

FORUM 8

Volume 62, No. 5

Eighth Judicial Circuit Bar Association, Inc.

January 2003

President's Message



by Pan Zettler

May the peace of the almighty, which surpasses all understanding, be with each of you in the coming year!

So I say **SO LONG to 2002** with all its Transitions. What a year—Life, Death, Marriage, Family, Friends, Colleagues, Work, Associations, Travel, Work. All in all, it was a good year for me and mine.

And SO ON TO 2003 -

What are those so critical changes I wish to make for this New Year???

I want to be certain to *enjoy* my life more - both as a "real" person and as an attorney. To smell the roses, or junipers, as appropriate.

I want to clearly acknowledge all the things that work so well for my life, again both professionally and personally.

I want to say "thank you" and "I appreciate what you have done" more often.

I want to laugh more.

I want to hug my friends and let my enemies go their own way (hopefully not to cross my path again.)

I want to expand my choices even further than before.

I want to appreciate the good things in my life, especially our great Bar Board Members!

I want to acknowledge those things that have been a disappointment, and decide if I am ready to let them go, or if I can modify them and/or improve them.

I want to sing more often (silently, as my family tells me I am tone deaf - I figure that I get to come back in my next life as Maria Callas since she got the talent this go around)

I want to "mind dance" more often - right beyond all thoughts I have had before.

I want to write more, just for pleasure.

I want to walk more, and longer distances, and new paths.

I want to quilt more, especially for the anticipated new members to join my family and friend's families.

I want to learn to accept with grace those things I cannot change or modify.

I want to keep on remembering family & friends & joyous occasions - names matter not as much to me, but these other things are critical.

I want to be more tolerant of those unlike myself (although if they want some suggestions for change they can contact me).

Continued on page 2

FACDL Holiday Party Brings in the Season

by Stacy A. Scott, Incoming President, FACDL

The 8th Judicial Circuit Chapter of the Florida Association of Criminal Defense Lawyers (FACDL) hosted its annual Holiday Party at the Thomas Center Friday, December 6. The party was once again a huge success and a good time was had by all. The event was well-attended by criminal defense lawyers, prosecutors, court personnel, and support staff. Judge Roundtree was also in attendance, as well as our new Dependency General Master, Steve Pennepacker. The party featured cocktails, hors d'oeuvres and piano music, all set in the festive atmosphere of the Thomas Center.

The annual holiday party was made possible entirely by the generous donations of local criminal defense lawyers and the hard work of outgoing President Geoff Mason, Vice President Aubroncee Martin, Secretary/Treasurer Miles Kinsell, former President Bob Warren and myself. This year, the Office of the State Attorney also donated to the party, which is yet another example of the great relationship the defense bar shares with our local prosecutors and of the friendly climate that exists in the 8th Judicial Circuit as a whole.

I would like to personally thank all those who contributed to this year's event and I hope to make next year's party even better. I look forward to serving as this year's FACDL president. For those of you who are members of FACDL and to those who might like to join, we will hold an organizational meeting in mid-January. I hope to see you all there!

The officers of the Eighth Judicial Circuit Bar Association for the year 2002-2003 are:

President

E.A.W. "Pan" Zettler
352 528-2225
352 528-2226 (fax)
panzettler@webkraft.net

Past President

Bennett A. Hutson
352 271-8100
352 271-8111 (fax)
benhutson@bellsouth.net

President-Elect

Carl B. Schwait
352 372-4381
352 376-7415 (fax)
cschwait@dellgraham.com

Members at Large:

Stephen Bernstein
352 373-9555
352 373-5277 (fax)
snblaw@atlantic.net

Sam Boone
352 374-8308
352 375-2283 (fax)
sboone@boonelaw.com

Ray Brady
352 378-6118

James Colaw
352 491-4433
352 337-6153 (fax)
jmc@sa.co.alachua.fl.us

Judy Collins
352 372-0519
352 375-1631 (fax)
judy.collins@trls.org

Denise Ferrero
352 372-9999
352 375-2526 (fax)
dferrero@avera.com

Beverly Graper
352 331-8800
352 331-6336 (fax)
ginstitute@aol.com

Executive Director

Chris Tharp
(352) 380-0333
(352) 380-9112 (fax)
execdir@8jcba.org
Chris@tharpfamily.net

