

FORUM 8

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Eighth Judicial Circuit Bar Association, Inc.

January 2011

President's Letter



By Elizabeth Collins

Each January, many of us resolve to make positive changes in our lives. Yet, statistics show that the great majority of New Year's resolutions are not kept. I can't help but wonder: do the conscious choices we attempt to make about WHAT we do have far less impact upon us than the choices we make

(conscious or unconscious) about WHO we are?

If you are reading this, you are most likely a lawyer, judge or law student. Are you the same person you were before you went to law school? Before you practiced law?

My friends and I often joke about how our legal educations and experiences as lawyers have warped us. In fact, we have proof. A number of us took the [Myers-Briggs](#) Type Indicator (MBTI) assessment before law school and then again afterwards; we found that almost all of us indeed had changed. Those who previously preferred to make decisions based on "feeling" moved to the "thinking" end of the spectrum. Additionally, on the scale showing how we oriented ourselves to the external world, almost all of us moved away from "perception" towards "judgment." Even without the test results, however, I knew I had changed... for better and for worse.

I'd venture to say that many of you, like me, have had your spouse or significant other complain during a disagreement, "Stop cross-examining me." In my personal life, I find myself unconsciously structuring arguments as I would in the courtroom, setting forth each point and the evidence to support it, anticipating and diffusing counter arguments before

they are even articulated, engaging in anticipatory rehabilitation, even enumerating my key points. I imagine it is incredibly annoying to others to have a disagreement with a lawyer who makes a living arguing and persuading others (and, at times, greatly enjoys it). Yet, the behavior is so engrained as part of who I am, I do not think I could change it if I tried.

But, aside from these obvious indicators, have we changed in other more subtle ways? While many changes (organizational skills, writing skills, public speaking, time management, ability to adapt, etc.) may be very positive, has your education and profession also impacted you in less than favorable ways?

Have you grown accustomed (perhaps even desensitized) to learning the details of horrible crimes? Do pictures of gruesome injuries and death no longer bother you? Have you ever heard (and do you believe) that the "value" of a severely injured plaintiff is higher than the value of a dead plaintiff? Certainly, for sanity's sake we must distance ourselves from the terrible things which many of us see every day. But, when you see the elements of a crime, a tort, or defenses in that pile of paperwork, do you still see the people involved? As Cameron Crowe's character, Jerry Maguire, wrote in his mission statement, "I care very much about the fact that I have learned to care less."

Rather than seeing all the shades of gray, do you see things in black and white? Have you adopted an "us/them" mentality? Are you inherently distrustful of someone who practices on the other side? Are you less patient when dealing with others?

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Contribute to Your Newsletter!

From The Editor

I'd like to encourage all of our members to contribute to the newsletter by sending in an article, a letter to the editor about a topic of interest or current event, an amusing short story, a profile of a favorite judge, attorney or case, a cartoon, or a blurb about the good works that we do in our communities and personal lives. Submissions are due on the 5th of the preceding month and can be made by email to dvallejos-nichols@avera.com.

About This Newsletter

This newsletter is published monthly, except in July and August, by:

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Any and all opinions expressed by the Editor, the President, other officers and members of the Eighth Judicial Circuit Bar Association, and authors of articles are their own and do not necessarily represent the views of the Association.

News, articles, announcements, advertisements and Letters to the Editor should be submitted to the **Editor** or **Executive Director** by Email, or on a CD or CD-R labeled with your name. Also, please send or email a photograph with your name written on the back. Diskettes and photographs will be returned. Files should be saved in any version of MS Word, WordPerfect, or ASCII text.

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Deadline is the 5th of the preceding month

Judicial Nominating Commission Vacancy

The Florida Bar began advertising for one lawyer vacancy for each of the 26 Judicial Nominating Commissions (JNCs) on December 1, 2010. The Bar must nominate three lawyers for each vacancy, for a total of three nominees for each JNC.

Each appointee serves a four-year term commencing July 1, 2011. All applicants must be engaged in the practice of law and a resident of the territorial jurisdiction for the JNC to which they are applying. Applications can be found on The Florida Bar Website (www.floridabar.org) and must be filed with The Florida Bar Executive Director's Office no later than 5:30 p.m. on February 25, 2011.



