AV" RATED ORLANDO LAW FIRM, seeks attorney with seven years experience for its commercial litigation practice. Creative incentive based compensation arrangements available. Reply in confidence to reply box 701.

BOGIN, MUNNS & MUNNS seeks of counsel attorneys: keep your own practice; we provide office, equipment, furniture, and receptionist; some referral work available for health-care, international, securities, elder, social security, disability and veterans law, and other practice areas, with fee sharing arrangement. Send reply in confidence to bmm@boginmunns.com.

AV RATED ORLANDO LAW FIRM seeks attorneys in all practice areas with 200K book of business. Great opportunity to join growing, existing law firm. Send reply in confidence to reply box 701.

AV RATED WINTER PARK Medical Malpractice Defense Firm seeks Associate with 2-5 years' experience. Competitive salary and benefits. Send cover letter, resume and writing sample to Larry Hall, Hill, Adams, Hall & Schieffelin, P.O. Box 1090 Winter Park, FL 32790.

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

THE NATION LAW FIRM is seeking a first party litigator lawyer. Qualified applicants should have at least three years' experience handling first party claims. Please send resume to jobs@nationlaw.com.

OFFICE SPACE SHARED

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

TAMPA BAY AREA - LARGO, Office Sharing and Virtual Office with AV rated commercial litigation firm for attorneys or others with complimentary practice. Two large locking offices, one presently furnished as office and one as conference room, but can change. Four partitioned assistant partitioned desks. Shared conference room and kitchen area. Separate entrance, security system, networked, free parking. Email largoofficespace@yahoo.com or call 727-596-3000 for information or floor plan.

OFFICE SPACE FOR SALE/RENT/LEASE

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

OFFICE BUILDING FOR SALE BY OWNER. Near Downtown and Historic Cherokee District. 224 Annie Street 32806. 1928 2 story remodeled professional building approx. 2400 square feet. Suitable for 4 attorneys plus staff. 8 parking spaces on site. Currently in use as law offices with tenants. \$509,500. Call Ray Barber (407) 841-3900 (w) (407) 257-6996 (c).

DESIRABLE THORNTON PARK LOCATION: OFFICE FOR LEASE. Next to Orlando's Eola Park. Attorney's office, large,

lovely, windowed, adjacent assistant's work area. Charming historic two story. Call for additional info. CAROL 407-423-1066. carol@defenselaw.net. 609 E. CENTRAL BLVD. William J. Sheaffer, P.A.

COLONIALTOWN OFFICE: 1,438 sq. ft., Former law office includes 3 offices plus secretarial areas; large reception area with hardwood floors, wall to wall built in bookcase, sky lights, and foyer; full kitchen. Backyard includes private courtyard, pool and elaborate landscaping. Minutes from courthouse. Call Ed Gay at 407-578-1334, ext. 292.

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

PROFESSIONAL SPACE AVAILABLE for lease at 1604 S. Bumby Avenue, Orlando, Florida 32806. Office is 384 square ft., fully tiled and well lit. Access to adjacent conference room. Excellent location close to downtown. \$595.00/month.

OFFICE SUITE AVAILABLE IN SCENIC CARRIAGE HOUSE downtown near the intersection of Lucerne and Orange. This suite of 4 offices and central reception area, while convenient to I-4, 408, the courthouse, and hospitals is in a quiet setting which includes parking and optional uses of a conference room, break area, and copy/file/supply room. Ideal for small law practice or business. Great location with friendly people all around! Contact John Parrell at 407-386-1900. There is room for an assistant and/or law clerk if desired (extra rent will apply).

FREE STANDING RENOVATED OFFICE BUILDING DOWNTOWN ORLANDO. Three offices, plus reception, conference, lunch, & work rooms, 2 baths, ADA compliant. \$1,800 plus tax, yard maintenance included. Details & photos at www.1239MountVernonStreet.com 407-426-8000.

OCBA Calendar

NOVEMBER 2012 - JANUARY 2013

OCBA Luncheon

Sponsored by BMO Harris Bank

Dr. James A. Beckman, Chair

UCF Dept. of Legal Studies

November 29, 2012 • 11:30 a.m. - 1:00 p.m.