Treasurer

Sharon Sperling
352 371-3117 Ext.26
352 373-7292 (fax)
sharon@sharonsperling.com

Secretary

Marynelle Hardee
352 337-6142
352 338-3207 (fax)
MNH@thor.co.alachua.fl.us

Historian

Frank E. Maloney, Jr
904 259-3155
904 259-9729 (fax)
frankmaloney@compuserve.com

Zelda Hawk

352 375-4295
352 375-4295 (fax)
zelhaw@aol.com

AuBroncee Martin
352 338-7370
352 955-2400 (fax)
Ams@pdo1.co.alachua.fl.us

Frank Pauley
904 389-4196
frmpauley@hotmail.com

Marilyn W. Peterson
352 373-1776
352 375-1975 (fax)
maripet606@aol.com

John Whitaker
352 378-1107
352 378-0105 (fax)
john@reasonable doubt.org

Celia Yapita
352 372-0519
352 375-1631 (fax)
celia.yapita@trls.org

Newsletter Editors

James Colaw
Denise Ferrero

About This Newsletter

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Eighth Judicial Circuit Bar Association, Inc.
P.O. Box 127
Gainesville, FL 32602-0127
Phone: 380-0333 Fax: 380-9112

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 **Executive Director** by Email, or on 3.5" diskettes labeled with your name. Also, please submit a black and white 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.

Deadline is the 5th of the preceding month.

Clerk's Corner



by Buddy Irby, Clerk of the Circuit Court

The new year brought with it a new Judge and a new division to the Family Court. Chief Judge Stan Morris and Family Court Administrative Judge Toby Monaco sent the Clerk directions to set up a new Division "AA" in Civil for Alachua County. Along with their other assignments, under the new plan

Judge Monaco will receive all Department of Revenue cases and 30% of the domestic relations cases. Judge Frederick Smith will receive 20% of the domestic relations cases, Judge Robert Roundtree will receive 20% of the domestic relations cases, and Judge David Glant will receive 30% of the domestic relations cases. Pro se cases will also be distributed among the judges pursuant to their directions.

The new criminal courthouse is progressing well and Judge Larry Turner and I have begun to make formal plans for the move next fall. While there are many items that must be worked out, we are committed to moving the Criminal Court and everything that goes with it from the current courthouse to the new courthouse with as little disruption as possible. This will be a major undertaking and we look forward to the challenge.

Happy New Year!

Editor's Note

We'd like to thank Frank Maloney for the wonderful pictures of the Holiday Auction, as well as the Cedar Key photos he took, which were published in the December issue of the Forum 8. Also, our thanks to Michael Buchanan for the fabulous picture of the sunset from the dock at The Captain's Table in Cedar Key, which also ran in that issue.

President's Message

Continued from page 1

I want to understand more (even though I am usually "right").

I want to continue to be excited about what lies ahead for myself and all who are important to me.

And I look forward to passing the EJCBA's president's gavel on to Carl in June!

AND I WISH FOR EACH OF YOU PEACE AND UNDERSTANDING FOR ALL.

SO "GO FORTH WITHOUT DELAY" AND HAVE A GREAT 2003!

Why Judges Should Make Court Documents Public

by Stephen N. Bernstein

The ink was barely dry on the McCain-Feingold campaign finance law last March when more than eighty (80) interest groups ran to Federal Court to challenge it. That lawsuit, which could undo a critical piece of reformed legislation, will be argued soon. But even before the case was decided, the American public is already losing, because the Court has allowed parts of the record to be kept secret. The Court should lift the secrecy so the people can be full participants in this important case.

The three judge panel hearing the case issued a protective order last summer, allowing witnesses to mark all or part of the evidence they submit as "confidential". The idea for the order began with the parties. Some of them clearly wanted to hide from the public just how unseemly the connection between contributions and influence can get. Others apparently went along so the litigation wouldn't get bogged down in battles over what to make public.