You are cordially invited to attend the Swearing In Ceremony of the Honorable

Stacy A. Scott

Public Defender
Eighth Judicial Circuit

Thursday, January 20, 2010
4:00 p.m.

Courtroom 1B
Alachua County Courthouse
Criminal Justice Center
220 S. Main Street
Gainesville, Florida

Reception immediately following in the
Jury Assembly Room

Appointment of a Receiver in Mortgage Foreclosures

By Siegel, Hughes & Ross

Given the increase in mortgage foreclosures over the past two years one issue that arises more frequently is the request that the court appoint a receiver to manage the property during the pendency of the litigation. Such a request is limited almost exclusively to commercial foreclosures which are generating revenue. The purpose is to capture the revenue generated during the litigation to apply toward the debt. However, it can be used to prevent physical deterioration of non-income producing property.

The seminal case, which remains the best authority on the issue, is the 1930 decision of the Florida Supreme Court in *Carolina Portland Cement v. Baumgartner*, 128 So.2d 241 (Fla. 1930). The Court recognized that the primary purpose of appointment of a receiver would be to protect the receipt by the mortgagee of the rents and profits of the property. However, the Court recognized that a receiver could be appointed to protect property from waste. "Land cannot run away, and buildings may be kept insured. Hence there is generally good reason for denying a receiver of mere real estate unless waste is being committed, or there be insolvency of the mortgagor and inadequacy of the property as security." *Id.* at 994.

The Court recognized different consideration apply to income producing property. "But the mortgagors, even after default, can collect the rents, and dissipate them, and the mortgagees are powerless to prevent it, although the mortgage expressly pledges the rents as part of the security, unless a receiver be appointed to impound the rents

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Brent Siegel, Charles Hughes & Jack Ross

Alternative Dispute Resolution

Top Ten List



By Chester B. Chance and Charles B. Carter

"The Quick Ten", based in New Zealand, published a list of the "Top Ten Most Hated Professions." Try and think like a Kiwi: Where do lawyers place on such a list? If you guessed number 3 you would be correct.

The full list (remember this is from New Zealand): 10. PR people; 9. Dentist; 8. Bankers; 7. Tele-Sales; 6. Politicians; 5. Estate Agents; 4. Recruitment Consultant; 3. Lawyer; 2. Bouncers; 1. Traffic Warden.

A poll in the United States from November 2001 asked how people would rate the honesty and ethical standards of people in different fields. Lawyers came in 5th behind car salesmen (lowest standards), advertising practitioners, insurance salesmen and labor union leaders. The highest standards were applied to firefighters (most ethical), nurses and members of the U.S. military.

A recent study of "most hated professions" from "about.com" Guide to Career Planning, indicates lawyers rank 5th behind used car salesmen, school principals, stock traders and dentists. The site notes, "everything we know about lawyers comes from the multitude of jokes we have heard about them. They portray lawyers as snakes, liars and thieves . . . and those are only the less offensive jokes."

Interestingly, although lawyers often rank among the most disliked and least ethical of the

professions, the American Film Institute asked 1,500 members of the film community to pick the 10 best films representing courtroom dramas. The list:

1. To Kill a Mockingbird, 1963
2. Twelve Angry Men, 1957
3. Kramer v. Kramer, 1979
4. The Verdict, 1982
5. A Few Good Men, 1992
6. Witness for the Prosecution, 1958
7. Anatomy of a Murder, 1959
8. In Cold Blood, 1967
9. A Cry in the Dark, 1988
10. Judgment at Nuremberg, 1961



You would think these outstanding films would allow people to remember lawyers in a fairly good light. Perhaps 10 films are too few to overcome the jokes, TV sitcoms, late night talk hosts' monologues, etc.

Does the fact that lawyers are often ranked so negatively as a profession cause you anxiety? If so, go to the Quick Ten website and review the "Top Ten Stress Relievers": Starting with number 10. Hobbies; 9. Humor; 8. Sleep; 7. Diet; 6. Massage; 5. Music; 4. Sex; 3. Meditation (not mediation); 2. Breathing Exercises; 1. Exercise.

Let's all try to go for a 3K run before the next Bar luncheon and watch "To Kill a Mockingbird" during the lunch itself.

