

the Briefs

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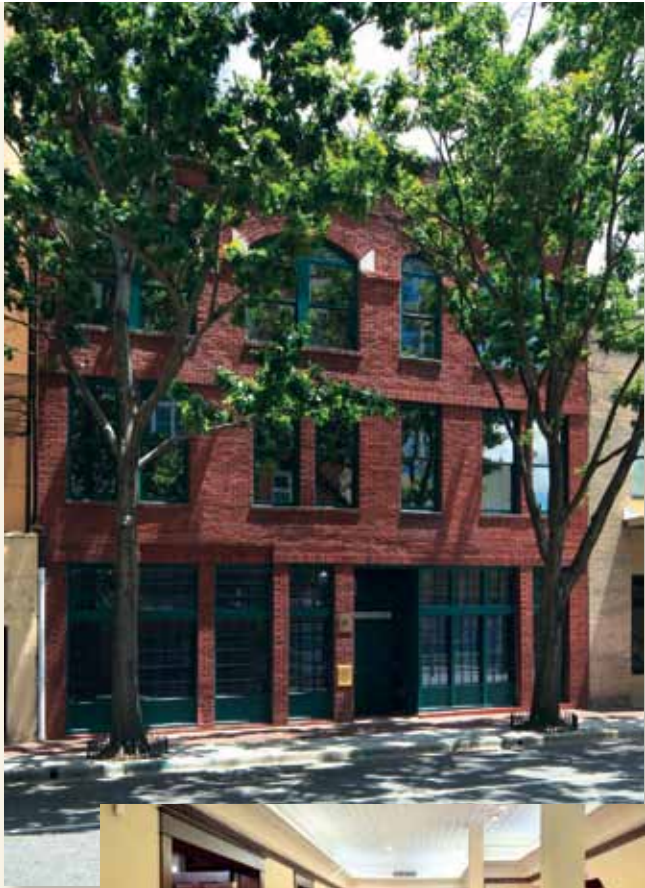
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Advertising – 10th of the month prior to the month of publication

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

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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President's Message

October 2014



Nicholas A. Shannin, Esq.

Interconnectivity: Bar and Government

GOVAHMENT. That's the way it's pronounced in Massachusetts, site of so many of our building blocks of liberty. It's also where this year's ABA convention was, hence my picture in front of the Old State House. This fascinating building was the headquarters first for the sitting governors from England, then the headquarters for the rabble-rousers-turned-patriots, and after that the place from which the state government met and conducted its day-to-day governance. No offense to our lovely capitol building in Tally, but it's hard to beat the history of "first reading of the Declaration of Independence came from that balcony" when you are remembering the importance of our role in government and the government's role in what we do.

Which brings me to my message in my continuing series on connections. Our bar is not and should not be completely independent of the working mechanisms of our governing bodies. Many of us serve our professions by assisting governmental bodies at the local, state, or national levels. Others serve our elected officials directly; behind every great mayor is a great city or county attorney! And there are still others who have received the call to serve the people by being what is a crucial component of any legislative body, the lawyer-legislator.

Lawyer-legislators are crucial for many reasons, but foremost amongst them are two. First, the craft of statutory interpretation is one for which we lawyers have been trained, and whether litigators or transactional attorneys, the parsing of a phrase or the nuanced placement of a comma is a specialized skill we have acquired. The second, and still more important reason, is this: to protect the Rule of Law. We have a third and co-equal branch, true, which I will turn to momentarily. But if another branch starts to encroach on the independence of the judiciary, we will be in the proverbial handbasket headed down quickly.

Florida's newest Chief Justice of the Florida Supreme Court, the Honorable Jorge Labarga, pro-

Protect the third branch

Supporting the rule of law

Come Election Day!

vided a rousing speech about a constitution that promised freedom, liberty, and rights to every citizen. A constitution anyone would be proud of.

That constitution: The 1940 Constitution of Cuba. His point: A constitution is nothing but a piece of paper unless judges and lawyers exist to uphold those rights. A strong and independent judiciary is the most patriotic of all governmental concepts to foster, and the most necessary to truly protect those freedoms included in our revered document from 1787.

Two of our state senators are members of the OCBA, lawyer-legislators who have both been thanked by our bar for their service to this very principle. When a movement borne of uncertain motives was crafted that had the potential to rend our Florida Supreme Court in half, Senator David Simmons (R) joined Senator Darren Soto (D) in a critical vote that stemmed the tide and prevented what could have been irreparable harm to our independent judiciary. These two senators more recently reached again across the aisle to assist law school graduate, Eagle Scout, and bar-exam-passer Jose Godinez-Samperio, Esq. become a member of our state bar, overcoming his one obstacle: His parents had not been legal immigrants when they arrived with their nine-year-old son. Senator Soto introduced the amendment to the floor, and Senator Simmons supported Senator Soto, explaining that "the predicate of this is not only compassion. It's justice. We can go ahead and do justice here, today in this session for not only this person but others similarly situated."

Doing justice. It's the job of the judicial branch, always. But it should be the job of the legislative branch as well. Here, two of our own proved why the phrase "lawyer-legislator" can mean more than the sum of its parts. When lawyer-legislators fight for strengthening the independence of our judiciary and fight for justice and due process, we all win. November 4 is Election Day – protect the Rule of Law that protects you. VOTE!

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





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OCBA Luncheon Thursday, October 16, 2014



George Sheldon, Esq.

Florida Attorney General Candidate

George Sheldon, Esq., is a lifelong public servant who has dedicated his career to improving the lives of Floridians.

Mr. Sheldon's public service career began in 1974 when he was elected to the Florida House of Representatives. He advocated for increased consumer protection, better health care, environmental protection, and children's issues. In 1977, he opposed legislation banning gay marriage and adoption. He believes in equal rights for all Floridians.

In 1999, Mr. Sheldon was appointed Deputy Attorney General for Central Florida by Bob Butterworth, Esq. Mr. Sheldon focused on civil rights, deceptive trade practices, Medicaid fraud, and white-collar crime.

After serving as an associate dean at St. Thomas Law School, in 2008, Mr. Sheldon was appointed Secretary of the Florida Department of Children and Families. He completely transformed DCF from its "beleaguered past" into what Governor Rick Scott's transition team called "the best run agency in state government."

In 2011, Mr. Sheldon was named Acting Assistant Secretary of the U.S. Department of Health and Human Services for the Agency for Children and Families. He led the development of the first national plan to assist victims of human trafficking and sexual exploitation.

On October 21, 2013, Mr. Sheldon announced he was seeking the Democratic nomination to be Attorney General.

Please note: Attorney General Pam Bondi, Esq., has been invited but has not to date been able to confirm attendance. Speaker list is subject to change.

The Ballroom at Church Street

11:30 a.m. - 1:00 p.m.
225 S. Garland Avenue • Orlando, FL 32801

Please RSVP by Friday, October 10, 2014
RSVPs will not be accepted after October 10, 2014

RSVP through the OCBA Store
at www.orangecountybar.org/store

CANCELLATIONS must be received no later than
October 10, 2014.

To cancel, contact Marie West
at mariew@ocbanet.org.

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Carrie Ann Wozniak, Esq.

2014 OCBA Professionalism Award Nominations

The OCBA and Ninth Circuit Professionalism Committee's purpose is to foster and encourage professionalism and civility in the practice of law through continuing legal education, law school outreach, articles in *The Briefs*, and participation on the Ninth Judicial Circuit Professionalism Panel. Now is the time of year when we begin the process to recognize those who serve as models of professionalism and civility, those whom other practitioners should emulate.

Based on increased nominations and the success of the more in-depth review process we instituted last year, the nominating process will begin and end at the same time as last year. The shortened nomination forms are also the same as last year's forms and can be downloaded from the OCBA website. We recognize three individuals each year with the following awards:

The **William Trickel, Jr. Professionalism Award** recognizes a practicing attorney whose conduct and career stands as a model of success built on unquestioned professionalism. The award is given to an attorney who has practiced law fifteen or more years in any type of practice. Nominees must possess the following attributes: currently practicing law, career service, service to the community, service to the profession, consistently ethical conduct, courteous demeanor, high moral standards, and professional behavior that transcends mere ethical standards and rules.

The **Lawrence G. Mathews, Jr. Young Lawyer Professionalism Award** recognizes a practicing attorney whose conduct and career stands as a

model of success built on unquestioned professionalism. The award is given to an attorney who has practiced law less than fifteen years in any type of practice. Nominees must possess the following attributes: currently practicing law, career service, service to the community, service to the profession, consistently ethical conduct, courteous demeanor, high moral standards, and professional behavior that transcends mere ethical standards and rules.

The **James G. Glazebrook Memorial Bar Service Award** recognizes a state or federal judge (including state magistrates, county court judges, circuit judges, appellate judges, federal magistrates, district court judges, and bankruptcy court judges) who serves Orange County or hears cases in a district which includes Orange County, who best embodies the following characteristics: (a) service to and support for the legal profession and/or the Orange County Bar Association and/or the Legal Aid Society of the OCBA; (b) dedication to professionalism, both in and out of the courtroom; and (c) leadership in promoting the qualities that heighten professionalism, including civility, integrity, and respect for our system of justice.

All nominations must be received by **October 31, 2014**. If you would like to nominate an individual for one of these prestigious awards, please go to the OCBA website or contact Kim Homer, Esq. at 407-422-4551 to obtain a nomination form.

Carrie Ann Wozniak, Esq., Akerman, LLP, is chair of the OCBA Professionalism Committee and co-editor of *The Briefs*. She has been a member of the OCBA since 2007.

Professionalism Award Nominations Sought

2015 Awards

The OCBA Professionalism Committee is now accepting nominations for the

William Trickel, Jr. Professionalism Award
(attorney practicing 15 years or more)

Lawrence G. Mathews, Jr. Young Lawyer Professionalism Award
(attorney practicing less than 15 years)

James G. Glazebrook Memorial Bar Service Award
(state or federal jurist)

These awards are the most prestigious awards presented by the OCBA each year. Recipients must be individuals whose conduct and career stands as a model of success built on unquestioned professionalism, service, civility, integrity, and respect for the legal system.

Please consider nominating candidates who are worthy of the honor. Nominating petitions are available on the OCBA website homepage and at the OCBA office.

Nominating petitions are due in the OCBA office by 5:00 p.m., Friday, October 31, 2014.

If you have any questions, please contact Kim Homer, Esq., Interim Executive Director, at 407-422-4551.

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Tips on Filing through the E-Portal

Filings through the Florida Courts E-Filing Portal continue to go well. The numbers tell the story of just how far we've come.

Since 2013, when the Florida Supreme Court mandated that initial cases and subsequent pleadings be filed through the portal in Civil, Family, Probate, and Mental Health cases, in Orange County alone:

- 64,076 new cases have been filed
- 7,331,988 documents have been filed

These numbers, of course, include the subsequent pleadings filed through the portal in Criminal, Traffic, and Juvenile cases, which became mandatory in October 2013.

While the portal is a success, here are some reminders to help make the system work as efficiently as possible.

Formatting Requirements, as defined by RJA 2.520

- 8.5 x 11 inches
- Portrait orientation
- 300 DPI, for a scanned document
- Black and white, for a scanned document
- 3 x 3 inch space at the top right-hand corner on the first page
- 1 x 3 inch space at the top right-hand corner on each subsequent page

- 1 inch margin
- Do not password-protect your documents
- Also very important: Please sign in black ink for proper transmission.

Dedicated Law Office Phone Line Hits 4,000 Calls

One of the first things Orange County Clerk of Courts Eddie Fernández did in office was to dedicate a phone line in our call center to attorneys and their staff.