It is, of course, impossible to know precisely what information is being kept secret. It seems likely that much of the missing information concerned how political parties with special interest groups extract contributions, and what the donors get for their contribution. In other words, it is just the sort of information an interested citizen would want to know in evaluating this case.

Courts occupy a borderland between the private and the public. In resolving disputes, they gain control of information that litigants wish to keep private. Some of this information deserves privacy, like trade secrets or details of a divorce. But information that alerts the public to danger or that might help prove responsibility for injury should be publicly available once it is filed in court.

Similarly, a judge should not suppress information that enables the public to evaluate the performance of the Courts, governmental officials, the electoral process and powerful private organizations. A federal appeals court was correct to unseal a letter that prosecutors had submitted to a trial judge last May in support of a lenient sentence for a political contributor who had aided their investigation of Senator Robert G. Torricelli of New Jersey. The letter, which contained evidence supporting the contributors claims that he had given Mr. Torricelli thousands of dollars in cash and gifts was initially sealed at the request of the prosecutors and the Senator, who was seeking a second term. Within days after the Court had unsealed the letter, Mr. Torricelli was forced to withdraw from the race.

This is how things are supposed to work. In 1978, the Supreme Court noted that it was "clear that the courts of this country recognize the general right to inspect and copy ... judicial records and documents." Yet judges often seal records and order litigants to seal what they have learned in discovery before trial. By doing so, judges give the parties protection from public scrutiny that they could never get at a trial in open court. This benefits defendants by shielding

possible misconduct. Plaintiffs benefit too, because the prospect of court imposed secrecy makes it more likely that the Defendant will offer a more generous settlement. And courts benefit because cases are resolved more quickly.

Of course, the public pays for secrecy by losing the information the trial would have revealed. Even worse, the request for sealing documents occurs in secret.

Certainly there are cases where protective orders are appropriate. When national security can be compromised or even when industrial secrets are at risk, a Court may be justified in withholding parts of the record from the general public. But there is nothing in this challenge for the campaign finance law that resembles these sorts of considerations. Rather, this case deals with the central issue of how our political system functions.

In fact, this is one of the most important free speech cases in decades. It is a case about the degree to which the nations political process has been co-opted by special interest money and behind the scenes deals. If ever a case cried out for openness and transparency, it is this one.

Combined Mediation Programs

On July 5th, 2002, Chief Judge Morris signed an Administrative Order combining the Criminal Mediation and Juvenile Mediation Programs, to be effective on January 1, 2003.

The Criminal Mediation Program was originally envisioned by Judge Chance and, while it was first intended to target felony cases, it has now expanded to handle both felony and misdemeanor cases. A Task Force made up of personnel from the State Attorney's Office, the Public Defender's Office, Court Administration, and the Private Bar developed the protocol and forms. Judge Lott was the Chair of the Task Force

The Juvenile Mediation Program began at the Levin College of Law. Alison Gerencser, working with attorneys from the Juvenile Division of the State Attorney's Office, designed a Restorative Justice Program giving victims and juvenile offenders the opportunity to mediate restitution. The juvenile offenders who are referred to the program by the State Attorney's Office are usually first time offenders. If the juvenile or his/her victim declines to mediate, their case is referred back to the State Attorney's Office by the Juvenile Mediation Program.

It is hoped that the combination and continuance of these two programs will provide attorneys with constructive alternatives as they deal with their case loads. If anyone has any questions please contact Bruce Delaney, Program Manager, at 352-384-3178, or Robin Davis, ADR Director, at 352-491-4417.

Can You Guess Who They Are?

Can you guess the names of this infamous trio? **CLUE:** The photo was taken by paparazzi during a secret garage jam session in 1984. The group appears to be harmonizing some newly written lyrics. The trio quickly dissolved because of a disagreement, bringing to an end a dismal musical career highlighted by spurs, bandanas and cowboy hats. The last thing overheard being said between the band members was "I don't know what you're complaining about Steve, we let you yodel during the last song, now it's Pete's turn to wear the cowboy hat."

