

# FORUM 8

Volume 71, No.3

Eighth Judicial Circuit Bar Association, Inc.

November 2011

## President's Letter



By Mac McCarty

Since moving to Gainesville from southeast Florida to practice in 1986, some of the best aspects of professional life in the Eighth Judicial Circuit have been the high ethical standards, the high level of professionalism, and generous professional courtesy exhibited by the lawyers in this

circuit. Seemingly, because we have been somewhat insulated in North Florida, we have avoided many of the issues that have plagued practitioners in—shall we say—the more southern climes of the State.

These positive aspects, and lack thereof in other parts of the state, were brought home to me yet again over the last couple of years. Part of my practice involves representing condominium associations and homeowner associations in various parts of the state. When the foreclosure crisis descended upon the court system, it became apparent that the specialty firms handling foreclosures quickly became overwhelmed with the volume of work they were receiving and, as a result, they increased their number of attorneys rapidly. Many of these attorneys were very “green”.

My experience dealing with most of the “foreclosure mills” was abysmal. There never seemed to be a particular attorney who was responsible for a file; telephone calls to the firm were routed to different individuals each time—if you were able to reach a live human being; phone calls were not returned; hearings were set without any effort to coordinate them on the calendars of opposing counsel; correspondence

was frequently sent to the court without copies being sent to opposing counsel; and proposed orders from opposing counsel, such as proposed foreclosure final judgments, were not sent to opposing counsel in advance of the hearing in order to determine whether there were any objections or suggested corrections. Particularly before the institution of the Supreme Court’s administrative order relating to foreclosures, there were frequently “findings” in final judgments of foreclosures prepared by the foreclosure mills that went far beyond the allegations in the complaints.

It was disconcerting and discouraging to see the level of training and experience that the foreclosure mill attorneys exhibited. Frequently, it appeared that they had little or no experience before a Court and their demeanor and level of professionalism was not what I had learned as a young attorney, or what I expected from any member of the Florida Bar. It was and, to some extent, continues to be a sad commentary on the legal profession in the foreclosure arena.

Obviously, alleged improper practices on the part of some of the foreclosure mill law firms have resulted in their closure and disciplinary action against one or more of the principals of the firms. The “robo-signing” that allegedly occurred with the knowledge and participation of one or more of these firms is a nadir of professionalism, ethics, and legal ability.

How does that relate to the Eighth Judicial Circuit? While we have avoided the volume of problems that have been experienced along the southeast and



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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 5<sup>th</sup> of the preceding month and can be made by email to [dvallejos-nichols@avera.com](mailto:dvallejos-nichols@avera.com).

**EJCBA Luncheon has Moved!**

The monthly EJCBA luncheon will now be held at Jolie - 12 West University Avenue, Gainesville.

**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**

# Alternative Dispute Resolution

## A Rabbi, A Priest and A Mediator Walk Into a Bar . . .



By Chester B. Chance and Charles B. Carter

Actually, we are trying to come up with a punch line for the above tweak of a classic joke. If you can finish the joke please email it to [cdpa@bellsouth.net](mailto:cdpa@bellsouth.net) and we will publish any noteworthy punch lines.

In the meantime, this month's topic is the more mundane:

### Attendance At Mediation

When mediation was in its developmental stages in 1994, the Fifth District Court of Appeals entered a decision compelling a Board of Trustees to attend a mediation. In *Physicians Protective Trust Fund v. Overman*, 636 So.2d 827 (Fla. 5<sup>th</sup> DCA 1994) the Appellate Court determined a Circuit Court had authority to order the entire board of trustees of a self-insured trust which provided a physician with professional liability insurance to attend mediation of a medical malpractice action; however, the requirement was in the form of a "sanction" for failure to comply with the original mediation order requiring the trust to send a representative with full authority to resolve the matter at mediation.

The mediation was adjourned because the defendant had no dollar authority. The lower court ordered the Board of Trustees to attend the resumption of mediation. The Board of Trustees claimed hardship in complying with the court order in its appellate argument and the Appellate Court noted some of these claims may have had merit; however, these issues had never been presented to the lower Court. Therefore, the lower Court was directed to conduct a hearing prior to the mediation.