The move was in response to early feedback about how difficult it could be to get through to someone at the clerk's office. It's been a great success, with the number of calls trending to hit the 5,000 mark by October. Even better, as the number of calls increases, the wait time remains less than 2 minutes.

To access the line, dial 407-836-2000, then choose Option 9.

Eddie encourages law offices to take advantage of the line. "I'm delighted that it has been such a success," he said. "Please continue to share feedback with me so we can continue to improve our customer service."

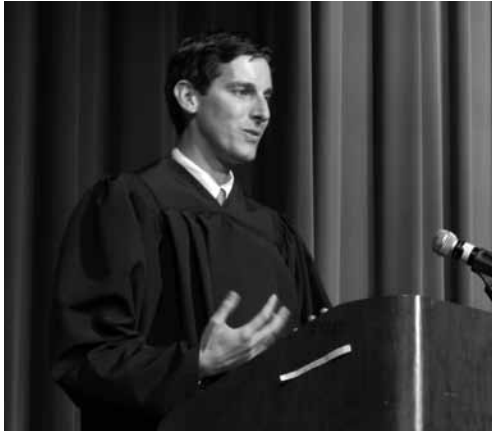
Submitted by **Leesa Bainbridge**, Director of Communications and Public Affairs, Clerk of Courts office.

Robert Mansbach Lawyers' Literary Society Reading List

Date	Author	Book	Discussion Leader
October 8, 2014	Charles Dickens	<i>Martin Chuzzlewit</i>	Dennis Wall, Esq.
November 12, 2014	F. Scott Fitzgerald	<i>The Great Gatsby</i>	Susan Bausch, Esq.
December 10, 2014	Franz Kafka	<i>The Trial</i>	Kim Ashby, Esq.
January 7, 2015	James McBride	<i>The Good Lord Bird</i>	Dotty Green, Esq.
February 11, 2015	Joseph Heller	<i>Catch-22</i>	Scott Willick, Esq.
March 11, 2015	Ann Leckie	<i>Ancillary Justice</i>	Robert Hoofman, Esq.
April 8, 2015	W. Bruce Cameron	<i>A Dog's Purpose</i>	Terri Bledsoe, Esq.
May 13, 2015	JoJo Moyes	<i>Me Before You</i>	Stuart Bernstein
June 10, 2015	Douglas Adams	<i>Hitchhiker's Guide to the Galaxy</i>	Anna Palmer Darkes, Esq.

Judicial Investitures: The Hon. Daniel E. Traver, The Hon. Greg A. Tynan, The Hon. Tanya Davis Wilson

The Honorable Daniel E. Traver, the Honorable Greg A. Tynan, and the Honorable Tanya Davis Wilson were invested in the Ninth Judicial Circuit Court on August 1, 2014, at a ceremony held at the James W. "Chief" Wilson Auditorium at Jones High School in Orlando, Florida.



The Honorable
Daniel E. Traver

The investiture ceremony commenced with a call to order by Rey Rivero, undersheriff of the Orange County Sheriff's Office, and the Pledge of Allegiance led by Nico Picaud, Taylor and Reagan Tynan, and Connor J. Wilson. The Rev. Freddie Davis, Beulah First Baptist Church of Fort Walton Beach, Florida, gave the invocation.

The Honorable Belvin Perry, Jr., then chief judge of the circuit court, gave opening remarks and introduced the dignitaries. Presentations were



The Honorable
Greg A. Tynan

made by the Conference of Circuit Court Judges by the Honorable Alan Apte; the Conference of County Court Judges by the Honorable Steve Jewett; the Clerk of Circuit and County Courts of Orange County by the Honorable Eddie Fernandez; the Clerk of Circuit and County Courts of Osceola County by the Honorable Armando Ramirez; and the Orange County Bar Association by Nicholas A. Shannin, Esq., president. Many other bar associations, Inns of Court, and law-related organizations were acknowledged.

Judge Traver, sworn in to the circuit court, received his Juris Doctor from Loyola University Chicago School of Law and his bachelor of arts from Cornell University. He is a member of The Florida Bar and The Illinois Bar.

He was introduced by Trevor Arnold, Esq., and Rachael Crews, Esq. The oath was given by the Honorable John A. Antoon, II, Senior U.S. District Court, Middle District of Florida, Orlando Division, and the enrobing was performed by Jill and Arthur Traver.

Judge Tynan, sworn in to the circuit court, received his Juris Doctor from Nova Southeastern University in 1995 and his bachelor of arts from the University of Central Florida in 1992. He served as a county judge in the Ninth Judicial Circuit from 2012 to 2014. Judge Tynan is a member of The Florida Bar and the Orange County Bar Association. He was introduced by Steven K. Foster, Esq. The oath was given by the Honorable Wilfredo Martinez, Ninth Judicial Circuit, and the enrobing was performed by Erin DeYoung, Taylor and Reagan Tynan, and Ken and Kay Tynan.

Judge Wilson, sworn in to the county court, received her Juris Doctor from the University of Florida College of Law in 1995 and a bachelor's degree from the University of Florida in 1990. She is a member of The Florida Bar, is a lecturer at Valencia State College's Law Enforcement Academy, and is an officer for the organization, For the Kids, Inc. Judge Wilson was introduced by the Honorable John A. Antoon, II, Senior U.S. District Court, Middle District of Florida, Orlando Division. The oath was given by the Honorable Belvin Perry, Jr., then chief judge of the Ninth Judicial Circuit. The enrobing was performed by Arthur Wilson, Jr., Connor J. Wilson; Kayla Wilson; Rev. Freddie Davis; Eunice Davis; and Wanda Davis.

Roger B. Handberg, Assistant U.S. Attorney, gave the benediction, and court was closed by Judge Perry. A reception followed the investiture ceremony.



The Honorable
Tanya Davis Wilson



Richard A. Culbertson, Esq.

One Example of How the Social Security Disability System and the Social Security Act Save Us Taxpayers and the Government Money

Bartending is all she knows. She never earned a lot, but she survived. Diane was in her 50s now and the hip pain (arthritis) and shortness of breath (COPD) slowed her down. It wasn't easy being on her feet so much. She had to rest and catch her breath whenever she had to carry a case of beer or a bucket of ice, but she did enjoy talking to the customers. She wished she hadn't dropped out of school all those years ago.

She kept pushing herself. The pain was always there. It was getting worse and often stopped her in her tracks. She was always tired and had to rest more than she worked. Her medications made it worse. She spilled a lot of drinks and dropped a lot of glasses. Her boss was nice enough, but it was obvious she was becoming a burden to him. She worried what would become of her.

Finally, her doctor told her she had to stop working. Her fifty-nine-year-old joints were constantly inflamed, and the persistent coughing and hacking weren't helping. She knew he was right, but she was scared. She spent her whole life trying to get by. She never had the luxury of getting ahead. She did not have an IRA or a 401k. She had a hard enough time just paying her bills each month with what she received from her minimal wage and tips. How would she survive on nothing? Her sister told her she would try to help, but she had her own responsibilities.

Her doctor suggested she apply for disability benefits and she took his advice. She hadn't paid enough FICA taxes to be eligible for Social Security Disability, so she applied for Supplemental Security Income (SSI) which is a federal program for destitute disabled people in her circumstances. The government workers who processed her claim agreed that she was destitute. They acknowledged she had severe arthritis, severe COPD, diabetes, major depression, panic disorder, and involuntary muscle jerks caused by her medications. Nevertheless, they decided she was not disabled and denied her claim.

Diane appealed the denial of her claim, and an administrative hearing was scheduled two and a half years after her original application was filed. Each day was worse. She couldn't get the Medicaid that would come with the disability benefits, and she lived in a state that declined to implement the expanded Medicaid funded under the Affordable Care Act that would have provided ongoing treatment. So her progressive conditions

progressed unimpeded. The stress of surviving each day combined with a future of more of the same made her more and more depressed. Having to beg and borrow to get by was humiliating. Seeing what a burden she was to her sister only made her sadder. There wasn't an ounce of happiness in her life during those thirty months.

Diane hired an attorney to represent her at the hearing. He tried to be encouraging. He explained that nationwide, Social Security judges found that most of the people who appeal their denied claims are disabled within the meaning of the law. He did not have the heart to tell her that her case was assigned to an administrative judge who was well known for denying claims that any other judge would approve. He did explain to Diane that the doctor she was able to see when her sister could lend her the money provided an expert medical opinion that showed she was disabled. The only evidence against her was from non-practicing doctors hired by Social Security who had never even seen her.

Diane cried when she found out the Social Security judge denied her claim. She cried a lot. It was no consolation that her attorney promised to appeal her case.

A little more than two years later, the Social Security Appeals Council found that the administrative judge had not followed the law, and the denial of benefits four and a half years earlier was not supported by the evidence. Most of the time the appeals council would send the case back and order the judge to schedule another administrative hearing. Mercifully, the appeals council found that the evidence was so strong and the judicial errors so blatant that there was no legitimate basis for a finding that Diane was not disabled. They reversed the administrative judge's decision and ordered the payment of benefits.

At this point you may be thinking Diane's story is going to have a happy ending. If so, you must not have much experience dealing with the government. Up to this point, the law was on Diane's side. She clearly met the legal criteria for disability benefits. It was the system set up by the Commissioner of Social Security that took four and a half years. Unbeknownst to Diane, the law would now conspire with the system to make things worse. Yes, worse.

By this time, Diane's condition had worsened significantly. She knew now she was dying. She

didn't have time to feel vindicated by the appeals council's decision. At the rate of \$674 per month,¹ she was entitled to \$36,396 in retroactive benefits. That would not make up for the deterioration of her condition caused by her lack of treatment. It would not come close to offsetting four and a half years of stress, suffering, and humiliation, but it would give her something to settle her affairs and pay her funeral expenses. The government then proceeded to use three laws to cut Diane's benefits to \$2,022 or the equivalent of \$37.44 per month for fifty-four months. They used those three provisions of the Social Security Act to keep the remaining \$34,374.

The one-third reduction rule. The purpose of SSI is to provide disabled people with some income for "food, clothing, and shelter." If someone else helps pay for the disabled person's expenses, then the government will reduce the monthly payment by one-third.² In Diane's case, the government reduced her retroactive benefits by one-third, to \$12,132, because she had to get help from her sister to pay for her food and shelter. It did not matter that the only reason Diane needed help was the government's wrongful denial of her disability benefits. It did not matter that Diane needed to pay her sister back. Diane's retroactive benefits were cut from \$36,396 to \$24,264.

The delayed payment of retroactive benefits rule. Whenever the government owes more than three months' worth of retroactive SSI benefits, they will not pay them all at once.³ They will only pay three months of the amount due at the time they establish the amount of the retroactive benefits. They will pay another three months' worth of benefits six months later, and the remaining amount due six months after that. Even though Social Security owed Diane \$24,264 after the one-third reduction, they only paid her three months' worth of benefits: \$2,022. She had to wait six months for another \$2,022 and a full year for the remaining \$20,220.

Diane received her first installment of \$2,022 fifty-seven months after she filed her application. The money went quickly to pay

a small part of the debts and obligations she had accumulated during that time. Diane did not live long enough to receive the second installment.

The nonpayment of benefits after the claimant dies rule. Diane's attorney received a call from her sister about five months after the first installment was paid. She let him know about Diane's passing and asked whether there was any way the second installment could be used to help with Diane's funeral expenses. Unfortunately, Social Security will only pay past-due SSI benefits to the surviving spouse of an adult recipient who lived with the recipient within six months of her death.⁴ Diane was unmarried when she died. The government would not pay any of the remaining \$22,242 they owed Diane. They would not pay her sister who helped her through her ordeal. They would not pay her estate. They would not pay any of her funeral expenses. They would not even pay the \$255 most people get because she had not paid enough FICA taxes. Diane's sister understood the law is the law. When you practice Social Security law, you see the government cause people and their families a lot of hardship and misery. Most of the time, they stop after the person dies.