The Ballroom at Church Street

RSVP by November 21, 2012

reservations@ocbanet.org

November

- 6 Professionalism Committee**
12:00 p.m. • Bar Center
- 7 LAS Breakfast of Champions**
7:30 a.m. • The Ballroom at Church Street
- Business Law Committee**
12:00 p.m. • Bar Center
- 8 Social Security Committee**
12:00 p.m. • Bar Center
- OCBA and Shakespeare Theater "RACE"**
6:00 p.m. • Orlando Shakespeare Theater
- 9 ADR Committee**
12:00 p.m. • Bar Center
- 12 Estate, Guardianship & Trust Committee Seminar**
Practice Pointers for Drafting under the New Power of Attorney Statute
11:45 a.m. • Bar Center
- Social Security Committee Seminar**
12:00 p.m. • Bar Center
- 13 LAS Lunchtime Training**
Tenant Law Update
12:00 p.m. • Marks Street Senior Center
- 14 Elder Law Committee**
12:00 p.m. • Bar Center
- Judicial Relations Committee**
12:00 p.m. • Orange County Courthouse,
21st Flr. Conf. Rm.
- Lawyers Literary Society**
12:00 p.m. • Bar Center
- Executive Council Meeting**
4:30 p.m. • Bar Center
- 15 Technology Committee**
12:00 p.m. • Bar Center
- OCBA Joint Happy Hour**
5:30 p.m. • Harry Buffalo
(formerly Mojo Bar & Grill)
- 16 YLS Luncheon**
11:40 a.m. • Citrus Club
- Family Law Committee**
12:00 p.m. • Bar Center
- 20 Solo & Small Firm Committee Seminar**
Paperless Office and Mobile Computing
12:00 p.m. • Bar Center

- 21 Insurance Law Committee**
12:00 p.m. • Bar Center
- 22 & 23 OCBA Office Closed**
Thanksgiving Holiday
- 27 Tax Law Committee**
12:00 p.m. • Bar Center
- Appellate Practice Committee**
12:00 p.m. • Bar Center
- 29 OCBA Luncheon**
Dr. James A. Beckman
Chair, UCF Legal Studies
11:30 a.m. • The Ballroom at Church Street
- 30 Bankruptcy Law Committee**
12:00 p.m. • Bar Center

December

- 4 Social Committee**
11:45 a.m. • Rusty Spoon
- LAS Lunchtime Training**
Special Education Law for Dependency Cases
12:00 p.m. • Marks Street Senior Center
- Professionalism Committee**
12:00 p.m. • Bar Center
- LawReview CLE Seminar**
U.S. Trademark Registration: The Attorney's Role from Clearance to Renewals
9:00 a.m. • Bar Center
- 5 Business Law Committee**
12:00 p.m. • Bar Center
- 6 Criminal Law Committee**
The Florida Innocence Commission: A Discussion of Current Law and the Commission's Recommendations
1:30 p.m. • Bar Center
- 7 ADR Committee**
12:00 p.m. • Bar Center
- 10 Estate, Guardianship & Trust Committee**
Case Law Update on Estates, Trusts & Guardianships
2:45 p.m. • Bar Center
- 11 LAS Lunchtime Training**
12:00 p.m. • Marks Street Senior Center
- LawReview CLE Seminar**
Everything You Ever Wanted to Know About Litigating a Case in Probate Court
9:00 a.m. • Bar Center

- 12 Insurance Law Committee**
12:00 p.m. • Bar Center
- 13 Social Security Committee**
12:00 p.m. • Bar Center
- 18 Solo & Small Firm Committee**
12:00 p.m. • Bar Center
- 19 Elder Law Committee**
12:00 p.m. • Bar Center

Insurance Law Committee Seminar
Forensic Examination of Insurance Policies
12:00 p.m. • Bar Center

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

- 21 Family Law Committee**
12:00 p.m. • Bar Center

24-28 OCBA Office Closed
for the Holidays!

January 2013

- 7 LAS Lunchtime Training**
12:00 p.m. • Marks Street Senior Center
- 10 Brown Bag Lunch with Judge J. Kest**
Motions to Dismiss, Motions to Strike and Motions for Summary Judgment
12:00 p.m. • Orange County Courthouse
23rd Flr. Judicial Conference Rm.
- 18 YLS Luncheon**
11:40 a.m. • Citrus Club
- 24 OCBA Luncheon**
11:30 a.m. • Ballroom at Church Street
- 30 OCBA Winter Wine & Cheese Social**
TBD

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