Look in next month's issue for the true identities of this talented group!



Announcements

Annual Survey

If you are interested in filling out the EJCBA annual survey, please visit our web site at www.8jcba.org and print it from the September issue of the Forum 8 newsletter in our archives. You can return it via fax to: 352-380-9112.

Would you like to advertise your practice? Have some office space to share or rent?

Run your ad in the Forum 8 newsletter. There is no charge for classified ads for EJCBA members and we offer reasonable rates for all other advertising. Please contact Chris Tharp to place your ad. Telephone: (352) 380-0333 Fax: (352) 380-9112

January Luncheon Speaker

by Stephen Bernstein

Pat McMahon made one promise when he was hired as the University of Florida Baseball Coach and that was to recruit in the State of Florida. This year Florida has recruited fifteen (15) letters of intent, twelve of which have come from within the state. Coach McMahon came back to Florida after serving as the head coach at Mississippi State for several years.

As a junior at Stetson University in 1975, he separated his left elbow while launching a pitch. His career as a player was over. Despite his injury, he still wanted to make the team's next road trip. His coach, Jim Ward, told him "The only way you can make the trip is if you room with me." Pat went, driving the team van, doing the laundry and assisting the coach as the manager.

During Pat's senior year at Stetson, when he was 21 years old, Coach Ward was hospitalized with kidney stones and Pat was put in charge. The team traveled to Georgia Southern, where Ron Polk was then head coach.

"Coach Polk looked at me and said "Where is Coach Ward?"" McMahon said. "In the hospital" was his reply. Then who was coaching the club, Polk wondered? "I am" said Pat. That weekend, McMahon made an impression on Polk, who later told Ward he would hire Pat when he had an opening.

In 1980, that opening came and Ron Polk hired Pat McMahon as an assistant at Mississippi State. Ultimately, Coach McMahon took over the Bulldog program and took the team to the College World Series in his first year as head coach in 1997. Last June, McMahon coached the USA National team and in December 2001 was named the USA's Best Baseball Coach of the Year.

Last year, eighteen of his team players had a 3.0 GPA or higher, one of the highest averages in Florida's baseball history. This year, he has to replace every starting infielder except catcher Brian Rose. His returning players who have experience are limited to Mario Garza, the designated hitter, Jonny Tucker, infielder and Ben Harrison, an outfielder. Florida also lost its entire pitching rotation last year. Pat McMahon will truly have to be a builder at the University of Florida and he has a good record of doing just that.

Come listen to him speak as he addresses the EJCBA at our January 11, 2003 meeting. We look forward to seeing you there.

Investiture of the Honorable David A. Glant

The investiture of the Honorable David A. Glant will occur on Friday, January 31, 2003, at 4:00 p.m. in courtroom 4A of the Alachua County Courthouse. Immediately following the investiture, there will be a reception on the third floor of the courthouse. All members of the Eighth Judicial Circuit Bar Association are invited to attend.

Criminal Law

by Bill Cervone



This month's column is an absolute cop out. I offer no excuses, but do assign blame to your editors. They continue in their relentless pursuit of those of us who have agreed to undertake the task of figuring out something to write about each month. They are dogged and the result, unfortunately, is that I am reduced to doggerel. It hardly seems possible that they are at my door again when just moments ago I

placated them with last month's column. On top of their persistence, in anticipation of a January publication, they seek to enforce early December deadlines. And it's Christmas time. There are parties to go to and shopping to be taken care of, not to mention the little annoyance of getting some work done. (Has anyone but me ever noticed that we try to cram a month's worth of stuff into the first week of December in order to take care of those parties and shopping problems? And that no matter how much we cram into it, a work day still has limited hours?)

To buy time and not expend precious thought, which gets to be in short supply at the end of the year anyhow, this month I am simply outlining my attorney assignments as they will be for the SAO beginning in January. Ours is a dynamic office, which is a euphemism for saying that with a staff of about 50 attorneys we are always gaining and losing people for one reason or another. The result for me is a fair amount of internal movement in order to keep up with our workload. The result for many of you is not being sure who's on first. So, at least as of now this is our staff and how you reach them.