The Social Security disability determination system is designed to result in a lot of appeals to administrative judges and the appeals council. In Diane's case, the Social Security Act provisions worked exactly as intended. They saved us taxpayers and the government a lot of money – \$34,374 to be exact.

Richard A. Culbertson, Esq., Law Office of Richard A. Culbertson, is the chair of the OCBA Social Security Committee. He has been a member of the OCBA since 1980.

¹Cost of living increases since that time has increased the monthly benefit level to \$721.

²See 42 U.S.C. § 1382a(a)(2)(A)

³See 42 U.S.C. § 1383(a)(10)(A) and (B)

⁴See 42 U.S.C. § 1383b(1)(A)



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Bradford B. Petrino, Esq.

Constructive Criticism: District Courts Should Harmonize Decisions on Service of Process by Publication – Part 1

Your clients are the owners of a lovely waterfront property that they purchased at a bargain price from a judicial sale following a foreclosure. They seek your counsel because they were just served with a motion for relief from judgment¹ alleging that the foreclosure judgment was void because the plaintiff failed to perfect service of process by publication (more formally known as “constructive service”). The defendants claim that because service of process was invalid, the court never obtained jurisdiction over them and the entire foreclosure proceedings were void *ab initio*, including your clients’ purchase of the property.

The following undisputed facts were presented at an evidentiary hearing:

1. The property was not the defendants’ residence and was vacant while the foreclosure action was pending.
2. The plaintiff searched vehicle registration and driver’s license records available from the Florida Department of Highway Safety and Motor Vehicles (DMV), by which the plaintiff learned the correct address where the defendants resided.
3. The plaintiff twice unsuccessfully attempted to effect personal service of process at the defendants’ residence. The process server noted on the return of service that the house was vacant. At the evidentiary hearing, however, the process server admitted that at the time he attempted service the house was fully furnished.
4. The sworn statement filed in support of service by publication alleged that a diligent search and inquiry were made to discover the name and address of the defendants, set forth the name of the defendants and that they are over the age of 18, and *falsely* stated that the residence of the defendants was unknown. The affidavit also described the diligent search and inquiry that was performed, which consisted exclusively of the DMV search and the two attempts at personal service.
5. Finally, the defendants testified that they had no actual knowledge of the foreclosure until after the time to appeal had expired.

Introduction

Proper service of process is a fundamental aspect of civil procedure. If not perfected, the trial

court lacks jurisdiction over the adverse party to the action.² Moreover, the statutes setting forth the various procedures for service are always to be strictly construed by the court.³ If a litigant’s attempt at constructive service is imperfect, the effect upon the underlying litigation varies depending upon the nature of the flaw – which is especially critical as applied to the above example. If the sworn statement is defective “on its face,” then any judgment rendered is void; if the sworn statement is sufficient on its face, but some other aspect of service was deficient, such as the sufficiency of the search performed, then the judgment is merely voidable.⁴ This distinction between void and voidable judgments is substantial: A void judgment unwinds all subsequent transactions no matter how distant in time from the underlying proceeding.⁵ A judgment which is voidable only defeats some subsequent transactions, but not the title of a *bona fide* purchaser for value without notice.⁶

Therefore, the first part of this two-part article will illustrate how the Third, Fourth, and Fifth District courts have reached conflicting applications of the statute, and will briefly review the statutory requirements for constructive service of process. The second part will more closely examine how the major opinions of the district courts have diverged.

District Courts Apply Conflicting Precedent to Our Example

If this hypothetical case was being litigated in the Third District, the trial court should follow the precedent set by *Castro v. The Charter Club, Inc.* It should review the sworn statement, the record, and the evidence taken. Because the affidavit contains a false statement and insufficiently describes a diligent search, the trial court would conclude that the affidavit was not facially sufficient, so the trial court never obtained jurisdiction over the defendants and the final judgment was void.⁷

Geography makes a big difference, though. If this hypothetical case was pending in the Fourth District, the trial court should follow *Demars v. Village of Sandalwood Lakes Homeowners Association, Inc.* *Demars* held that, for a sworn statement to be facially sufficient, it must merely recite the statutory elements for constructive service of process regardless whether the affidavit was true, false, fraudulent, or contradicted by other parts of the record. So, in our example, the Fourth District would conclude that the judgment is not void.⁸

The Fourth District, however, reached a different result from *Demars* in its earlier opinion in *Gans v. Heathgate-Sunflower Homeowners Association, Inc.* *Gans* held that an affidavit is deficient on its face if it stated falsely that the defendant's residence was unknown.⁹ *Gans*, like *Castro*, would conclude that no jurisdiction was obtained and that the final judgment is void.¹⁰

Finally, the Fifth District agrees with the Fourth District even when the Fourth District does not agree with itself. The Fifth District's opinion in *Shepherd v. Deutsche Bank Trust Co. Americas* concurred with *Demars* that an affidavit is facially sufficient if it accurately recites the statutory elements, but (in the same opinion) concluded that the final judgment was still void because the defendants received no actual notice of the foreclosure.¹¹ In *Godsell v. United Guaranty Residential Insurance*, the Fifth District cited to *Demars* to support the proposition that an affidavit is valid on its face if it merely alleged compliance with the statutory requirements, but it relied on *Gans* to conclude that the false statement that the defendant's residence was unknown (which was part of the record but *not* apparent on the face of the affidavit) rendered it facially deficient.¹²

Given these inconsistent decisions, a trial court may:

A. Follow *Castro* and conclude that the sworn statement was deficient on its face because the search described was not diligent enough, that the judgment was void, and that your clients lose their home;

B. Follow *Demars* and conclude that the sworn statement was adequate because it alleged the statutory elements

without regard to the truth of the allegations, that the judgment was only voidable, and that your clients keep their home;

C. Follow *Gans* and conclude that the sworn statement was deficient on its face because the allegation that the residence was unknown was false, that the judgment was void, and that your clients lose their home;

D. Follow *Shepherd* and conclude that the sworn statement was sufficient on its face per *Demars*, but conclude that the judgment was nevertheless void because defendants never received actual notice of the proceedings; or,

E. Follow *Godsell* and cite *Demars* for the proposition that a sworn statement must merely allege statutory compliance to be sufficient, and then cite *Gans* to conclude that this sworn statement was deficient on its face because one allegation was revealed to be false, thereby rendering the judgment void.

The example illustrates the lack of consensus among the Florida District Courts of Appeal regarding the fundamental civil right of due process as applied in the context of constructive service. None of the district courts has explicitly acknowledged the conflict, despite some opinions even citing conflicting cases together.¹³ Moreover, this situation is a stark contrast to the seemingly straightforward procedures for constructive service set forth in Chapter 49, Florida Statutes.

The Statutory Prerequisites of Constructive Service

The constructive service statute is applicable to fifteen different types of actions.¹⁴

The three subsections most relevant to real property actions are (1) "to enforce any legal or equitable lien or claim to any title or interest in real or personal property within the jurisdiction of the court...;" (2) "to quiet title or remove any encumbrance, lien, or cloud on the title to any real or personal property within the jurisdiction of the court...;" and (3), "to partition real or personal property within the jurisdiction of the court."¹⁵ The statute does not limit the type of party (e.g., natural, corporate, etc.) upon whom constructive service is permitted.¹⁶

Next, the statute requires a "diligent search and inquiry" to discover the name and address of the adverse party.¹⁷ This is an especially critical step not only because there is a requirement to file a sworn statement affirming so, but also because the statute only allows service by publication if personal service "cannot be had."¹⁸ The standard for what constitutes a sufficiently diligent search has remained unchanged for almost 90 years as stated by the Florida Supreme Court:

The test, however, is not whether it was in fact possible to effect personal service in a given case, but whether the complainant reasonably employed knowledge at his command, made diligent inquiry, and exerted an honest and conscientious effort, appropriate to the circumstances, to acquire the information necessary to enable him to effect personal service on the defendant.¹⁹

Later in the opinion, the court also explained:

Reasonable diligence in such matters is an honest effort, — and one appropriate

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continued from page 13

ate to the circumstances, – to ascertain whether actual notice may be given, and if so to give it. Such effort, however, need not embrace a search in remote parts of the State..., and it is not essential that all possible or conceivable means should be used. But the effort should usually extend to inquiry of persons likely or presumed to know the facts sought.²⁰

In 2010, the Florida Supreme Court approved a new form for the sworn statement that supplied fifteen different areas of inquiry for a litigant and included directions in the form that the litigant check each area that was searched and describe the results of the search.²¹ This form may be construed as guidance by the Court as to how thorough a search and the sworn statement must be though no appellate court has yet stated this.²²

After completion of the diligent search and inquiry, a sworn statement must be filed which varies depending upon whether the adverse party is a natural person,²³ a corporation,²⁴ “parties doing business under a corporate name,”²⁵ or unknown parties.²⁶ Notably, the sworn statements all require that the content of the affidavit “shall show” that the statutory requirements have been satisfied.²⁷ For example, the sworn statement for service on a natural person must “show” that a diligent search and inquiry were made to discover the name and address of the person, the name and address of the person as particularly as is known to the affiant, that the person is either over the age of 18 or their age is unknown, and that the residence of the person is either unknown, in a foreign state or country, or that the residence is in Florida but the person has been absent more than 60 days or concealed themselves, and that the affiant believes there is no person in Florida upon whom service of process would bind the person.²⁸

Finally, after filing the sworn statement, a litigant may submit a notice of action for the clerk to sign and return to for publication.²⁹ In foreclosure actions the notice must be published once a week for two consecutive weeks, and the defendant’s response must be filed and served within 30 days after the date of first publication.³⁰ For all other actions, the notice must be published once a week for four consecutive weeks, and must state a specific deadline by which the defendant’s response is due, which must be not less than 28 days or more than 60 days after the date of first publication.³¹

In the next issue of *The Briefs*, we will look more closely at the cases cited here, begin-

ning with an examination of the precedent cited in *Demars*, as well as the subsequent cases that have relied on or contradicted it.

Bradford B. Petrino, Esq., is an associate attorney at Korshak & Associates, P.A., where his practice focuses on business and real property litigation throughout Central Florida. He is an executive committee member of the OCBA’s Real Property Committee and an at-large member of The Florida Bar Real Property, Probate, and Trust Law Section’s Executive Council. He has been a member of the OCBA since 2008.

¹ See Fla. R. Civ. P. 1.540(b).

² *Shepherd v. Deutsche Bank Trust Co. Ams.*, 922 So. 2d 340, 345 (Fla. 5th DCA 2006) (citing *Anthony v. Gary J. Rotella & Assocs., P.A.*, 906 So. 2d 1205, 1207 (Fla. 4th DCA 2005)).

³ *Id.* (citing *Floyd v. Fed. Nat’l Mortgage Ass’n*, 704 So. 2d 1110, 1112 (Fla. 5th DCA 1998)).

⁴ *Klinger v. Milton Holding Co.*, 186 So. 526, 532-33 (Fla. 1939).

⁵ *E.g., M.L. Builders, Inc. v. Reserve Developers, LLP*, 769 So. 2d 1079, 1081-82 (Fla. 4th DCA 2000) (citations omitted).

⁶ *Klinger*, 186 So. at 535.

⁷ See *Castro v. The Charter Club, Inc.*, 114 So. 3d 1055, 1060-61 (Fla. 3d DCA 2013).