Attention Civil Practitioners:

On January 1, 2011, Judge Stanley H. Griffis III will rotate to Alachua County Civil Divisions J and MG (Mortgage Foreclosures). These divisions are currently assigned to Judge Robert E. Roundtree, Jr. Judge Griffis invites all civil practitioners to attend a brown bag lunch on January 7, 2011, from 12:00 to 1:00 p.m., in Courtroom 3C, Alachua County Civil Courthouse, to discuss case management and related issues for this assignment.



Mac McCarty (EJCBA President-Elect), Gwen Roache, Division of Victims' Services (speaker), Elizabeth Collins (EJCBA President) and Lua Mellman (EJCBA Board Member) following the December EJCBA luncheon

Mortgage Foreclosures *Continued from page 3*

pending the foreclosure proceedings and hold them subject to the orders of the court.” *Id.* at 244. The rent, however, is one of the rights of possession of the property. Therefore, the concern for dissipation of the rent had to be balanced against the mortgagor’s right of possession.

The *Carolina Portland Cement* Court set forth the factors which must be considered in balancing these interests. First, the mortgagee must have a lien on the rents and profits. However, a specific provision in the mortgage providing for a receiver is not sufficient. The plaintiff/mortgagee must establish more than the mere contractual provision. “Of course, the mere fact that the mortgage pledges the rents and profits, and consents in advance to the appointment of a receiver upon default or breach of conditions, does not mean that upon such a showing alone a court of equity should appoint a receiver as a matter of course.” *Id.* at 249.

First, the plaintiff/mortgagee must present a strong case on the merits. “[A] receiver should not be appointed unless ‘there is strong reason to believe that the party asking for a receiver will recover.’” *Id.* at 248. It was this requirement on which the Court affirmed the denial of a receiver in *Carolina Portland Cement*. It held the sworn allegations of the defendant/mortgagor were sufficient to justify the trial court’s denial of a receivership.

Next, the mortgagee must establish that its security is being reduced. To do this it must establish that the mortgagor is not managing the property or is dissipating the rents and profits of the property. If the mortgagor is maintaining the property, paying the taxes and insurance, and servicing the debt, a receiver will be denied even if the mortgage is in default. “Thus, if it were made to appear that, although in default, the mortgagor was exercising reasonably good care and management of the property and applying the receipts from rentals to the payment of the taxes and the interest on the mortgage debt as far as they would go, a receiver could do no more, and no equitable ground would exist for interfering with the right of possession, which under the statute the mortgagor retains.” *Id.* at 249.

However, even if the rents and profits are being dissipated a receiver will not be appointed if the property is of sufficient value to secure the debt. “The mere fact that there had been a default in the payment of the debt is no ground for the appointment of a receiver unless there be a stipulation in the mortgage that the mortgagee shall have the rents, or he is

entitled to them under existing laws. Even if there be a stipulation in the mortgage that the rents and profits are included, a receiver will not be appointed, where the mortgaged premises are sufficient to satisfy the debt.” However, the burden of proving the value of the property lies with the defendant/mortgagor. “Where the rents and profits are expressly made a part of the security, and the mortgagor is receiving them but refusing to apply them to the mortgage debt, which he is allowing to go in default, thus dissipating a part of the security while allowing the debt to increase, a court of equity should appoint a receiver unless the mortgagor makes it clear that the real property covered by the mortgage will sell for enough to pay the debt and charges due the mortgagee and thus affords ample and entirely adequate security.” *Id.* at 249.

Thus, under *Carolina Portland Cement*, in order to obtain appointment of a receiver the mortgagee must establish that:

The mortgagor has pledged the rents and profits of the property as security or is committing waste;

The mortgagee has a strong case for foreclosure;

The mortgagor is dissipating the rents and profits of the property and failing to pay the expenses of the property and service the debt to the extent possible.

If the mortgagee is successful in proving those three points, the burden shifts to the mortgagor to prove the property has sufficient value to adequately secure the debt.

Carolina Portland Cement is still the law in Florida on appointment of a receiver. However, there remains the question of how *Fla. Stat.*, §697.07 may have changed the right of the mortgagee to obtain the rents from a property in default. The statute reads in pertinent part:

(1) A mortgage or separate instrument may provide for an assignment of rents of real property or any interest therein as security for repayment of an indebtedness.