In *Mash v. Lugo*, 49 So.3d 829 (Fla. 5<sup>th</sup> DCA 2010) the Court again examined the issue of attendance at mediation. It noted prior decisions where a court awarded sanctions against a party when only the party's counsel appeared at mediation and thus rejected an argument that a party's appearance is not necessary because its counsel had full authority to settle. [See: *Segui v. Margrill*, 844 So.2d 820 (Fla. 5<sup>th</sup> DCA 2003)].

The *Mash* court also noted it had previously sanctioned a party for failure to appear at mediation even when counsel and two representatives of an

insurance company appeared at the mediation. [See: *Carbino v. Ward*, 801 So.2d 1028 (Fla. 5<sup>th</sup> DCA 2001)].

In *Mash* a party did not attend mediation nor did a representative of their insurance carrier. Only counsel appeared and counsel argued he had full authority for settlement on behalf of the insurer. The Court upheld the sanctions including all fees charged by the mediator and reasonable attorney's fees and costs incurred in preparing for and attending the mediation by the opposing party.

In *Insurance Company of North America v. Gaines*, 765 So.2d 139 (Fla. 1<sup>st</sup> DCA 2000) the Court ordered the parties to mediation. The defendant, an insurance company, was sued directly by its insured for breach of an insurance policy. The court determined the insurer was not required to send a representative with full settlement authority to mediation other than its attorney. Would this not be conflicting with the above referenced *Mash* decision? Well, the First DCA noted the trial court's order in *Gaines* only required the insurer to send a representative other than an attorney to mediation when the insurer assumed the defense of another party (a third party claim). Interesting distinction.

In *Massey v. Beagle*, 754 So.2d 146 (Fla. 1<sup>st</sup> DCA 2000), the Court determined that an independent adjuster was not a "party" in a litigation and the mediation that arose out of a motor vehicle accident between the plaintiffs and the defendants. Thus, the trial court could not impose sanctions against the independent adjuster for failing to negotiate in good faith during a court ordered mediation. It is unknown whether the trial court, after the appellate decision, amended its order to require the insurance company to pay rather than the independent adjuster.

In *Western Waste Industries, Inc. v. Achord*, 632 So.2d 680 (Fla. 5<sup>th</sup> DCA 1994), the Court determined that once the plaintiffs learned that the defendants had sent someone to a mediation without full authority to settle a tort case the plaintiffs had two options: either terminate the mediation and seek sanctions for failure to comply with the trial court's order requiring the presence of someone with full



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# North Central Florida Chapter of the Federal Bar Association Hosted Reception for Judges, Lawyers, and Law Students

*By Jamie Shideler, FBA Law Student Representative*

On September 15, 2011, the North Central Florida Chapter of the Federal Bar Association (FBA) hosted a reception for local federal judges, practitioners, and law students. Approximately 50 FBA members, law students, and guests enjoyed fine wine and hors d'oeuvres at Jolie Restaurant and Banquet Facility in downtown Gainesville.

During the reception, the FBA recognized three local federal judges for significant recent accomplishments. Senior United States District Judge Stephan P. Mickle was recognized for recently taking senior status. When Judge Mickle assumed senior status he completed serving as the Chief Judge and Judge M. Casey Rodgers assumed the position of Chief Judge. Despite his senior status, Judge Mickle is continuing to handle an array of civil and criminal cases from the Gainesville Division.

Senior United States District Judge Wm. Terrell Hodges was recognized for his recent appointment to the Board of the James Madison Foundation. The appointment is a Presidential appointment and Judge Hodges is one of two federal judges to serve on the Board. In addition, Judge Hodges continues to handle a full complement of civil and criminal cases in the Ocala Division of the Middle District of Florida.

United States Magistrate Judge Thomas B. Smith was welcomed as the new magistrate judge in the Ocala Division of the Middle District of Florida. Prior to becoming magistrate judge, Judge Smith was a Ninth Judicial Circuit Court judge in Orlando where he had served since 2002, and before that, Judge Smith was a partner at Holland & Knight.

Incoming Chapter President Gil Schaffnit recognized Immediate Past Chapter President Judge Gary R. Jones with a plaque for his service as FBA President for 2010-2011. Gil Schaffnit offered remarks about plans for the upcoming year, including the possibility of the FBA hosting a portrait reception for Judge Mickle and possibly organizing a program to coincide with the 50th anniversary of *Gideon v. Wainwright*. Gil Schaffnit also mentioned that the FBA would like to address the issue of the removal of the phone and fax machine from the lawyers' lounge in the Gainesville Federal Courthouse.