⁸ See *Demars v. Vill. of Sandalwood Lakes Homeowners Ass’n, Inc.*, 625 So. 2d 1219, 1223 (Fla. 4th DCA 1993).

⁹ *Gans v. Heathgate-Sunflower Homeowners Ass’n, Inc.*, 593 So. 2d 549, 551-553 (Fla. 4th DCA 1992).

¹⁰ See *id.*

¹¹ See *Shepherd*, 922 So. 2d at 345.

¹² See *Godsell v. United Guar. Residential Ins.*, 923 So. 2d 1209, 1214-15 (Fla. 5th DCA 2006).

¹³ *Se. & Assocs., Inc. v. Fox Run Homeowners Ass’n, Inc.*,

704 So. 2d 694, 696-97 (Fla. 4th DCA 1997) (citing *Demars*, 625 So. 2d at 1221; *Gans*, 593 So. 2d at 552); *Godsell*, 923 So. 2d at 1214-15 (citing *Se. & Assocs., Inc.*, 704 So. 2d 694, *Demars*, 625 So. 2d at 1224, *Gans*, 593 So. 2d 549).

¹⁴ Fla. STAT. § 49.011 (2014).

¹⁵ *Id.*

¹⁶ See Fla. STAT. § 49.021 (2014).

¹⁷ Fla. STAT. §§ 49.041(1), 49.051(1), 49.061(2), 49.071(1)(a) (2014).

¹⁸ Fla. STAT. § 49.021 (2014).

¹⁹ *McDaniel v. McElhy*, 108 So. 820, 830-31 (Fla. 1926) (citations omitted).

²⁰ *Id.* at 832 (citation omitted). *Accord Miller v. Partin*, 31 So. 3d 224, 228 (Fla. 5th DCA 2010) (citing *Shepherd*, 922 So. 2d at 343; *Demars*, 625 So. 2d 1219; *Canzoniero v. Canzoniero*, 305 So. 2d 801, 803 (Fla. 4th DCA 1975)).

²¹ Fla. R. Civ. P. Form 1.924; In re Amendments to the Fla. R. Civ. P., 44 So. 3d 555, 556-57 (Fla. 2010).

²² *Cf. Miller*, 31 So. 3d at 228 n.2.

²³ Fla. STAT. § 49.041 (2014).

²⁴ Fla. STAT. § 49.051 (2014).

²⁵ Fla. STAT. § 49.061 (2014).

²⁶ Fla. STAT. § 49.071 (2014).

²⁷ The use of the word “show” in these statutes is a significant detail that will be addressed at length in Part 2 of this article. Prior to 1941, the constructive service statute required a sworn statement that “stated” that a diligent search was performed. *Demars*, 625 So. 2d at 1222.

²⁸ Fla. STAT. § 49.041 (2014).

²⁹ Fla. STAT. § 49.08 (2014). A form has been approved for use. Fla. R. Civ. P. Form 1.920.

³⁰ Fla. STAT. § 49.09 (2014); Fla. STAT. § 49.10(1)(c) (2014).

³¹ Fla. STAT. § 49.09 (2014); Fla. STAT. § 49.10(1)(a) (2014).



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Changes to Process Server Program

The Orange County Sheriff's Office recently conducted a comprehensive review of its special process server program operated under Chapter 48, F.S. The OCSO decided to terminate the program effective December 31, 2014. Therefore, as with the great majority of other Sheriffs' Offices in Florida, the OCSO will not have a special process server program.

An attorney who wishes to use a particular process server for a case may file a simple motion with the court to have him or her assigned.

Per Chapter 30, F.S., the Sheriff's Office remains available to serve process.

If you have any questions, please contact Lieutenant Robert Corriveau at robert.corriveau@ocfl.net or Bernie Rice, OCSO General Counsel, at bernie.rice@ocfl.net.

On the cover: Judges in alphabetical order with their alma maters:

Allen, Faye L.	Florida A&M University and Florida State University	Mihok, A. Thomas	Navy
Apte, Alan S.	The University of Miami	Miller, W. Michael	The University of Florida
Bell, Maureen	The University of Florida	Munyon, Lisa T.	The University of Florida
Blackwell, Alice L.	Furman University	Murphy, Mike	The University of Florida
Cameron, Andrew L.	Michigan State University	Myers Jr., Donald A.	The University of Florida
Clark, Nancy L.	The University of Florida	Prather, Charles N.	Stetson University
Doherty, Patricia A.	The University of Florida	Rodriguez, Heather Pinder	Florida State University
Egan, Robert J.	The University of Florida	Schreiber, Margaret H.	Duke University
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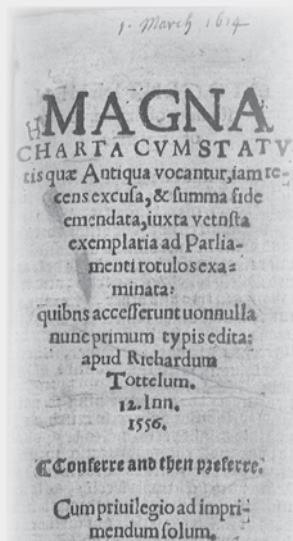
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Legal Aid Society What We Do...



Donna Anne Haynes

Sounds of Summer

The sounds of summer kicked off this year during June when Firm Fest took place at Firestone Live in downtown Orlando. As a result, the Legal Aid Society and The Orlando Family Firm are proud to announce that the 3rd Annual Firm Fest was a smashing success with proceeds of \$13,000 being donated to the Legal Aid Society to provide safety and stability through legal services for low income residents, the working poor, and children in our community.



The night started with delicious food from The Avenue, RusTeak, and Sushi 101, and dessert from Bruster's. More than 237 attendees enjoyed dancing the night away. During the first few hours, guests could bid on silent auction items and pose for pictures in the photo booth provided by Mike Buoy Photography. Our special guest host, Daunte Culpepper, graciously posed for photos with guests.



The night's musical entertainment kicked off with Jonathan Simon, Esq., playing a set of popular cover songs, including *All of Me* by John Legend, which Jonathan dedicated to his wife and fellow OCBA member Jill Simon, Esq.

Jonathan and Ryan Clifford (from the Dave Matthews Tribute Band) teamed up for an acoustic/electric rendition of *Lie in Our Graves*, which was a perfect segue into the live auction part of the evening. We were extremely fortunate to have Daunte assist in the live auction; he and Jonathan managed to raise more than \$1,500 for just three items. Not only was Daunte a wonderful host, but he took the time to learn more about our work serving those in need and was genuinely concerned about obstacles that result for our client community because of our limited funding.

The Dave Matthews Tribute Band performed a full show, with such hits as *Ants Marching* and *All*

Along the Watchtower. Those in attendance who had never seen the Dave Matthews Tribute Band were amazed at the skill and dedication of the musicians and their ability to create an authentic performance.

The Legal Aid Society and The Orlando Family Firm would like to thank the following sponsors for their contributions to Firm Fest: The Uman-sky Law Firm; Integrative Physical Medicine; Sutherlin Nissan; Your Office USA; Jones Lang LaSalle; Fifth Third Bank; Internetwork IT; Firestone Live; Bay Hill Jewelers; and Mike Buoy Photography. Without their support and the support of all of those who attended, Firm Fest would not have been able to donate needed funds to Legal Aid. Thanks to the many others who made this event the success that it was!

Jonathan stated, "It is my hope that Firm Fest will continue to grow every year and continue to work with Legal Aid to raise monies needed to provide legal services to those who are in the greatest need. Stay tuned to theorlandofamilyfirm.com and firmfest.com for updates for next year's event!"

The Legal Aid Society would simply like to tell The Orlando Family Firm: You rock! Literally, you rock.

For more information on Firm Fest 2015, contact Jonathan Simon, Esq., at theorlandofamilyfirm.com and firmfest.com. To discuss ways to partner with the Legal Aid Society of the Orange County Bar Association, contact Donna Haynes, Manager of Development, at 407-515-1850.

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

Photos: Mike Buoy





Edward A. Dimayuga, Esq.

Food Stamps 101

Joan is a grandmother who has been unable to find work and did not have enough money to buy food regularly. She relies on family, friends, and charity to find sustenance. Joan tried asking the government for help by applying for food assistance – also known as food stamps or SNAP – from the Department of Children and Families (DCF). She quickly learned that there are not many places she could actually meet face-to-face to apply for benefits or find a paper application. The DCF's website, called ACCESS, is where the application is kept and where most people are directed to apply. Joan does not have a computer, so she went to the library to try doing it herself. Joan found this to be a complicated, lengthy process and she made errors in the information that she entered.

Shortly after completing her application, DCF sent Joan a letter arranging for a follow-up interview, and she went to a local outreach office of DCF. Upon arrival she was informed that, at the time, computers were down and she could not complete the interview. A short time later, she received another letter stating that her application was denied because she did not make her appointment.

As many as one in five Floridians receive help from DCF to pay for food. Central Florida is considered one of the most food-insecure regions in the country. An internet-based application system does not make sense for many of those hungry people.

Nitza Colon, the benefits connection manager for Second Harvest Food Bank, operates an outreach program that assists individuals and families to apply for SNAP. "Although the DCF's ACCESS system has facilitated SNAP applicants to apply for these benefits 24/7, it has some barriers for those individuals who are not computer-literate or do not have access to a computer," Nitza stated. "Other groups that have been particularly affected are the elderly, the homeless, those with limited English proficiency and/or literacy barriers, and those with transportation challenges. In the last five years, the program has submitted more than 46,000 SNAP applications, generating more than \$70 million in SNAP benefits for our clients and the local economy."

How much a family receives each month in food stamps varies depending upon how much income the family receives each month. The DCF policy manual that explains what income and assets to include and exclude in calculating benefits is extensive. The maximum that a single individual may

receive in one month is currently \$194, or roughly \$6.50 per day. A household with more people receives less money proportionally. For instance, for a household of four, the maximum benefit is approximately \$649/month, or \$21.63 per day per household, or \$5.41 per day per person. Many families receive less than the maximum because their monthly income, such as from employment or Social Security retirement or disability benefits, reduces their food stamps allotment.

Since the system is mostly internet-based, it can be just shy of impossible for most people to troubleshoot a problem. It is also often difficult to talk to a customer service representative or case worker to discuss what is wrong with a file. Notices lack clear explanations as to why a person may be getting a smaller amount of benefits or not be eligible.

Attorneys can help recipients by requesting an administrative fair hearing on behalf of those who believe they are not receiving the right amount of assistance, for those who believe they were unfairly denied, and for those who believe their benefits were unjustly terminated. An administrative hearing officer will issue a final order determining whether the actions taken by DCF were correct under the law. That final order is appealable to the district courts of appeal if the beneficiary believes the hearing officer made a mistake. These hearings are governed according to Chapters 28 and 65 of the Florida Administrative Code. The same process is used for problems with Medicaid eligibility and service delivery, as well as for cash assistance under the Temporary Assistance for Needy Families program (TANF).

Joan's food assistance application was finally approved after she requested a fair hearing, and with the help of Legal Aid, DCF agreed to provide her with the months of benefits she did not receive from her initial application up to the date when they finally approved her.

Are you interested in this area of law? Can you see yourself doing this type of work as your *pro bono* work?

For more information, please contact Edward Dimayuga at ed@legalaidocba.org. For information about becoming a donor, contact Donna Haynes at dhaynes@legalaidocba.org, or call 407-515-1850.

Edward A. Dimayuga, Esq., is an attorney at the Legal Aid Society of the OCBA. He has been a member of the OCBA since 2009.



Coravious Cowart, Esq.