(2) If such an assignment is made, the mortgagee shall hold a lien on the rents, and the lien created by the assignment shall be perfected and effective against third parties upon recordation of the mortgage or separate instrument in the public records of the county in which the real property is located, according to law.

(3) Unless otherwise agreed to in writing by the mortgagee and mortgagor, the assignment of rents shall be enforceable upon the mortgagor’s default and written demand for the rents made by the mortgagee

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The Lure of Procrastination



By Stephen N. Bernstein

As I was preparing my opening statement for a recent trial, I found myself watching “How I Met Your Mother” on TV and berated myself for slacking. It seemed so unacceptable that I would waste time at such a critical stage of preparation.

What was the problem? And it wasn’t the first time it had happened. Then I thought a little more, and rationalized that what I was actually doing was engaging in a practice which personified a complicated relationship people have to time.

I submit that procrastination is a basic human impulse, but that anxiety about it as a serious problem is common among us baby boomers. The term itself (derived from a Latin word meaning “to put off for tomorrow”) entered the English language in the 16th century, and, by the 18th, Samuel Johnson described it as “one of the general weaknesses that prevail to a greater or less degree in every mind.” It also can be a costly problem. Each year, Americans waste hundreds of millions of dollars because they don’t file their taxes on time. I know that hasn’t been the case with any of you, but I’m just saying.

Philosophers have been interested in procrastination for other reasons. It’s a powerful example of what the Greeks called “akrasia” - doing something against one’s own better judgment. For instance, if you’re simply saying “eat, drink, and be merry, for tomorrow we die” you’re not procrastinating. Knowingly delaying because you think it’s the most efficient use of your time doesn’t count either. The essence of procrastination lies in not doing what you think you should be doing and then beating yourself up over it. The thing about it is that even though you avoid unpleasant tasks, indulging in it doesn’t make people happy either. A very interesting read on this can be found in “The Thief of Time,” a collection of essays on procrastination edited by Chrisoula Andreou and Mark White.

I asked myself, “Why do I do this?” One answer could be ignorance.

Socrates believed that “akrasia” was impossible since we could not want what is bad for us. If we act against our own interests, it must be because we don’t know what is right. Perhaps we are too prone to be led astray by the visceral rewards of

the present. So, it would seem that it’s more than a matter of mere ignorance and rather a complex mixture of weakness and ambition, together with some inner conflict. The proverbial “divided self.”

The notion of the divided self, while discomfoting to me, is also liberating because it reinforces the fact that procrastination is not something you can beat by simply trying harder. Maybe the truth is that it is an impulse that we should sometimes see as an impulse we should heed. It can arise from a sense that we have too much on our plate, and so no single task is worth the frustration of not completing everything. Ultimately I think that we need to differentiate between two kinds of procrastination: the kind that is genuinely “akratic” and the kind that tells you that what you’re doing has no meaningful point. Nevertheless, I still have to give an opening statement in tomorrow’s courtroom.



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Criminal Law



By William Cervone

As 2010 fades away I'd like to wish all of you a Happy New Year and all the best for 2011. With thanks to Alachua County Manager Randy Reid, who circulated much of the scriptural and other references that follow from last Fall when our community was in the midst

of the nonsense that was the burning of the Koran non-event, I'd like to share with you a relatively simple thought that seems to escape far too many people these days. I do so while recognizing that many Americans are mad at many Arabs over the proposed construction of a mosque near Ground Zero, and that many Arabs are mad at many Americans over the threatened burning of the Koran. I use these references advisedly since I'm not sure either side is really following the dictates of either Christianity or Islam.

The United States is, of course, a country founded on principles of tolerance and freedom, including of religion. The underpinnings of our country come from the Christian traditions of the Founding Fathers, and while we have not always been perfect at following it, that tradition and our Constitution admit only the acceptance of other faiths, mainstream and otherwise. It seems, however, that our concepts of Freedom of Religion, Freedom of Speech, and Freedom of Assembly continue on a collision course with violence.

Christianity has, of course, the Bible and more particularly the New Testament as its code of ethics. In the Bible you will find what some would be shocked to see is not just a secular Golden Rule: "Do unto others as you would have them do unto you." This comes from the Gospel of Matthew.