In Alachua County:

- Jeanne Singer (374-3680) is Chief Assistant State Attorney and oversees all attorney functions. If you have problems, call her. If, however, you have compliments, call me.
- Felony Division I: Lead Attorney Ralph Grabel (374-3628), Mark Moseley (384-3166) and Phil Pena (491-4451).
- Felony Division II: Lead Attorney Geoff Fleck (384-3161), Kim Eckert Kinsell (384-3160) and Shawn Thompson (491-4492).
- Felony Division III: Lead Attorney Jay Welch (374-3614), Kirstin Stinson (374-3661) and Andrea Muirhead (338-3222).
- Felony Division IV: Lead Attorney Mark Peterson (374-3608), Margaret Stack (491-4629) and James Colaw (491-4433).
- Felony Traffic cases are handled in all divisions by Kevin Robertson (374-3660).

- Felony Narcotics cases originating with the several combined law enforcement task forces that our area has are handled by Jim Fisher (374-3685) for Felony Divisions I and II and Steve Walker (491-4588) for Felony Divisions III and IV.
- Tim Browning (491-4453) co-ordinates all felony domestic violence and sex abuse cases for all divisions.
- Brian Kramer (491-4419) has the same role for firearm cases.
- Rosalyn Mattingly (337-6128) handles felony post-conviction proceedings.

The County Court Division Chief is Walter Green (491-4584), who supervises the following ASAs:

- Misdemeanor: Bill Ezzell (338-3202), Francine Josephson (374-3677), and Greg Wilson (338-3239).
- Traffic: Michael Becker (374-3695), Rich Chang (374-3632), and Josh Silverman.
- Misdemeanor Domestic Violence cases are assigned to Teresa Drake (374-3631) and Beverly McCallum (338-3289).
- Juvenile cases are handled by Heather Jones, the Division Chief, Krisanne Russell, and Byron Flagg (374-3678 for all three).
- Circuit Court Intake responsibilities are handled by Rose Mary Treadway (374-3672) and Lee Libby (337-6255), who also handles some overflow felony cases.
- County Court Intake is handled by Michelle Smith (374-3680)
- Worthless Check diversion cases are handled by June Leonard (491-4587).

In **Baker County** (904-259-3137) Mel Bessinger is the Division Chief. All Circuit and County Court cases are split between him and Ralph Yazdiya.

In **Bradford County** (904-964-6280) Omar Hechavarria is the Division Chief. He and Rosa DuBose split the Circuit Court caseload. John Broling handles County Court and Juvenile cases.

In **Gilchrist County** (352-463-3406) Kristen Slaughter is the Division Chief and handles all cases.

In **Levy County** (352-486-5140) David Kreider is the Division Chief and handles felony and Juvenile Court cases. Sean Brewer, Pam Brockway, and Gabe Hamlett also handle felony cases. Glenn Bryan handles County Court cases.

In **Union County** (386-496-2832) Bo Bayer is the Division Chief and handles all cases.

I hope this information helps. Don't get too comfortable with it - there will be changes, maybe before this is even published. For the most part, however, it should get us well into, if not through, 2003.

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, February 21, 2003, from 9 AM until 12 PM at the University of Florida College of Law.

The keynote address will be a dynamic presentation given by Katherine Silvergate, Esq., who explores issues of professionalism and ethics by reflecting on her experiences as a young lawyer practicing in a large South Florida law firm. Ms. Silvergate has been invited by The Florida Bar to give her presentation to law students this year at each of Florida's law schools.

The keynote address will be followed by small group discussions provided for various specialized areas of legal practice, as we have done in years past. The Florida Bar CLE credit in the "other hours" category (ethics, professionalism, substance abuse and/or mental health awareness) will be available to attendees.

Watch the newsletter for further information and look in your mail for an EJCBA reservation card in the upcoming weeks. Questions may be directed to the EJCBA Professionalism Committee chairman, Ray Brady, Esq., at 378-6118.