Also at the reception, the FBA held its Annual Meeting, at which the FBA's new officers and board

members were installed:

President: Gil Schaffnit

President-Elect: David Wilson

Secretary/Treasurer: Peg O'Connor

Membership Chairperson: Stephanie Marchman

Board Members: The Honorable Gary R. Jones,  
Ron Kozlowski, and Rob Griscti

Law School Liaison and Board Member: Rob  
Birrenkott

In addition, the Board of Directors approved expanding the law student representatives from four members to six members. The FBA Law Student Representatives are: Jamie Shideler, Ajay Singh, Kara Carnley Murrhee, Marisa Goldberg, Lauren Rehm, and Michal-Ane McIntosh.

The FBA especially thanks its sponsors for making this wonderful reception possible: Stan Cushman, Esquire; Jeffrey Dollinger, Esquire; Gray, Ackerman & Haines, PA; Law Firm of Robert S. Griscti; The Honorable Gary R. Jones; Ron Kozlowski, Esquire; Peg O'Connor, Esquire; Larry Turner, Esquire; and Law Offices of David A. Wilson.

In other news, the FBA will be starting a newsletter this fall, which will be published approximately three times per year to the FBA listserve. The newsletter will include information regarding upcoming events, summaries of recent notable decisions in the Northern District, and other important announcements. Also, the FBA officers and board members will meet later this fall to plan the FBA events for the year. If you are interested in becoming involved in the FBA, have ideas for future FBA events, or would like to be added to the FBA listserve, please contact Stephanie Marchman at 352-334-5011 or [marchmansm@cityofgainesville.org](mailto:marchmansm@cityofgainesville.org).



## EJCBA Address Change

Due to the closing of the downtown post office, the address of the EJCBA office has changed. It is now P.O. Box 13924, Gainesville, FL 32604. Please make a note of it. Our telephone and fax numbers remain the same and are listed on page 2 of this newsletter.

# My 33<sup>rd</sup> Anniversary at Three Rivers Legal Services

By Marcia Green

This past month I realized that I have worked at Three Rivers Legal Services for 33 years! Should I celebrate or should I be committed? In these 33 years, so much has happened, so many changes have occurred and so many good things have taken place. At the same time, funding issues and concerns for our clients' welfare cause many sleepless nights.

When I started at Three Rivers (formerly Storefront Legal Aid), the program had recently started receiving federal funding and was in the process of moving downtown. Judy Collins was already a staff attorney and Tom Williams was here but left shortly after to attend law school. Alan Hill was the administrator; we got married a few years ago. The four of us are still here. Judge Stephan Mickle was on our board as was retired Judge Larry Turner and current board members Ken Davis and Barbara Burkett.

My first position at Three Rivers was as receptionist; it was just a job. I had come from a home where we were comfortable; my father was a professor and we were taught practicality. He rode his bike to work and we had one family car; education was a priority. As an adult, I chose a rather simple life and, at that time, had not completed my undergraduate degree. I had a young child and this job was family-friendly; it provided health insurance and a regular paycheck.

Three Rivers fascinated me. I had no knowledge of the legal system or those living in poverty. My high school and college sociology classes touched on poverty but I really had no idea. I discovered that the clients were human beings who often just lacked the safety net I had been provided. They were young and old, educated and not; many had disabilities while most worked at low paying jobs and almost all were generally unsophisticated. Many were very humble; some were funny; some were scary.

Three Rivers attorneys and staff were dedicated, gutsy and courageous. They saw injustice and fought for the underdog. I was wowed by the successes and frustrated at a system that did not protect the victims. I was impressed with the volunteer attorneys who came to do intake after-hours and represented our clients. I loved that we made an impression in rural north Florida, at the courthouses, at the social agencies and in the communities. I was

glad that funding, though never secure, seemed to increase over the years.

I moved from the receptionist position to secretary and client intake worker. The opportunity for deeper client involvement increased my interest and resolve about the importance of our work. I thought about law school but needed to finish my undergraduate degree first. Three Rivers encouraged me to go back, which I did part-time in night classes, during my lunch or every first period class I could get. By the time I finished my journalism degree at UF, however, I was dealing with my own family problems and did not go on to law school (maybe someday). When the Legal Services Corporation, our major funding source, said that a percent of our grant funding had to go towards a program involving the private bar, I became the pro bono coordinator.