Christianity, of course, builds upon Judaism. It should come as no surprise to anyone, then, that in the Talmud you will find this admonition: "What is hateful to you do not do to your neighbor."

Most of us know the Bible and the Talmud. We know less of the world's other faith systems. Maybe we should know more. Islam in particular is timely, not to mention being one of the world's great mainstream religions. From the Mishkat-el-Masabih, there is this hadith, or pronouncement of Muhammad: "Do unto all people as you would they should do to you."

Most faiths, I imagine, have their equivalent of the Bible, the Torah, or the Koran. Most of those, like me, you will not likely have heard of. There is, for example, the Panchatantra, a collection of Indian traditions associated with Hinduism. In the Panchatantra you will find this: "Never do to others what would pain you."

Then there is Buddhism's Udana, a group of 80 inspired utterances attributed to Buddha, one of which is as follows: "Hurt not other with that which hurts yourself." Sikhism, another religion from the Asian continent, has as its scripture the Adi Granth. Sure enough, contained therein is this: "Treat others as you would be treated yourself."

The Analects of Confucius, which form the basis of Confucianism, is of more ancient origin. But even there you will find this: "Do not impose on others what you do not yourself desire." Maybe of more esoteric derivation is Taoism and its Tai Shang Kan Ying Pien, or Treatise Of The Exalted One On Response And Retribution, in which you will find: "Regard your neighbor's loss or gain as your own loss or gain." In Zoroastrianism's Shayast-na-shayast it is written: "Do not to others what is not well for oneself."

Maybe my favorite of these dictates is this African proverb from the Yoruba tribal group: "One going to take a pointed stick to pinch a baby bird should first try it on himself to feel how it hurts." Now how hard is that to understand?

I trust that my point is clear. We're not all that different, people, and we should start recognizing that. And we all pretty much have some basic moral tenant in our upbringing that says the same thing. Maybe if we'd look for those similarities and not over-scrutinize the differences that make us individuals, 2011 will turn out a lot better than 2010 did.

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Probate Section Report



By *Larry E. Ciesla*

The Probate Section continues to meet on a monthly basis. Following is a summary of items discussed during the November meeting.

Monica Brasington announced that she and Shannon Miller recently relocated their office to 1204 NW 69th Terrace, Gainesville, Florida 32605, in an office complex just north of the Red Lobster restaurant. Monica indicated that their recent open house was a huge success, with many members of the local bar attending.

The subject of the acceptance by lawyers of credit cards from clients was briefly discussed. An initial poll of the group revealed that many still do not provide this service to their clients. Your author reported that he recently switched to the Florida Bar endorsed provider, Affinipay, fka Affiniscape, after a less than totally satisfying experience with the QuickBooks/Intuit provider. Affinipay charges a 2.19% commission for electronic transactions. There is no "swiping" machine involved. The client's credit card number is simply entered on Affinipay's website. There is an additional \$5.00 per month "statement" fee per account. There are no "setup" or other fees. Affinipay's customer service department has been very helpful in removing unwarranted charges from monthly statements, which should be closely monitored to ensure that only the proper amounts are taken from your account.

The meeting next proceeded to a discussion of the operation of the new confidentiality rule. Pete Enwall reported that he recently tried to comply with the rule by filing a Notice of Confidentiality in connection with the filing of a death certificate in a probate case. Pete reported that the clerk's office responded by saying the Notice need not be filed in such cases, because the clerk will not redact a death certificate. Monica Brasington suggested an alternative approach that seems to be working: she simply redacts the social security number and cause of death before filing the death certificate and doesn't bother with the Notice. Another suggestion was made regarding bank and brokerage account numbers on a probate Inventory. The confidentiality issue can be dealt with by including only the last four digits of the account number. It was also suggested that a similar method could be utilized for bank and brokerage account numbers on an Order of Summary Administration: use only the last four digits in the body of the Order, and include the entire account number in a cover letter to the bank or brokerage company when transmitting the Order.

The meeting also discussed the issue of the federal government's treatment of confidentiality of social security numbers of deceased persons. Wharton Cole reported that the Social Security Administration makes the social security numbers of all deceased persons available to the public on its website, ssa.gov. Apparently, if you have the person's name, address and date of birth, this is a search engine entitled "social security death index" which will reveal the decedent's social security number.