Informed Guardians ad Litem Yield Trauma-Informed Care

Over the past few years, mental illness has become a major talking point as a result of constantly recurring tragedies attributable to lack of appropriate diagnosis and treatment. In an environment such as the dependency system, which is already filled with potentially harmful circumstances for children, it is imperative that mental illness be addressed quickly and thoroughly for the entire family. This article will focus on “trauma-informed care,” a proven therapeutic treatment option for children who have experienced one or more traumatic events.

Trauma results from an event, a series of events, or circumstances that are perceived by an individual as physically or emotionally harmful or threatening and that have lasting adverse effects on the individual’s functioning and physical, social, emotional, or spiritual well-being. Those who experience trauma are more likely to suffer from substance abuse, mental illness, and health problems. The trauma can affect how a person engages in daily living.

Trauma-informed care is defined as a strengths-based approach grounded in an understanding of the impact of trauma. This method of treatment emphasizes physical, psychological, and emotional safety for survivors that creates opportunities for survivors to rebuild a sense of control and empowerment.

For children in foster care who have experienced trauma, it is important to advocate for this therapeutic approach so the child will not be re-traumatized. Re-traumatization occurs when one relapses into the original state of trauma, which is usually caused by some subsequent event that mirrors the original traumatic event. While traditional psychotherapy is beneficial, the trauma-informed approach reinforces the importance of acquiring trauma-specific knowledge and skills to meet the specific needs of the child. While service providers can re-traumatize children through standard therapeutic practices, trauma-informed care providers recognize that individuals may be affected by trauma, regardless of personal acknowledgment of the trauma, and accordingly adjust the treatment based on the client’s history. Ultimately, clients learn appropriate coping mechanisms to address the specific trauma experienced. For our children in the dependency system, acquiring these skills is essential, particularly when participation in dependency court hearings may trigger memories of those traumatic events previously endured.

As a Guardian ad Litem (GAL), when advocating for the trauma-informed care approach, one should first determine whether or not the dependent child has experienced a traumatic event or events. These events include – but are not limited to – the death of a loved one; repeated physical or emotional abuse; sexual abuse; abandonment; witnessing domestic violence; and moving to a new location – events dependent children commonly experience. In addition to speaking with the child about these events, which may be difficult for the child to initially convey at the beginning of a relationship, the GAL can look to any medical and/or mental health records to determine a child’s history or previous diagnoses. Some other signs that a child may benefit from a trauma-informed approach include a child displaying aggressive behavior, experiencing emotional outbursts, or withdrawing from his or her peers.

After making the determination that the child has experienced one or more traumatic events, the GAL may then advocate for the child to undergo an evaluation by a licensed mental health professional if there is not a recent evaluation of the child on file. It is important for GALs to understand that even if a child’s medical records indicate that the child was previously diagnosed with certain mental health disorders, a GAL may seek evaluation from a medical professional to determine whether those diagnoses are accurate. Depending on the trauma experienced, evaluations to consider include a psychological, psychosexual, neuro-psychological, or psychiatric evaluation. Specifically tailored evaluations will allow the child’s traumatic event and/or diagnoses to be properly documented and ultimately treated.

The GAL should next advocate for the child to receive therapy that employs the trauma-informed approach. Specific methods of advocacy include communication with the child’s case manager, the case manager supervisor, or the assigned Department of Children and Families (DCF) attorney on the case. Together, these individuals are responsible for carrying out the services needed to provide dependent children and their families’ safety, permanency, and stability. In addition, advocacy can be done by either filing a motion for the therapy or informing the court of the necessity of the treatment at the next regularly scheduled court hearing. After the therapy is secured, the GAL should monitor the child’s therapeutic

continued page 28

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OCBA July Luncheon

July 24, 2014

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Judicial Candidate Forum

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Nicholas A. Shannin, Esq.
OCBA President



Hon. Margaret H. Schreiber



Brian F. Duckworth, Esq.



Hon. Janet C. Thorpe

**We would like to thank
all of the candidates who
graciously attended our
July luncheon.**

Harold McDonald Bacchus, Esq.
Elaine A. Barbour, Esq.
Hon. Kenneth A. Barlow
Orley B. Burey, Esq.
Tina L. Caraballo, Esq.
Brian F. Duckworth, Esq.
Gino Feliciani, Esq.
Bradford Diebold Fisher, Esq.
Frank George, Esq.
James Timothy Hetz
Will Jay, Esq.
Norberto S. Katz, Esq.
Blaine McChesney, Esq.
Hon. Scott D. Polodna
Hon. Heather Pinder Rodriguez
Hon. Margaret H. Schreiber
Kim Shepard, Esq.
Patricia L. Strowbridge, Esq.
Diana M. Tennis, Esq.
Hon. Janet C. Thorpe
Kevin B. Weiss, Esq.



Kim Shepard, Esq.



Elaine A. Barbour, Esq.



Kevin B. Weiss, Esq.



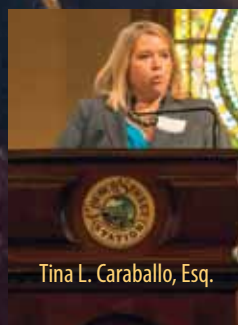
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Hon. Scott D. Polodna



Tina L. Caraballo, Esq.



Hon. Kenneth A. Barlow

PHOTOS: Flo Boehm

OCBA August Luncheon

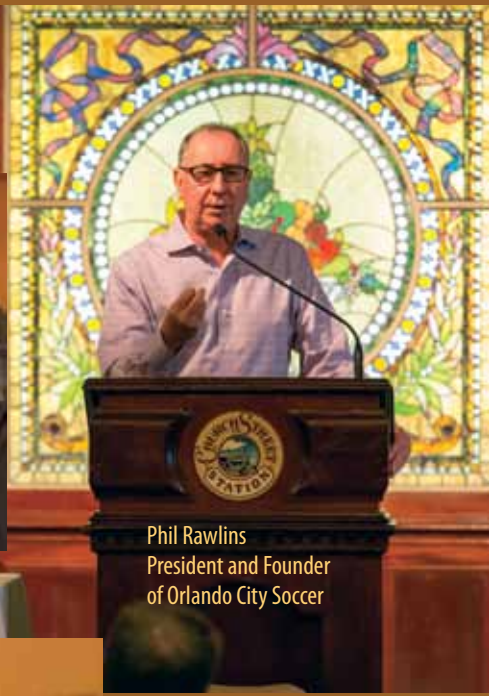
August 28, 2014

The Ballroom at Church Street

Phil Rawlings, Nick Shannin, Esq., and Declan Bolger, Major League Soccer Vice-President



Nick Shannin, Esq.
OCBA President



Phil Rawlings
President and Founder
of Orlando City Soccer



William Davis, Jr., Esq.



Karen Persis, Esq.
YLS President



Nikki Rodeman



Attorneys from McDonald Toole Wiggins, P.A. accepted a 100% Club Certificate from Jamie Billotte Moses, Esq. (right)



Jamie Billotte Moses, Esq. (center), presented Christine Arendas, Esq. and Patricia Strowbridge, Esq. of the Adoption, Surrogacy and Family Law Firm, P.A. a 100% Club certificate at the August luncheon.

PHOTOS: Flo Boehm



Public Defender's Summer Camp Helps Keep Teens on the Road to Success

Nearly 100 Boys & Girls Clubs of Central Florida members participated in a law summer camp conducted by the office of Orange/Osceola Public Defender, Robert Wesley, Esq.

The law camp was no “scared straight” program for troubled teens. The enthusiastic, ambitious

youths participated in the program that was designed to keep participants on the road to success.

Teens who participated in the camp are members of the Walt Disney Clubhouse branch in Pine Hills, the Universal Orlando Foundation Branch in West Orlando, and the Buenaventura Lakes branch in Osceola County.

“The people who work in my office really like kids and talking to middle school and high school

students was our way of giving back to our community,” said Bob, whose office is responsible for providing legal representation to crime suspects

who can't afford to hire a private lawyer.

“Putting on a law summer camp was an excellent way to educate youth about the criminal justice system,” Bob continued. “We want to make sure none of these kids become clients of ours, so we taught them life skills, legal lessons, and inspired them to continue their education. We want to inspire a new generation of public defenders.”

Nearly one dozen members of the public defender's staff – including lawyers, managers, social workers, and interns – collaborated to develop the curriculum and work with the youths during the seven-week camp. Staff met with the youths at Boys & Girls Club branches.

In addition to discussing law and the criminal justice system, “we structured our summer law camp curriculum so that the youth involved could personalize the content discussed with their own lives,” said Amy Tam, a public defender's office social worker who served as the point person for the law camp.

“Some of these activities included the balloon activity (therapeutic technique for anger management), pop culture activity (celebrity case studies), and the personality test activity where kids learned about their individualized learning style,” Tam said.

The youths applied the legal lessons on the last day of the camp when they visited the Orange County courthouse in downtown Orlando and participated in the mock trial of megastar Kanye “East,” who was charged with assaulting a paparazzi who got too close to his wife Kim “Kash.”

Coached by members of the public defender's staff, the youths played almost every courtroom role, including prosecutor, defense attorney, paralegals, witnesses, and the jury. After a spirited testimony and cross-examination, the jury adjourned for deliberations.

After 15 minutes, the jury returned with a “not guilty” verdict. Clearly, these youngsters have the stuff to become the next generation of public defenders.

Submitted by **Rosalyn Gist Porter**.





Keshara Davis, Esq., The Florida Bar

New Lawyer Training Program 2014

Spearheaded by Richard Dellinger, Esq., of Lowndes, Drosdick, Doster, Kantor & Reed, P.A., the OCBA's New Lawyer Training Program: The Fundamentals of Practice in Orange County, wrapped up classes on August 2, 2014 with a reception at the OCBA center. This is the second year the program has been offered by the bar. Forty-three new lawyers and third-year law students participated.

The two-day course covered topics such as best practice techniques for civil circuit court; private criminal defense and plea bargaining; and dissolution of marriage, adoption, and domestic violence hearings. Participants also got information about how to open a solo practice; the pros and cons of forming a partnership; protecting assets and trust accounting; and practice management tips in the digital age.

Many thanks go to program presenters, including The Hon. Frederick J. Lauten, The Hon. Faye Allen, The Hon. Patricia Doherty, The Hon. Robert Evans, The Hon. Donald A. Myers, The Hon. Wayne Woo-

ten, Nicholas A. Shannin, Esq., Eddie Fernández, Esq., Ed Alexander, Esq., James A. Altman Esq., Joan Bullock, Esq., Luis Calderon, Esq., Marc Consalo, Esq., Lt. Robert Corriveau, Keshara Davis, Esq., Hayley James Day, Esq., Davina Frederick, Esq., Bethany Gibson, FRP, Jennifer Giles, David W. Henry, Esq., Kimberly Homer, Esq., Diane Iacone, Donna Isaacson, Karen Keene, Michael Kest, Esq., Bill Loucks, Liz McCausland, Esq., Dee McClendon, Jamie Billotte Moses, Esq., Karen Persis, Esq., Neal Renuart, Seleena Singh, Tiffany Sterling, and Carrie Ann Wozniak, Esq.



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Shane E. Fischer, Esq.

Interview with The Honorable Rom Powell

After receiving a degree in English literature from Dartmouth College, The Honorable Rom Powell graduated from Stetson Law School in 1963. Judge Powell came to the bench in 1979, handling juvenile cases. He handled criminal, civil, and domestic cases until taking senior status in 1997. Judge Powell is a member of The Florida Bar, the Orange County Bar Association, and the Association of Circuit Court Judges. He is a past member of the Florida Supreme Court Committee on Standard Jury Instructions, a past instructor at Rollins College, and a past instructor at the Florida Judicial College.