For 33 years, I have had the incredible opportunity to work with the attorneys of the Eighth Judicial Circuit. I convinced Judges Sanders and Chance to sign hundreds of letters encouraging attorneys to volunteer. I called you and emailed you asking you to take cases; I stood before you at bar luncheons, recognizing attorneys who had made extraordinary contributions of time or money and hoping to entice you to do pro bono.

If you are now wondering if I'm retiring, no, I'm not. I love what I do, who I work with and the clients I work for! I believe that people who don't have the resources to pay for civil legal help should at least be allowed an opportunity to speak with an attorney, to get advice and to understand their rights. They should have the opportunity for representation if it is needed, especially to maintain housing, income and safety. I believe that a person, regardless of their income, should have the right of access to the civil legal system. I know that not everyone is right just because they think they are; I know that not everyone has been wronged because they say they are. Mostly I believe that "equal justice under the law" should mean just that, regardless of resources.

Three Rivers Legal Services is in more of a crisis than we've ever experienced before. Despite early successes, we need your help more than ever. Our major source of funding is through the Legal Services Corporation which is directed

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southwest coasts of Florida, we have not avoided all of those problems. Specifically, I have noticed what I consider to be a decline in professionalism and professional courtesy in the Eighth Judicial Circuit. It's just my humble opinion, but I attribute this decline to three things:

- (1) too much work;
- (2) too little work;
- (3) lack of proper mentoring.

Addressing these seriatim, "too much work" aptly describes what occurred in the high volume foreclosure firms. The overwhelming file numbers led to a breakdown of supervision by senior attorneys, with a resulting lack of adherence to the typical norms of professionalism in the handling of civil litigation.

"Too little work" seems to be in part attributable to the economic downturn and perhaps in part because of the plethora of attorneys; it seems some attorneys are scrambling to take anything that walks in the door that might generate a fee. This has led to inexperienced, perhaps incapable, attorneys taking on matters that they should either co-counsel with experienced attorneys or refer on to other counsel. Perhaps because of their lack of experience with the matters they're handling, there seems to be a decrease in the common courtesies that typically would be extended to opposing counsel in that type of litigation. Additionally, I have observed attorneys pursuing legal theories that are without support and—again in my opinion—are raised only to generate fee revenue.

Lastly, whether attorneys have "too much work" or "too little work", the lack of a strong mentoring hand is obvious. When I began practicing law, I worked in a firm that had been founded in part by two former FBI agents. The level of ethical mentoring and practice mentoring in that firm was incredibly strong. During my early associate years, I always had someone to turn to to ask how something should be done and, if I inadvertently stepped out of line, I had a firm hand to correct me (and advise me not to do it again!). Again in part because of the economic situation, many attorneys have been "hanging out their shingle" without having had any significant mentoring that would help both with competence in a practice area or with professionalism and professional courtesy.

The Eighth Judicial Circuit Bar Association continues to make mentoring and professionalism two of the goals of the Association. Through the Bench and Bar Committee, the Mentorship Committee, and the Professional Courtesy Guidelines Committee, we are trying to fill a need that is apparent in our community.

In addition, there are a number of mentors available through the two local Inns of Court. I would like to encourage you as members of the Eighth Judicial Circuit Bar Association to do one or more of the following:

Take a look at yourself and determine whether you fit into one of the categories above and could use some mentoring. It doesn't have to be formal. It can be "off the record" and as simple as finding someone to call when you have an issue;

If you aren't in one of the categories above, see if you are a person who could help others by volunteering your time and your experience in the mentorship program. Offer someone a chance to share in your knowledge and experience where they need it;

If you recognize that someone needs help in this area, confidentially bring it to their attention and suggest that perhaps they should seek some help through a mentoring program. Use a third party to make the suggestion if necessary.

I encourage you to contact our association and ask for additional information on how you can either help as a mentor or, if you'd like to find a mentor, request one through our organization. I invite you to e-mail me directly, [mmccarty@nflalaw.com](mailto:mmccarty@nflalaw.com), if you would like to volunteer or would like to meet a mentor and I will refer your e-mail on to our committee for further handling.