An interesting and comprehensive new proposed ethics opinion, Proposed Advisory Opinion 10-3, dated September 24, 2010, has been published by the Florida Bar, dealing with the ethical obligations of a lawyer regarding a deceased client. It is recommended that all practitioners review this new opinion. The gist of the opinion is that, as a general rule, when requested by other lawyers, heirs-at-law; will beneficiaries; or personal representatives, a lawyer for a deceased client should not usually reveal any information, except such as will "serve the client's interest". No disclosure should be made if the client specifically prohibited disclosure. Disclosure is freely allowed if the client has previously consented. Monica Brasington indicated that her firm has a form for consent which is presented to the client at the time the client executes his or her estate planning documents. A copy of this form was circulated to probate section members via email following the meeting.

Richard White reported on the current activities of the RPPTL Section. One item they are working on is a possible new statute which would provide that in the event of a divorce, a prior designation of a spouse as a beneficiary on a life insurance policy would become invalid (we have a similar statute invalidating the prior designation of a spouse as a beneficiary in a will). Query: Would such a statute do much good, considering most life insurance policies are promulgated by companies domiciled in other states, and provide that interpretation of the policy is governed by the law of a state other than Florida? Presumably, we will hear more on this issue in the months to come, as the 2011 legislative session draws near. Also in the RPPTL Section's legislative pipeline is a possible new statute dealing with "enhanced" estates, whereby creditors would potentially be able to reach jointly owned assets to satisfy the debts of a decedent.

The Probate Section continues to meet on the second Wednesday of each month in the fourth floor meeting room in the civil courthouse. All interest persons are invited to attend.

Mortgage Foreclosures *Continued from page 5*

to the mortgagor, whereupon the mortgagor shall turn over all rents in the possession or control of the mortgagor at the time of the written demand or collected thereafter (the "collected rents") to the mortgagee less payment of any expenses authorized by the mortgagee in writing.

Courts are split on whether this changes the substantive rights of mortgagees to receive the rents on the property or merely the procedure by which it implements those rights. Some courts have held that the statute changes the substantive rights of the mortgagee to receive the rents without a receiver. *In re: Thymewood Apartments Ltd.*, 129 B.R. 505 (Bankr. S.D. Ohio 1991). However, while the Florida Supreme Court has not definitively addressed this issue it has indicated that the statute should be interpreted merely as procedural. The statute was meant "to create a simple, equitable and inexpensive method by which a mortgage lender could enforce an assignment of rents contract." *Haven Federal Savings & Loan Association v. Kirian*, 579 So.2d 730, 733 fn. 1 (Fla. 1991).

Until the courts further construe the statute, parties seeking to enforce their lien on the rents of a property in default should be prepared to prove the elements required by *Carolina Portland Cement*.

President's Letter *Continued from page 1*

Do you measure your success based solely on your bank account, the number of active cases on your case list, the number of billable hours on your timesheet, the number of convictions or acquittals, or the number of cases you clear on your docket, while completely discounting the true value of what you have achieved for your clients or for the public? Do your New Year's resolutions include increasing those numbers? Checking more things off of your list of "to do's"? If so, I imagine that before you went to law school, your hopes and dreams were a bit loftier than that. Again, my mind returns back to Jerry Maguire's famous "This is a War" memo:

We are losing our battle with all that is personal and real about our business. Every day I can look at a list of phone calls only partially returned. Driving home, I think of what was not accomplished, instead of what was accomplished. The gnawing feeling continues . . . We are pushing numbers around, doing our best, but is there any real satisfaction in success without pride? Is there any real satisfaction in a success that exists only when we push the messiness of real human contact from our lives and minds?

My perception is that those who only identify themselves as "lawyers" are most at risk for being the most dissatisfied. Those who identify themselves with (and place as much emphasis upon) their other roles seem to lead happier, more balanced lives and, in turn, are often better lawyers. So, this year, I resolve to remember to value, and to dedicate time to WHO ELSE I am.

I am: a daughter, a sister, a (soon to be) wife, a friend, a voluntary bar leader, a volunteer for a number of charitable causes, a mentor, a peacemaker, an accomplished cook, an avid listener of recorded books, a mountain biker, a terrible (but eager to learn) golfer, and so many other things. Although I love my chosen career, who I am is more than what I do for a living. Who else are you?