Mr. Fischer: *What are the strengths of the American legal system today?*

Judge Powell: When the system works, it produces justice and the people have respect for the system.



Hon. Rom Powell

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

A: Lack of resources – not enough judges, law clerks, and administrative personnel to handle the ever-increasing caseload.

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

A: How stressful being a judge was, in terms of the seriousness of the decisions you have to make, and the caseload not permitting much time to adequately prepare to make those decisions.

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

A: When the governor (Claude Kirk) called and told me he had appointed me Orange County Solicitor in 1968.

Q: *Who is or was the biggest influence on your career?*

A: Paul Johnson, former Hillsborough County state attorney, who gave me my first job and taught his staff honesty, civility, and hard work.

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

A: Sentencing criminal defendants.

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

A: Insufficient attorney preparation and attorneys continuing to argue after I've made my ruling.

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

A: Better prepare their cases, especially legal research.

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

A: When relying on a case, read and study its interior citations. If the issue is one of first impression, look to other jurisdictions for persuasive similar cases. Update legal research before hearings and trials. Lastly, be accurate and brief, but complete in your verbal and written presentations.

Q: *To what extent did you really understand the role of the judiciary before becoming a judge? How has your perspective changed?*

A: I'd tried so many cases and been in court so much I thought I understood a judge's role pretty well. It changed when I became a judge and realized how much power a judge has, and how much it isolates you socially and professionally.

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

A: Making uncalled for comments about and to opposing counsel.

Q: *What is the last movie you saw?*

A: *The Lincoln Lawyer.*

Q: *What is your favorite restaurant?*

A: T.J.'s Seafood Shack in Oviedo. (Judge Strickland's wife and her brother own and operate it.) The judge has been known to wash dishes in a pinch.

Q: *What is your favorite sports team?*

A: I don't follow organized sports. When I was younger, though, I enjoyed hunting, fishing, canoeing, backpacking, and camping with my sons.

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

A: I am originally from Atlanta, Georgia. I moved to Orlando because my wife of 53 years is a third-generation Floridian, and I liked it here.

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

A: *The Bible.*

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

A: Work on appeals from county court, read spy/CIA/military novels, and fish.

Q: *What is your favorite destination?*

A: Treasure Island, Florida (near St. Petersburg).

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

A: I don't have an iPod, but I enjoy listening to 50s and some 60s music on my car stereo.

continued page 35

LASGAL Tips
continued from page 18

progress by remaining in contact with the child and caregiver, as well as by communicating with the child's therapist. The Legal Aid Society's GAL department is always available to assist GALs with their advocacy efforts.

For more information, contact CCowart@legalaidocba.org. For information about donating to the Legal Aid Society, contact Donna Haynes at dhaynes@legalaidocba.org, or call 407-515-1850.

Coravious Cowart, Esq., is the Guardian ad Litem mental health attorney at the Legal Aid Society of the OCBA. He has been an OCBA member since 2009.



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OCBA Social Committee Events 2014-2015

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

Nov. 14, 2014 – OCBA's Night with the Magic, Amway Center

Jan. 28, 2015 – Winter Wine & Cheese Social, Winter Park Farmer's Market

Feb. 7, 2015 – Cars & Coffee Event, University Club

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

May 2, 2015 – Law Week Inaugural 5k Run, Lake Baldwin Park

All proceeds benefit the OCBA Foundation, Inc.

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

OCBA's Night with the Magic!

Orlando Magic v. Milwaukee Bucks

Friday, November 14, 2014

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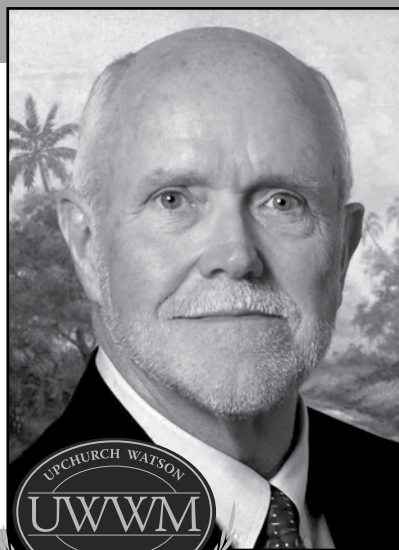
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Jared Brooks, Esq.

YLS Mentoring Program

The Orange County Bar Association's Young Lawyers Section is gearing up its Mentoring Program for the 2014-2015 year. With the hard work of committee chair Kelli Murray, Esq., and assistant chair Mark Hernandez, Esq., in conjunction with Career Services director Sonja Hayes of Barry University School of Law and assistant director of Career Planning and Placement Elizabeth Dusingberre of FAMU College of Law, the program is designed to foster in law students an early appreciation for the importance of professionalism in the practice of law. It is also designed to assist law students in preparing for the transition from law school into practicing law.

Members of the OCBA are paired with second- and third-year law students for one academic year from October 2014 to April 2015. During that year, the mentor/mentee pair participates in at least six activities of its choice. These activities may be as simple as discussing various topics via email, bringing the mentee to a deposition or trial, or attending an OCBA, YLS, or other voluntary bar luncheon. Participation in the mentoring program requires a commitment of only 10-15 hours during the course of an academic year.

Patricia Carbone, Esq., a former associate attorney at Myers, Eichelberger & Russo, P.L., and Ashley Gardiner, a current second-year law student Barry Law School, developed a rewarding relationship through their participation in the program last year. "I definitely think I've found a mentor for life – both literally and figuratively," says Ashley. "The best component [of the program] was that I got to meet a new friend who provided me with new experiences and allowed me to use her as a sounding board when I griped about the pains of 1L year."

Patricia believes it is important for young lawyers to participate in the mentoring program in order to guide law students along their legal journey. "I think it's important for law students to get involved in the YLS program because the students can be honest with their mentors about how they feel about law school and what they are going through. Law school does not provide a lot of individualized attention, and the mentoring program allows students to ask questions they may not feel comfortable discussing with their peers or professors," says Patricia. "If the students want to stay in the Orlando area, the mentoring program can help them network with attorneys in the area and learn more about their practice

areas. I hoped to advise the law students regarding academic course selections, job searching, and preparing for the bar exam. I also thought it was important to let the students know that even if they are stressed, they will get through it and be successful."

Patricia enjoys her role as mentor for law students. She remembers the law school experience and recognizes the asset a committed mentor can be to a law student. "I decided to get involved as a mentor because I did not have a mentor during law school, and I wish I had the opportunity to sign up for a mentoring program," Patricia explains. "I know that law school is a stressful experience, and I wanted to be able to help students during this time."

Patricia's mentoring style was especially effective for Ashley's situation, as Ashley is a proud, married mother of two young children. Despite being unable to participate in many social activities, Patricia and Ashley were able to manage busy schedules and find time to meet throughout the year. "The lunch dates that Tricia and I have had have been delightful and informative," says Ashley. "I'm so grateful for her working with my schedule."

Patricia also mentored Christie Hoffman, a recent graduate of Barry Law School. Christie is currently the direct assistant to Jon D. Eichelberger, Esq., of Myers, Eichelberger & Russo, P.L. She credits her participation in the YLS Mentoring Program with Patricia for her current position as a legal assistant. "After meeting her, my mentor Tricia Carbone, Esq., asked whether I would like to intern with her law firm. I felt honored and immediately began to intern once a week. The opportunity began with an internship and has evolved in to an employment position. I am the direct assistant to one of the three partners, and together we have greatly and successfully expanded their personal injury department," says Christie. "From participating in this program, I learned that there are many opportunities out there that don't always arise by their face value. Never would I have imagined that this program could afford me such a valuable experience to kick-start my law career while I was in my last year of law school. I am very grateful for this opportunity."

Similar to Ashley's experience in the program, Christie raved about the level of commitment Pa-

continued page 36



April Orlando

Advanced Uses of Realtime Reporting During Trial

Attorneys having to wait for rough drafts or depend on expedited transcripts are a thing of the past. Through the use of free downloadable software, attorneys and paralegals can have instant access to the record as testimony is provided without having to ask the reporter for his or her notes or a read back. As our legal society progresses toward the many uses of advanced technology, computer-aided transcription has become an asset to attorneys, judges, and paralegals during depositions, hearings and, most importantly, during trial. Imagine having your transcript streamed live from the stenographic machine in real time to your iPad or laptop so that you could mark the text as it is being spoken.

Imagine being in trial and your co-counsel or client tries to confer with you only to have missed testimony that you may have objected to. But wait, you didn't miss anything at all. Your paralegal marks the live transcript on her laptop, allowing you to read testimony that you didn't hear. This type of computer-aided technology allows paralegals to be a part of sidebar conversations even when they otherwise can't hear what is being said. The paralegal can read the conversation between counsel and the judge, enabling him or her to be kept in the loop and begin preparing additional information related to the sidebar conversation.

The process of jury selection is not nearly as time consuming as the NFL draft, but it can certainly feel like it. Realtime reporting software enables attorneys to create profiles of jurors through custom-formatted tabs making jury selection a breeze. Perhaps you heard a juror say something that the judge did not? No problem. You have the record at your fingertips, which can easily be shown to the judge in supporting your concern.

Case Management

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The business of court reporting is rapidly evolving. Realtime technology is revolutionizing how attorneys prepare for long days of trial and manage the fast pace of litigation. Wireless connectivity to the software in the courtroom has made the service more useful and cost-effective than ever before. With software that is free of charge to counsel, equipment for streaming provided by the reporter, it's a turn-key service providing an advantage you can't afford to be without.

April Orlando, Director of Business Development, U.S. Legal Support, has been an OCBA member since 2013.



YLS on the move



Chanel A. Mosley, Esq.

Fall is officially here, which means the busiest time of the year for the YLS. We have been having a blast with our events and hope that you have, too! In case you missed something, here is what we have been up to:

On June 23, 2014, the YLS held its **Summer Pub Crawl**. The event started at Don Jefe's Tequila Parlour and progressed to three different bars, ending at Hooch Bar. Approximately 50 people attend the event and had a great time, despite the rain! Congratulations to **Adam Hartley, Esq.** and the YLS Social Committee for putting on yet another successful event! Additionally, thank you to our event sponsors, **Baker, Donelson, Bearman, Caldwell & Berkowitz, PC** and **850-CALL-JOE, P.A.**

The annual **Young Lawyers and Law Clerks Reception** was held on July 16, 2014 at the Orange County Regional History Center. The event was well attended by law clerks, lawyers, and members of the judiciary, all of whom enjoyed a fun evening of networking and socializing. Committee chair, **Heather Meglino, Esq.**, and her YLS committee, did a wonderful job with the event, which was made possible thanks to the numerous sponsors who contributed this year.

On July 17, 2014, **Courtney Richardson-Jones, Esq.**, **Thomas Pratt, Esq.**, and their committee were able to assemble an eight-person team of attorneys who participated in the **IDignity** volunteer event. Thanks to their efforts, IDignity served 246 clients, 127 of whom were issued state identification the same day. Many more were assisted with the process of ordering documents necessary to obtain identification. The committee was also able to present IDignity with a \$500 donation on behalf of the YLS. The event was a resounding success, and we are grateful to all of our volunteers who came out to participate!

The July YLS monthly luncheon was held on July 18, 2014, at the Citrus Club. **Jim Seay, Esq.** of Holland & Knight gave a very insightful presentation on human trafficking in Central Florida. If you would like to assist the Greater Orlando Human Trafficking Task force, or for more information, please contact Jim at jim.seay@hklaw.com. Also, a special thank you to our luncheon sponsors: **Smith Group Investigations, Inc.** and **ProServe USA**.