Most of all, I want to encourage all of the lawyers in our circuit to continue to exhibit the highest ethical and professionalism standards when dealing with each other. Despite my frustrations with the foreclosure mills, I have attempted to continue to treat them in the same manner as I would expect to be treated by a firm with attorneys properly schooled in professionalism and professional courtesy. Keeping our circuit a civil, ethical, and professional arena should be our highest goal.

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## **CGAWL Cedar Key Dessert Contest**

CGAWL is once again sponsoring its annual Cedar Key Dessert Contest to be held in conjunction with the Jimmy C. Adkins Cedar Key Dinner on Thursday, November 3, 2011. The theme is "IRON CHEF: INGREDIENT – PUMPKIN." Awards will be given for decoration and taste plus overall winner. All entries should be home-made and include pumpkin as an ingredient. Questions should be addressed to Anne Rush at [rusha@pdo8.org](mailto:rusha@pdo8.org).

# Family Law

## Some Recent Family Law Newsmakers and Cases



By Cynthia Stump Swanson

### Baby Selling Ring Busted

August 10, 2011: An attorney in California, one in Maryland, and another woman who had been a surrogate mother worked together to recruit women to travel to the Ukraine to be implanted with embryos from anonymous donors. At least a dozen American couples paid \$150,000 each for these babies. The brokers told their clients the babies had been part of a surrogacy contract and that the prospective parents had backed out at the last minute. In fact, there were never any such parents or contracts. The baby-broker ring instead was paying the surrogate mothers between \$38,000 and \$45,000 for each successful pregnancy and keeping the rest of the adoption money for themselves.

They also misled the parents into believing they knew who the sperm and egg donors were when they were anonymous. The California attorney also admitted to filing false applications for the surrogates to California's state insurance program to subsidize the medical costs of the deliveries of the babies. In an update in October 2011, the State of Maryland disbarred the Maryland attorney.

It's very important for prospective parents who are going either the route of surrogacy or adoption to work with experience, well-credentialed attorneys who are knowledgeable in this area. The American Academy of Adoption Attorneys and the Academy of Assisted Reproductive Technology Attorneys are two very good resources.

Source - ABC News: <http://tinyurl.com/3uhsz58>

### Domestic Violence May Not be a Crime in Topeka

October 7, 2011: The City Council of Topeka, Kansas. The city could repeal an ordinance banning domestic violence because some say the cost of prosecuting those cases is just too high. The county District Attorney's office, facing a 10% budget cut, announced that the county would no longer be prosecuting misdemeanors, including domestic violence cases, at the county level. Finding those cases suddenly dumped on the city and lacking resources of their own, the Topeka City Council is

now considering repealing the part of the city code that bans domestic battery.

Since the county stopped prosecuting the crimes on September 8th, it has turned back 30 domestic violence cases. Sixteen people have been arrested for misdemeanor domestic battery and then released from the county jail after charges weren't filed. "Letting abusive partners out of jail with no consequences puts victims in incredibly dangerous positions," said Becky Dickinson of the YWCA. "The abuser will often become more violent in an attempt to regain control."

Domestic violence is still at epidemic levels in the United States, and too few cases are prosecuted as it is. According to the National Coalition Against Domestic Violence, one in four women will be a victim of domestic violence. And domestic abuse is a crime that damages entire communities, not just women. Witnessing violence between one's parents is the strongest risk factor of transmitting violent behavior from one generation to the next: boys who witness domestic violence are twice as likely to abuse their own partner when they grow up.

And while not prosecuting domestic violence cases may seem to save money in the short term, it actually has staggering financial consequences. The health-related costs of domestic violence exceeds \$5.8 billion each year. Nearly \$4.1 billion of that is for direct medical and mental health care services, and nearly \$1.8 billion are for the indirect costs of lost productivity or wages. Victims lost almost 8 million days of paid work because of the violence.

Source - Think Progress: <http://tinyurl.com/68j3x56>

### Paul McCartney Marries Again

Former Beatle Paul McCartney, 69, hasn't lost faith in marriage yet; he married his American girlfriend, Nancy Shevell, 51 on October 9. The ceremony was held at Marylebone Town Hall, the same place Sir Paul married his first wife, Linda, in 1969. Shevell is a New York heiress who is also a trucking executive, having served on the Metropolitan Transit Authority for 10 years.