I figure, if we simply resolve to remember each and every day who we are, who we once were, and who we want to be, we have no need to force ourselves to keep a laundry list of New Year's resolutions. Changes will follow naturally.

I look forward to meeting you again in the new year.

EJCBA Luncheon Policy

Please be reminded that the EJCBA is once again enforcing its long-standing policy that if you RSVP to the EJCBA luncheon, but do not attend, you must still pay for your lunch. You will receive a bill if you have not pre-paid. The EJCBA is obligated to pay for the lunches regardless of whether you attend or not and we will expect the same obligation of you.

In addition, we encourage you to RSVP, when possible. We welcome your attendance and always hope to have as many of you attend as are able, but we need your help in ensuring an accurate headcount, so that our lunches can continue to run smoothly. Thank you in advance for your cooperation!

RESERVE NOW FOR THE 2011 PROFESSIONALISM SEMINAR!

WHEN: Friday, April 1, 2011 – 9:00 a.m. – 12:00 NOON
WHERE: UF College of Law - Chesterfield Smith Ceremonial Classroom
PROGRAM: Our keynote speaker is John T. Berry, Director of the Legal Division of The Florida Bar, speaking on the topic of "The Challenges of Teaching Professionalism"
COST: \$65.00 (Make checks payable to EJCBA)
(3.5 Hours of CLE is expected)
REMIT TO: EIGHTH JUDICIAL CIRCUIT BAR ASSOCIATION, INC.
c/o Raymond F. Brady, Esquire
2790 NW43rd Street, Suite 200
Gainesville, FL 32606
RESERVE: **By Tuesday, March 29, 2011** – Remit payment with reservation to Raymond F. Brady, Esquire

Please identify first and second choices for your area of specialty for small group discussions.

- _____ P. I./Insurance Defense Law
- _____ Family/Domestic Relations Law
- _____ Criminal Law
- _____ Estates & Trusts Law
- _____ Transactional/Commercial Law

NAME(s): _____

NOTE: Please send a separate card with specialty areas for each attorney attending.

Thank you.

Parking:
Decal requirements
For **Commuter** parking
will be waived.
Spaces are limited, so
arrive early.

Professionalism Seminar

Inexpensive (CHEAP) CLE Credits

By Ray Brady

Mark your calendars now for the annual Professionalism Seminar. This year the seminar will be held on Friday, April 1, 2011 from 8:30 AM until Noon, at the University of Florida Levin College of Law. The keynote speaker is John T. Berry, Director of the Legal Division of the Florida Bar, speaking on "The Challenges of Teaching Professionalism."

We expect to be approved, once again, for 3.5 General CLE hours, which includes 2.0 ethics hours and 1.5 professionalism hours.

A reservation card is provided above or look in your mail for an EJCBA reservation card in early March. Questions may be directed to the EJCBA Professionalism Committee chairman, Ray Brady, Esq., at 373-4141.

Members Only: Log-in Now to Print your EJCBA Directory

Remember, only current EJCBA members can access a printable version of the complete member directory, edit their own information online, and post additional data on their member profile, such as practice areas, photos, and a website link. Log-in to the EJCBA website at www.8jcba.org by clicking the link on the top left hand side of the home page. If you have forgotten your password, please email execdir@8jcba.org to have it resent to you. Once you have logged in, click on the "Member Directory" tab to access links to download and print a complete member directory and court directory, as well as to update your profile.

EJCBA is on Facebook

In addition to the EJCBA website at www.8jcba.org, the EJCBA now has a facebook fan page, which contains additional information regarding upcoming events, photo galleries, discussion boards, and more! Pictures from our events from recent terms, including the 2010 James C. Adkins Cedar Key dinner, are now

Some Welcoming Thoughts (At Least For 2011) from a Florida Bar Foundation Board Member



By Philip Kabler

Lawyers, like other professionals, are accustomed to dealing with large amounts of client case files. In order for our practices to stay effective, efficient, and economical, we adopt and implement routinely applied file management systems.

In recent times those systems (or “solutions” as our “IT” colleagues call them) are technological in nature.

Such is likewise the situation for legal aid programs. Those agencies deal with “mega” volumes of client files. Their funding sources, such as public and private grant providers, typically require consistency among their agency recipients so the funders can determine if their funds are being used properly and economically.