On August 5, 2014, the annual **Backpack Project** happy hour was held at KASA. All proceeds raised from the event were used to purchase school supplies for students at Rock Lake Elementary School, one of Central Florida's most economically disadvantaged schools. The happy hour was a huge success with more than 100 people in attendance, the largest attendance ever! In addition,

several raffle tickets were sold to collect additional proceeds, and 10 boxes of school supplies were donated! Backpacks were stuffed at A Gift for Teaching and were delivered on August 14, 2014 to the elementary school. The children were overjoyed to receive their new backpacks full of school supplies, thanks to the overwhelming generosity of so many YLS members! A huge congratulations to committee chair, **Alisia Adamson, Esq.**, and her stellar committee on this event!

On August 15, 2014, the YLS held its monthly luncheon at the Citrus Club. Phil Rawlins, owner and president of Orlando City Soccer, spoke about the exciting upcoming transition to Major League Soccer for Orlando City, as well as the positive impact this will have in Orlando. This wonderful luncheon was made possible thanks to our sponsors: **US Legal Support** and **Chicago Title/Commonwealth/Fidelity National Title**.

Here's a look at what's coming up next:

Get connected with the YLS on social media! We will be holding our annual **"Like"** campaign during the month of October. From October 1-31, 2014, the YLS will donate \$1 to the **Legal Aid Society of the OCBA** for every new "Like" received on our Facebook page and every new follower on our Instagram page. You can "Like" us on Facebook at <https://www.facebook.com/OCBAYoungLawyersSection>, and follow us on Instagram at @OCBAYLS.

The **October YLS Luncheon** will take place on **October 17, 2014** at the Citrus Club beginning at 12:00 p.m. and ending at 1:00 p.m. Casual attire, including jeans, is acceptable and jackets are not required. For a wonderful three-course meal, the cost is only \$10. Lunch is offered at a reduced price thanks to the help of our sponsors. Please be sure to RSVP to yls.ocba@gmail.com no later than October 14, 2014. A late charge of \$5 will be added for all RSVPs received after the deadline. Please note that the YLS is charged for all RSVPs, so please ensure that you notify us if you have made an RSVP but are unable to make it. We hope to see you at the luncheon!

The **OCBA YLS Mentoring Program** is in full swing for the 2014-2015 year! The program is designed to foster in law students an early appreciation for the importance of professionalism in the practice of law, and to assist with the transition from law school into the practice of law. The committee is still seeking members of the OCBA to volunteer as mentors. Mentors are paired with second- and third-year law students for one academic year to participate in six different activities of their choice. Please be sure to read the article in this issue of *The Briefs* (page 30). The program

will continue to accept applications for mentors up until October 15, 2014. If you are interested in becoming a mentor, you can apply online at www.ylsmentoring.org.

The second annual **WRCC Halloween Party and Mock Trial** will take place on **October 30, 2014**, from 5:00 p.m. to 8:00 p.m. at the Women's Residential Counseling Center. This is a great Halloween party for the children of the residential center, complete with costumes, arts and crafts, and lots of treats! The committee

also performs a mock trial of the *Big Bad Wolf*. If you are interested in volunteering at the party or participating in the mock trial, please contact **Jamie Blucher, Esq.**, at jblucher@zkslawfirm.com, or **Jen Morando, Esq.**, at jmorando@therosenthal-law.com.

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



Michael Dear, Esq. and Heather Meglino, Esq. at the Law Clerks Reception



YLS Law Clerks Reception at the Orange County Regional History Center

MICHAEL S. ORFINGER



Mediator Arbitrator

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EDUCATION / QUALIFICATIONS:

- B.A., Wake Forest University
- J.D., University of Florida College of Law
- Order of the Coif, Florida Law Review (Articles Editor and Title Standards Editor)
- Florida Supreme Court Certified Circuit Civil Mediator
- Certified U.S. District Court Mediator, Middle District of Florida
- Florida Supreme Court Certified Appellate Mediator
- Qualified Florida Arbitrator
- Martindale-Hubbell rating of AV Preeminent

MEMBERSHIPS, PUBLICATIONS:

- Fellow, Academy of Court Appointed Masters (ACAM)
- Director, Professional Mediation Institute, Inc.
- Member, Dunn-Blount Chapter of American Inns of Court
- Author of articles for the National Business Institute and Florida Civil Practice Before Trial



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Brown Bag Ice Cream Social

Judges John and Sally Kest wrapped up this year's Brown Bag Lunch seminar series with the annual ice cream social at the courthouse in July. The much-anticipated event commemorates the invention of the ice cream cone and marks the beginning of summer! A big shout out to Diane Iacone, Judge John Kest's judicial assistant, for organizing the Brown Bag Lunches!



CFAWL Fundraiser

The Central Florida Association for Women Lawyers (CFAWL) presents A Place for Children with a check for \$13,000, which was raised at the Annual Runway for Justice event. A Place for Children is the daycare facility located on the second floor in the Orange County Courthouse. Since 1998, the facility has provided free drop-in childcare services for children under the age of fourteen whose parents and caretakers have official court business. From left to right: CFAWL president Ashley Winship, Esq., Runway for Justice chair Kimberly Lorenz, Esq., A Place for Children director Kim Hormell, and CFAWL immediate past president Barbara Leach, Esq.



Leadership Law Alumni Event

Leadership Law alumni attended a by-invitation-only event on July 22, 2014, at the Orlando International Airport. A total of 45 participants from the

2011, 2012, and 2013 classes took a behind-the-scenes tour of the airport's TSA facility. The next Leadership Law class will begin in January 2015. Information is available on the OCBA website.

Judicial Relations Committee
continued from page 27

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

A: I would have stayed in the Marine Corps.

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

A: Butch Karp, the hero in a series of books written by Robert Tannenbaum, a former prosecutor. Karp starts as a rookie ADA in Manhattan and winds up as the DA.

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

A: I wanted to become state attorney, but Bob Egan wouldn't retire. Additionally, I didn't want to return to private practice, and I enjoyed being in a courtroom.

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

A: I wouldn't want to trade jobs with anyone.

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

A: I tried a five-week civil jury trial involving two plaintiffs and four defendants. The complaint had eight counts, in addition to several affirmative defenses. It was the first case tried in the 23rd floor courtroom of the new Orange County courthouse.

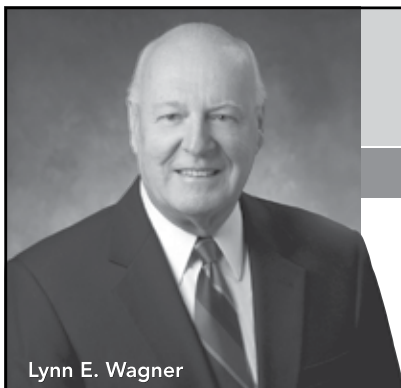
Q: *If you could have any superpower, what would it be?*

A: To know what my wife *really* means when she tells me something.

Q: *What are your feelings about shortening law school by one year or giving students an option to do their 3L year as an unpaid internship?*

A: It sounds like a very workable idea. Six months with the State Attorney's Office or public defender; six months with a civil general practice firm.

Shane E. Fischer, Esq., is an attorney with Shane E. Fischer, P.A. He practices in the areas of criminal defense and personal injury and has been a member of the OCBA since 2001.



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- J.D., Stetson University College of Law
- B.S. (Political Science), Stetson University
- Post Graduate Studies / Psychology, Nova University
- Certified Circuit Court Mediator
- Certified Family Court Mediator
- Certified U.S. District Court Mediator, Middle District of Florida
- Certified Florida 5th DCA Appellate Mediator

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YLSNews

continued from page 30

tricia exhibited during their tenure. "My mentor is very knowledgeable, prestigious, and professional. After our first conversation, I knew that she was someone I would want to model myself after. She has extended her hand to offer advice and answer any questions I may have to the best of her ability. She reaches out to me multiple times a month, even if it is just to make sure I am doing well."

Christie urges every law student to become involved in the mentoring program because of the practical experience the program provides. "I recommend that every law student participate in this program. The program is essentially what law schools across the country need to implement more of – a 'practice-ready' environment. Law students are taught how to read, research, and understand the law, but they aren't taught how to practice law. This program helps students connect what is taught in law school to law practice."

Mentor applicants may not serve as mentors until approved by the OCBA Professionalism Committee and the Mentoring Committee. All mentee applicants are accepted as long as they meet the minimum requirements, including completing an application and attending a mandatory information session hosted at their law school. Mentors and mentees are paired by the Mentoring Committee based on information provided during the application process. For additional information, visit the YLS Mentoring website at www.ylsmentoring.org.

Jared Brooks, Esq., is a staff attorney for the Orange County School Board. He has been a member of the OCBA since 2013.

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Michael Hammond, Esq.

The Initial Consultation

Your initial consultation with a prospective client is critical. When handled well, you will inspire trust and convert a prospective client into a paying client. When handled poorly, the client will seek the services of one of your competitors. Your success as a lawyer, the growth of your practice, and the profitability of your firm all depend directly on how skilled you are in making this initial conversion. So, how do you go about making a good first impression?

Trust is the Key

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

To compensate for having less control and more risk, clients focus on something they can understand – the level of trust they place in you. Clients will decide to trust you – or not – based upon how well you communicate with them. So how do you demonstrate that you are worthy of their trust? By knowing what the client looks for in the initial interview.

Listen to Understand

First, let the client tell his story! Whether the situation involves a simple transaction or a complicated dispute, clients want someone who listens to them and understands their situation. For complex matters, the use of reflective listening techniques can be helpful. Ask relevant questions and repeat what the client has said using phrases such as, "Let me see if I understand what your main concerns are..." or "What I hear you saying is..." This approach not only lets the client know he is being heard, it allows you to gain clarification on important details and a deeper understanding of his problem. During this meeting with clients, don't allow interruptions and demonstrate your trustworthiness by giving them your full attention.

Show How Much You Care

Once the client has told his story, respond empathetically. Phrases such as, "I'm sorry you've had such a difficult time," or "It's unfortunate you've

had to go through this experience," or "I sympathize with you – that must have been very hard," go a long way to building trust with a new client. Clients need to believe you care about them and their matter before they'll trust you. Remember what John C. Maxwell once said: "People don't care how much you know until they know how much you care."

Show How Much You Know

Earning the trust of a potential client also requires demonstrating your expertise by explaining how and why you can help him or her. Relate the facts of similar cases from your past experience as you discuss the actions you might take. Clients want to know that you have the expertise and experience necessary to solve their problem. Explain each stage of your work together to help the client understand the legal process and potential pitfalls along the way. Explain how you'll handle the matter, what you can deliver, what can be expected to happen and when.

Do not over-promise. Also, be sure to explain what you'll need from the client in terms of time, money, access, decisions, documents, and information. The more you educate clients, set appropriate expectations, and involve them in the process, the more cooperative they will be. When appropriate, reiterate these points in your engagement letter.

Measure Your Results

To see how successful you are at building trust and inspiring confidence, keep track of the number of desirable clients who hire you compared to the number of desirable clients who don't. If your results are less than impressive, ask yourself how you can improve your communication skills to gain the trust and confidence of clients early on. Do you listen to the client's story and try to fully understand his or her situation? Do you empathize first and then explain how you will apply your expertise and experience to solve the problem? Or do you shortcut the first two steps in your desire to show how much you know? Refine your communications and keep measuring your results. Remember that a successful initial client consultation will inspire confidence and build trust.

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

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F. Ryan Waters, Esq. – *GrayRobinson, P.A.*

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Speaking Engagements

Vivien Monaco, Esq., Burr & Forman, was among the featured panelists at a meeting to discuss Osceola County's extensive development plans, especially relating to the county's 130,000 acres of Deseret Ranch. The meeting was held on Aug. 13 in the Council Chambers of Kissimmee City Hall.