Even though McCartney had to pay second wife Heather Mills almost \$50 million dollars after their two year long divorce battle (after a four year long marriage), there was no mention in the news story of a prenuptial agreement.

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by Congress. The Florida Bar Foundation is low on funds at the same time that other grants and funding have dried up. Our program has shrunk to its smallest size in decades. As attorneys and clerical staff leave, they cannot be replaced. Most importantly is that the economy has hurt our clients greater than ever and the numbers of eligible clients has increased dramatically. Did I mention that we need you now more than ever!

In 33 years, I've grown up, both in age and experience. I have more than the one pair of shoes I owned when I started at Three Rivers in 1978; my children are older than some of our young lawyers. I represent disabled people at their Social Security hearings and continue to coordinate pro bono. Although I think about retirement and the possibility of staying home to read, bake, visit family and friends, and travel, I mostly realize that I still have the opportunity and energy to help those who lack the safety net that I so gratefully appreciate. Regardless of how our safety net came to be, whether through wealth, education, determination, family or luck, we all have the opportunity to help those in need. Please consider providing either your legal expertise, volunteering your time or making a financial contribution.



Jean Sperbeck, Sharon Sperling, Jim Gray, Margaret Stack, Clerk of Court Buddy Irby and Judge Denise Ferrero at October's Bar Luncheon

## EJCBA'S November Luncheon Social

In response to several requests, EJCBA's November 18 luncheon will not have a scheduled luncheon speaker. Members are encouraged instead to attend to enjoy a rare 75 minute opportunity to socialize with each other and our judiciary over a relaxed lunch without a set program. Since this is an experiment, we would appreciate your feedback following your attendance and look forward to hearing from you. Send your comments, pro or con, to [dvallejos-nichols@avera.com](mailto:dvallejos-nichols@avera.com) or [execdir@8jcba.org](mailto:execdir@8jcba.org).

### ADR

*Continued from page 3*

authority, or, waive the violation and proceed to final mediation.

We make one observation: If you are litigating in the jurisdiction of the Fifth District Court of Appeal you need to cross your T's and dot your I's with respect to who has settlement authority at mediation and what are you going to do about it if they don't have that authority.



Judge Gary R. Jones and incoming chapter President Gil Schaffnit

## Family Law

Continued from page 7

### Sources:

The Daily Beast: <http://tinyurl.com/6gkp3av>

People Magazine: [www.tinyurl.com/6z7n4ot](http://www.tinyurl.com/6z7n4ot)

### Recent Cases to Note

*Bainbridge v. Pratt*, 36 Fla. L. Weekly D 1699 (Fla. 1st DCA (Levy County) 2011): Error to award annual rotating custody where parties lived 300 miles apart, nine-year-old child would have to change schools every year, and neither party requested it.

*Hahn v. Hahn*, 42 So. 3d 945 (Fla. 4th DCA 2010): The 2008 legislation establishing timesharing in lieu of visitation and primary residential custody did not create presumption in favor of equal timesharing.

*Needham v. Needham*, 39 So. 3d 1289 (Fla. 2d DCA 2010): Trial court erred in failing to consider mother's support of teenage daughter from earlier marriage in determining mother's child support obligation with regard to parties' child.

*Wilcox v. Munoz*, 35 So. 3d 136 (Fla. 2d DCA 2010): If trial court orders child's non-covered medical expenses to be paid separately from basic child support obligation, then expenses must be apportioned between parties based on their respective percentage shares of child support.

The Family Law Section meets the third Tuesday of every month except December and during the summer. The meetings are at 4:00 pm in the Chief Judge's Conference Room in the Alachua County Family and Civil Justice Center. If you would like to be added to or deleted from a loosely kept mailing list to remind you about the meetings, please email me at [cynthia.swanson@swansonlawcenter.com](mailto:cynthia.swanson@swansonlawcenter.com)



Attendees at the North Central Florida Chapter of the Federal Bar Association's September reception

## Criminal Law



By William Cervone

With thanks to my friend and our colleague Steve Scott, who sent this to me last year, I offer the following Thanksgiving thoughts. I will admit that I also fervently hope that this acknowledgement saves me from copyright or other complaints from wherever Steve got this if it was not his own.