In order to support that effort, in 2007 The Florida Bar Foundation -- *a major grant provider itself, as explained in prior articles* -- allocated \$2.3 million of Interest on Trust Account funds to implement “ISLA” (Information System for Legal Advocacy). ISLA funds have been used throughout Florida to engage a common internet-based information management system, convert multiple agencies’ data to work on that platform, and provide technical support and training. {Sidebar – Even though the multiple agencies

share the same platform, they nevertheless maintain separate databases and password access so client confidentiality is preserved.} Perhaps the most significant current function of the Foundation is its payment of the monthly hosting fees for all participating legal services agencies.

An immediate benefit of ISLA’s web-based implementation is the ability of participating attorneys to access client files wherever internet access is available. (We *all* know this sort of access is immeasurably helpful. Otherwise we would be “lugging” around huge file boxes wherever we go.) Another benefit is the ability of legal aid agency administrators to track case progress, time spent, and developing trends for their internal operational and planning purposes. *And finally...* offsite backup of the files and data.

And, so you know Foundation funds have a *local* impact, both Three Rivers Legal Services and Florida Institutional Legal Services participate in ISLA.

If you are interested in ISLA, here is a link to a descriptive article: www.floridabarfoundation.org/Technology. And if you have questions about The Florida Bar Foundation, please feel free to call me at (352) 332-4422. To get the latest news about the Foundation and its grantees, please become a “Fan” on Facebook by visiting www.facebook.com/TheFloridaBarFoundation.



EJCBA Historian/Photographer Frank Maloney at Cedar Key



Frog's Landing, Cedar Key, October 14, 2010



Eighth Judicial Circuit Bar Association, Inc.
Post Office Box 127
Gainesville, FL 32602-0127

January 2011 Calendar

- 5 EJCBA Board of Directors Meeting; Ayers Medical Plaza, 720 SW 2d Avenue, North Tower, Third Floor – 5:30 p.m.
- 5 Deadline for submission to February Forum 8
- 6 CGAWL meeting, Flying Biscuit Café, NW 43rd Street & 16th Avenue, 7:45 a.m.
- 7 Brown bag lunch for civil practitioners with Judge Griffis, 12-1 pm, Courtroom 3C, Alachua County Family & Civil Courthouse
- 12 Probate Section Meeting, 4:30 p.m., 4th Floor, Family & Civil Courthouse
- 14 EJCBA Luncheon, Ti Amo!, Chief Judge Martha Lott on the State of the Circuit, 11:45 a.m.
- 17 Martin Luther King, Jr. Holiday, County and Federal Courthouses closed
- 18 Family Law Section Meeting, 4:00 p.m., Chief Judge's Conference Room, Alachua County Family & Civil Justice Center
- 20 Swearing in Ceremony, Honorable Stacy A. Scott as Public Defender, 4:00 p.m., Courtroom 1B, Criminal Justice Center

February 2011 Calendar

- 2 EJCBA Board of Directors Meeting; Ayers Medical Plaza, 720 SW 2d Avenue, North Tower, Third Floor – 5:30 p.m.
- 3 CGAWL meeting, Flying Biscuit Café, NW 43rd Street & 16th Avenue, 7:45 a.m.
- 4 Deadline for submission to February Forum 8
- 9 Probate Section Meeting, 4:30 p.m., 4th Floor, Family & Civil Courthouse
- 11 EJCBA Luncheon, Ti Amo!, Senator Mike Haridopolos, speaking on the Florida Innocence Commission, 11:45 a.m.
- 21 Washington's Birthday, Federal Courthouse closed
- 22 Family Law Section Meeting, 4:00 p.m., Chief Judge's Conference Room, Alachua County Family & Civil Justice Center
- 25 Deadline for filing applications for Judicial Nominating Commission Vacancy

Have an event coming up? Does your section or association hold monthly meetings? If so, please fax or email your meeting schedule let us know the particulars, so we can include it in the monthly calendar. Please let us know (quickly) the name of your group, the date and day (i.e. last Wednesday of the month), time and location of the meeting. Email to [Dawn Vallejos-Nichols at dvallejos-nichols@avera.com](mailto:dvallejos-nichols@avera.com).