Changes at the Public Defender Office

by Rick Parker

The Public Defender Office for the Eighth Judicial Circuit has a new Administrative Director. Stan Hester retired August 15 after ten years of distinguished service, not only to the 8th Circuit but also to the Florida Public Defender Association (FPDA). Stan served two terms as the elected representative of the Administrative Directors on the Board of Directors for the FPDA and was recognized statewide as an expert on budget and finance. He will be missed for his calm demeanor and sense of humor.

Barbara Pavai, a 10 year Public Defender employee who recently received her Business Administration degree from the University of Florida, has been promoted to Administrative Director and is replaced as Administrative Assistant by Leslie Johnson, a 14 year Public Defender legal secretary.

October saw additional staff changes as Assistant Public Defender Matthew Wells re-entered private practice and Stacy Scott returned as an Assistant Public Defender in Division IV Alachua County felony.

Layne Prebor has taken the Division III Alachua County felony position with George Hedrick transferring to the Levy County office and assuming responsibility for Gilchrist County. John Maguire has transferred back to the Macclenny office.

The Public Defender office currently employs 33 attorneys working in four offices in the Circuit.

The Murphree Law Library

by Rebecca L. Richie, Law Library Manager

The Murphree Law Library in room 413 of the courthouse has recently added the following books:

Florida Family Law Case Summaries, v. 1 & 2
by Cynthia Greene

Over 1,500 pages of summaries of all major family law decisions since 1989, arranged alphabetically from agreements to visitation; this book summarizes, analyzes and indexes every important decision. Updated annually.

Florida Family Law Trial Notebook
by Cynthia Greene

Written by a former chair of the Family Law Section, this is an excellent source for answers to issues arising in family court, including evidence, procedure, and substantive law questions. Updated each year with concise summaries of important family law decisions decided by the appellate courts.

Diccionario jurídico español/inglés -inglés/español: Aspen's English/Spanish Spanish/English Legal Dictionary
by Steven M. Kaplan

Recommended by professional translators and court interpreters.

The law library just received 50 sets of Florida Statutes 2002 for distribution throughout the judicial circuit court...Almost 20% of the sets are missing pp. 58-107 in volume 3. You might want to check your new set!

The law librarian welcomes any suggestions or requests from members of the Eighth Judicial Circuit Bar Association. Currently, we are developing a ready reference section (the only dictionary on our shelves now is Black's!) After the basics (dictionary, thesaurus, atlas), what ready reference tools would you like to see in the law library?

Email any suggestions to Rebecca at rlr@circuit8.org.

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Law Office for Sale: complete, except for computers. Fax, phone system, bookshelves, file cabinets, conference rm. furniture, etc. Law office is in leased premises; very nice facilities. Located in High Springs, which towers some 175 ft. above sea level. On a clear day from my office you can see 7 states (Road Atlas included in sale). 80 degrees year-round temperature; low humidity. Only 2,700 mi. from Jackson Hole, Wyoming. David A. Glant (386) 454-4310

January 2003 Calendar

- 1 New Year's Day – Federal, state & county courthouses closed
- 7 EJCBA Board of Directors Meeting, Dell Graham, 5:30 PM
- 9 Josiah T. Walls; Three Rivers Legal Services, 5:30 PM
- 10 EJCBA Luncheon, The Sovereign Restaurant, 11:45 AM
- 16 James C. Adkins Inn of Court – Law school cafeteria, 6 PM
- 20 Martin Luther King Holiday – Federal, state & county courthouses closed

*Sharon T. Sperling announces
the opening of her office at
2830 NW 41st Street, Suite C
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representing debtors and
creditors in bankruptcy*

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e-mail:
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Holiday Charity Auction

Thank you!

The EJCBA hosted its 4th annual Holiday Charity Auction on December 13th at the monthly meeting at The Sovereign. It was a great success, with fantastic items donated by many local merchants and firms. Thanks for your support and look in the next newsletter for details about the final amount raised and the charities benefiting!

Happy New Year!



Just a few of the wonderful items up for bid.



Our talented auctioneer, Ben Campen.