I am thankful:

For the wife who says it's hotdogs tonight because she's home with me and not out with someone else.

For the husband who's on the sofa being a couch potato because he's home with me and not out at the bars.

For the teenager who's complaining about doing the dishes because it means she's at home, not on the streets.

For the taxes I pay because it means I'm employed.

For the mess to clean after the party because it means I've been surrounded by friends.

For the clothes that fit a little too snugly because it means I've had enough to eat.

For my shadow that watches me work because it means I'm out in the sunshine.

For a lawn that needs mowing, windows that need cleaning, and gutters that need fixing because it means I have a home.

For all the complaining I hear about the government because it means we have freedom of speech.

For the parking spot I find at the end of the parking lot because it means I'm capable of walking and have been blessed with transportation.

For my huge heating bill because it means I am warm.

For the lady behind me in church who sings off key because it means I can see.

For the pile of laundry and ironing because it means I have clothes to wear.

For weariness and aching muscles at the end of the day because it means I was capable of working hard.

For the alarm that goes off in the early morning hours because it means I'm alive.

And finally, for too much e-mail because it means I have friends who are thinking of me.

Share this with someone you care about. I just did.

Happy Thanksgiving!

# Thoughts During the Beautiful Fall Season from a Florida Bar Foundation Board Member



By Philip N. Kabler

One of the core functions of The Florida Bar Foundation is addressing the provision of legal services to children in the state of Florida. This function is performed directly, of course, by Foundation grantees. Those grantees' efforts are supported by the Foundation's Annual Children's Legal Services Conference, which was held this year on September 14-15 in Orlando.

Children's legal services entail a wide and critically important range of topics, both for current times and for our state's future. Areas include – *but are not limited to {as lawyers are wont to say}* – foster care, health services, developmental disability rights, and juvenile justice reform.

Towards those ends, the Foundation distributed \$2.8 million through its Children's Legal Services Grant Program in 2010 to many of the programs represented at the Conference, but had to cut those grants by 20 percent in 2011 due to declining revenue from Florida's Interest on Trust Accounts Program. With IOTA revenue expected to remain stagnant into 2013 and possibly longer due to low interest rates, another round of cuts of 20 percent or more is expected in 2012, which will endanger the jobs of up to 10 of these children's attorneys. The Foundation is exploring ways to supplement IOTA revenue to minimize these cuts until IOTA revenue returns to pre-recession levels.

But back to the "business" conducted at the conference. One of the principal topics presented occurred during a workshop on the Administrative Procedure Act, which educated attorneys on how they can dispute government agencies when those agencies improperly deny their clients' benefits, ultimately creating better outcomes for the youth and families involved.

While presenters were from throughout the state, the keynote speaker was Florida Supreme Court Justice Barbara Pariente, who called on children's advocates to be change agents. "Think of your individual clients, but also think of the big picture," Justice Pariente said. "Every child needs their voice to be heard."

North Central Florida was represented at the conference. Andrea Costello, a juvenile justice attorney with Florida Institutional Legal Services, whose practice focuses on civil rights litigation and policy advocacy on behalf of youth in Florida's juvenile justice facilities, prisons, and jails, was an attendee. Ms. Costello said

of the conference,

The annual statewide Children's Legal Services Conference sponsored by the Florida Bar Foundation allows advocates around the state to sharpen our skills and knowledge in areas that we may already be working in or need to learn about to be more effective advocates for our clients. It also facilitates broader discussion, strategy and the sharing of ideas about approaching systemic problems and issues that children and youth in our state face concerning our public schools, foster care, juvenile justice systems, and access to health care, to name just a few things that advocates are working on.

"*Nota Bene.*" In addition to the good work done on behalf of Florida's youth and families by the professionals who attended the Conference, pro bono opportunities are available under the "One Campaign" for interested attorneys. For information about the "One Campaign" please visit [www.onepromiseflorida.org](http://www.onepromiseflorida.org) {... and be sure to turn on your computer's speakers}. To participate, please contact Three Rivers Legal Services at (352) 372-0519.

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](http://www.facebook.com/TheFloridaBarFoundation). You can also visit [www.floridabarfoundation.org](http://www.floridabarfoundation.org).