Joel Roberts, Esq., a partner at BakerHostetler, hosted AMEC Programs, Inc.'s quarterly board of directors meeting on June 10 and 11. Joe is chairman of the board of directors for AMEC Programs, Inc., which is a focused supplier of engineering, construction and project management services to the federal government globally.

Events

Oct. 3 – 23rd Annual YLS Charity Golf Tournament. 8:00 a.m. shotgun start. Ritz Carlton Golf Club. Proceeds benefit various YLS-supported organizations. For more information and to register, see the OCBA website calendar.

Oct. 19 – Scares & Spares Halloween Bowling Party & Costume Contest. Social Committee. 3:00 p.m.-6:00 p.m. Aloma Bowling Center, 2530 Aloma Ave., Winter Park, FL 32792. Fee: \$10 general admission; children 12 and under are free. Proceeds benefit the OCBA Foundation. For more information and to register, visit the OCBA Store.

Oct. 30 – YLS-WRCC Halloween Party. 6:00 p.m.-9:00 p.m. Women's Residential Counseling Center, 105 Hillcrest St., Orlando, FL 32801. Second annual event for the children residing at the shelter. To volunteer, contact Jamie Blucher at jblucher@zkslawfirm.com, or Jennifer Morando at jmorando@therosenthalllaw.com.

Nov. 6 – 7th Annual Breakfast of Champions. Legal Aid Society Fundraiser. 7:30 a.m.-9:00 a.m. Church Street Ballroom, 225 S. Garland Ave. Orlando, FL 32801. See sponsorship ad in this issue of *The Briefs*.

Nov. 14 – Orlando Magic Night. Social Committee. Families welcome. Orlando Magic v. Minnesota Timberwolves. Reception at 5:30 p.m. Tip-off at 7:00 p.m. Amway Center, 400 W. Church St., Orlando, FL 32801. Terrace IV tickets: \$85; Terrace VII tickets: \$40. For more information and to purchase ticket, visit the OCBA Store.

Seminars

Oct. 2 – State of Dispute Resolution. ADR Committee Seminar. 12:00 p.m.-1:00 p.m. OCBA Center, 880 N. Orange Ave., Orlando, FL 32801. Speaker: John J. Upchurch, Esq. CLE: 1.0 pending. Fee: Free. Registration deadline: Oct. 1, 2014. Register at the OCBA Store.

Oct. 14 – Guardianship of a Person. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Marks St. Senior Center, 99 E. Marks St., Orlando, FL 32803. Speaker: David A. Yergey, Jr., Esq. CLE: pending. RSVP to Marilyn Carbo at mcarbo@legaidocba.org.

Oct. 17 – School Law. Family Law Committee Seminar. 12:00 p.m.-1:00 p.m. OCBA Center, 880 N. Orange Ave., Orlando, FL 32801. Speakers: Ned N. Julian, Jr., Esq., Seminole County School Board Counsel and president of the Florida Association of School Board Attorneys; and Jared Brooks, Esq., staff attorney, OCPS. CLE: 1.0 pending. Fee: Free. Registration deadline: Oct. 16, 2014. Register at the OCBA Store.

Oct. 21 – Day-to-Day Ethical Considerations for Solo and Small Firm Practitioners. Solo & Small Firm Committee Seminar. 12:00 p.m.-1:00 p.m. OCBA Center, 880 N. Orange Ave., Orlando, FL 32801. Speaker: Amir Ladan, Esq. CLE: 1.0 pending (including Ethics). Fee: Free. Registration deadline: Oct. 20, 2014. Feel free to bring a brown bag lunch.

Oct. 22 – Word Essentials for Legal Professionals. Technology Committee Live Webinar. 12:00 p.m.-1:00 p.m. Presented by Adriana Linares, LawTech Partners. CLE: 1.0. Fee: \$25 for OCBA members; \$35 for non-members. Register at the OCBA Store. Paid registrants will receive webinar registration link.

Oct. 28 – Changes in Interstate Compact for the Placement of Children (ICPC) and Out-of-Town Inquiries (OTI) for Placement Procedures. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Mark St. Senior Center, 99 E. Marks St., Orlando, FL 32803. Speaker: Stephanie Stewart, Esq. CLE: pending. Contact: Marilyn Carbo at mcarbo@legaidocba.org.

Oct. 29 – USERRA. Labor and Employment Committee Seminar. 12:00 p.m.-1:00 p.m. OCBA Center, 880 N. Orange Ave., Orlando, FL 32801. See OCBA calendar for updates.

Nov. 4 – Immigration Relief for Victims of Domestic Violence and other Violent Crimes. LAS Lunchtime Training. 12:00 p.m.-1:30 p.m. Marks St. Senior Center, 99 E. Marks St., Orlando, FL 32803. Speaker: Camila Pachon, Esq. CLE: pending. Contact: Marilyn Carbo at mcarbo@legaidocba.org.

Nov. 17 – How to Be a More Effective Attorney at Mediation and Trial. Workers' Compensation Committee Major Seminar. 11:15 a.m.-1:30 p.m. OCBA Center, 880 N. Orange Ave., Orlando, FL 32801. CLE pending. Fee: \$35 for OCBA members; \$50 for non-members. Register at the OCBA Store.

Nov. 18 – Get to Know the Newly Elected Judges. Solo & Small Firm Committee. 12:00 p.m.-1:00 p.m. OCBA Center. CLE: 1.0 pending. See the OCBA website calendar for details.

Nov. 18 – Termination of Parental Rights Case Preparation for GALs. LAS Lunchtime Training. 12:00 p.m.-1:30 P.M. Marks St. Senior Center, 99 E. Marks St., Orlando, FL 32803. Speaker: Clarissa Diaz, Esq. CLE: pending. Contact: Marilyn Carbo at mcarbo@legaidocba.org.

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Oct. 22 – *Microsoft Word Essentials for Legal Professionals*

Dec. 17 – *PDFs in the Law Office*

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Congratulations to the Stuart-based law firm **Goldstein, Schmitt & Cambron PL**, which recently won a \$15.2 million jury award, before deduction for attorneys' fees and expenses, on behalf of the widow and son of a 29-year-old Navy veteran killed in a June 2011 crash with a semi-trailer truck in Orlando.

The award was the second-largest ever in Florida in a motorcycle case.

An Orlando jury held for the plaintiff, finding that the truck driver was 93 percent liable for the accident and that the trucker's employer, Jacksonville-based Landstar Ranger Trucking, was negligent in failing to adequately supervise the driver.



Lead counsel Thomas P. Schmitt, a partner in Goldstein, Schmitt & Cambron, said the key to the case was proving the driver had been on the road in excess of the Federal Motor Carrier Safety Administration hours of driving limits.

Attorney Lauri J. Goldstein, the law firm's founding partner, said evidence showed how Landstar Ranger failed to maintain adequate recordkeeping by utilizing paper logs, known in the industry as "comic books," instead of electronic logs that most other large trucking companies used.

For more information on the case or about Goldstein, Schmitt & Cambron PL, go to www.femaleinjurylawyer.com/ or call (772) 222-2222.

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- J.D., Stetson University College of Law
- Licensed in Florida

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OCBA Calendar

OCTOBER - NOVEMBER

October

- 1 Business Law Committee**
12:00 p.m. • OCBA Center
- 2 ADR Committee Seminar**
State of Dispute Resolution
12:00 p.m. • OCBA Center
- 3 YLS Annual Charity Golf Tournament**
8:00 a.m. • Ritz Carlton Golf Club
- 7 Professionalism Committee**
12:00 p.m. • OCBA Center
- 8 Lawyers Literary Society**
12:00 p.m. • OCBA Center
- Social Committee**
11:45 a.m. • Contact Chair
- Veterans Committee**
12:00 p.m. • OCBA Center
- Executive Council Meeting**
4:30 p.m. • OCBA Center
- 9 Law Week Committee**
12:00 p.m. • OCBA Center
- 10 Paralegal Boot Camp – Day One**
8:00 a.m. • OCBA Center
- 11 Paralegal Boot Camp – Day Two**
8:00 a.m. • OCBA Center
- 13 Estate, Guardianship & Trust Committee**
12:00 p.m. • OCBA Center
- 14 LAS Lunchtime Training**
Guardianship of a Person
12:00 p.m. • Marks St. Senior Center
- Intellectual Property Committee**
12:00 p.m. • OCBA Center
- 15 Elder Law Committee**
12:00 p.m. • OCBA Center
- 16 OCBA Luncheon**
Attorney General Candidate Debate
11:30 a.m. • Church Street Ballroom
- 17 YLS Luncheon**
11:45 a.m. • Citrus Club
- Family Law Committee Seminar**
School Law
12:00 p.m. • OCBA Center
- 19 Scares & Spares Halloween Bowling Party & Costume Contest**
3:00 p.m. • Aloma Bowling Center

- 21 Solo & Small Firm Committee Seminar**
Day-to-Day Ethical Considerations for Solo and Small Firm Practitioners
12:00 p.m. • OCBA Center
- 22 Real Property Committee**
12:00 p.m. • OCBA Center
- Technology Committee Webinar**
Word Essentials for Legal Professionals
12:00 p.m. • Live Webinar
- 23 Appellate Practice Committee**
6:00 p.m. • Location TBD
- 24 Bankruptcy Law Committee**
12:00 p.m. • OCBA Center
- 28 LAS Lunchtime Training**
Changes in Interstate Compact for the Placement of Children (ICPC) and Out-of-Town Inquiries (OTI) for Placement Procedures
12:00 p.m. • Marks St. Senior Center
- 29 Labor & Employment Law Seminar**
USERRA – The Uniformed Services Employment and Reemployment
12:00 p.m. • OCBA Center
- 30 YLS-WRCC Halloween Party**
6:00 p.m. • Women's Residential Counseling Center

November

- 4 LAS Lunchtime Training**
Immigration Relief for Victims of Domestic Violence and Other Violent Crimes
12:00 p.m. • Marks St. Senior Center
- Professionalism Committee**
12:00 p.m. • OCBA Center
- 5 Business Law Committee**
12:00 p.m. • OCBA Center
- 6 7th Annual Breakfast of Champions**
7:30 a.m. • Church Street Ballroom
- ADR Committee**
12:00 p.m. • OCBA Center
- 7 Law Week Committee**
12:00 p.m. • OCBA Center
- 10 Estate, Guardianship & Trust Committee**
12:00 p.m. • OCBA Center
- 12 Social Committee**
11:45 a.m. • Contact Chair
- Lawyers Literary Society**
12:00 p.m. • OCBA Center

OCBA October Luncheon

October 16, 2014

Attorney General Candidate Debate

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

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

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

14 YLS Monthly Luncheon
11:45 a.m. • Citrus Club

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

Orlando Magic Night
5:30 p.m. • Amway Center

17 Workers' Compensation Committee Major Seminar
How to Be a More Effective Attorney at Mediation and Trial
11:15 a.m. • OCBA Center

18 LAS Lunchtime Training
Termination of Parental Rights: Case Preparation of GALs
12:00 p.m. • Marks St. Senior Center

Solo & Small Firm Committee
Get to Know the Newly Elected Judges
12:00 p.m. • OCBA Center

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

Judicial Relations Committee
12:00 p.m. • Wicker Smith

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

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

21 YLS Monthly Luncheon
11:45 a.m. • Citrus Club

Family Law Committee Event
12:00 p.m. • Citrus Club

24 Labor & Employment Law Seminar
Topic: TBA
12:00 p.m. • OCBA Center

27 & 28 Thanksgiving Holiday
OCBA Office Closed