EJCBA President Mac McCarty at the  
October Bar Luncheon

# Eighth Judicial Circuit Bar Association, Inc.

## Mission Statement:

The mission of the Eighth Judicial Circuit Bar Association is to assist attorneys in the practice of law and in their service to the judicial system and to their clients and the community.

Please send a check payable to EJCBA in one of the following amounts:

- \$55 For lawyers with less than 5 years experience; lawyers with the State Attorney's Office, Public Defender's Office and Legal Aid with 10 years of experience or less; retired lawyers.
- \$75 For all other lawyers and members of the Judiciary
- 1 year free membership for members in their first year of practice (in any jurisdiction). Free membership does NOT include cost of lunches.

Please send your check, along with your completed application to:

Eighth Judicial Circuit  
Bar Association, Inc.  
P. O. Box 13924  
Gainesville, FL 32604  
Email: [execdir@8jcba.org](mailto:execdir@8jcba.org);  
[padgej@shands.ufl.edu](mailto:padgej@shands.ufl.edu)

**Voting Members:** This category is open to any active member in good standing of the Florida Bar who resides or regularly practices law within the Eighth Judicial Circuit of Florida.

**Non Voting members:** This category of membership is open to any active or inactive member in good standing of the Bar of any state or country who resides within the Eighth Judicial Circuit of Florida, or to any member of the faculty of the University of Florida College of Law.

# EJCBA

## Renewal/Application for Membership

### Membership Year: 2011 - 2012

Check one: Renewal  New Membership

First Name: \_\_\_\_\_ MI: \_\_\_\_\_

Last Name: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Title: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Eighth Judicial Circuit Bar Association, Inc.

Telephone No: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Fax No: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Email Address: \_\_\_\_\_

Bar Number: \_\_\_\_\_

List two (2) Areas of Practice:

\_\_\_\_\_  
\_\_\_\_\_

Number of years in practice: \_\_\_\_\_

Are you interested in working on an EJCBA

Committee?  Yes  No



Eighth Judicial Circuit Bar Association, Inc.  
Post Office Box 13924  
Gainesville, FL 32604

## November 2011 Calendar

- 3 Annual James C. Adkins Cedar Key Dinner, 6:00 p.m., Steamers
- 4 Deadline for submission of articles for December Forum 8
- 5 UF Football v. Vanderbilt (Homecoming), TBA
- 9 Probate Section Meeting, 4:30 p.m., 4<sup>th</sup> Floor, Family & Civil Courthouse
- 9 EJCBA Board of Directors Meeting; Ayers Medical Plaza, 720 SW 2d Avenue, North Tower, Third Floor – 5:30 p.m.
- 10 North Florida Area Real Estate Attorneys meeting, 5:30 p.m., TBA
- 11 Veteran's Day, County and Federal Courthouses closed
- 12 UF Football at South Carolina (Columbia, SC), TBA
- 16 CGAWL lunch/business meeting, Fat Tuscan, 11:45 a.m.
- 18 EJCBA Luncheon, Member Social, Jolie, 12 West University Avenue, 11:45 a.m.
- 19 UF Football v. Furman, TBA
- 22 Family Law Section Meeting, 4:00 p.m., Chief Judge's Conference Room, Alachua County Family & Civil Justice Center
- 24 Thanksgiving Day, County and Federal Courthouses closed
- 25 Friday after Thanksgiving, County Courthouses closed
- 26 UF Football v. Florida State, TBA

## December 2011 Calendar

- 1 CGAWL meeting, Manuel's Vintage Room, 5:45 p.m.
- 5 Deadline for submission of articles for January Forum 8
- 7 EJCBA Board of Directors Meeting; Ayers Medical Plaza, 720 SW 2d Avenue, North Tower, Third Floor – 5:30 p.m.
- 8 North Florida Area Real Estate Attorneys meeting, 5:30 p.m., TBA
- 14 Probate Section Meeting, 4:30 p.m., 4<sup>th</sup> Floor, Family & Civil Courthouse
- 16 EJCBA Luncheon, Scott Hawkins, President, Florida Bar, Jolie, 12 West University Avenue, 11:45 a.m.
- 21 CGAWL lunch/business meeting, Fat Tuscan, 11:45 a.m.
- 26 Day after Christmas, County and Federal Courthouses closed

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 [dvallejos-nichols@avera.com](mailto:dvallejos-nichols@avera.com).