

# FORUM 8

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Eighth Judicial Circuit Bar Association, Inc.

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## President's Letter

By Elizabeth Collins Plummer



"I got hometowned," he growled into his cell phone.

He was apparently oblivious to the fact that I was less than six feet away from him and stood stunned listening to his bitter diatribe. Notwithstanding the fact that I had only been practicing law for three years (not thirty, like him), I had prevailed on the merits.

I had researched the issue thoroughly and the case law squarely supported my motion. The judge listened carefully to all the arguments and granted my motion, but (giving him the benefit of the doubt) declined to impose immediate sanctions. The ruling was fair and just.

Far more recently, having been truly and egregiously "hometowned" in another circuit, I, once again, stood momentarily stunned by the experience. After ensuring that we had adequately preserved the issue for appeal, I thought back to the attorney's voice echoing in the third floor hallway years ago. After practicing over ten years in the Eighth Judicial Circuit and having appeared in courtrooms in other circuits around the state, I know that any attorney would be lucky to be "hometowned" within the Eighth Judicial Circuit.

With limited exceptions, it has been my experience throughout the Eighth Judicial Circuit that being "hometowned" means that you are treated with courtesy and respect by both the judges and local attorneys. It means that you win some and you lose some, but, at the end of the day, you were

given a reasonable opportunity to be heard and your arguments were given due consideration. It means that arguments by opposing counsel are directed to the merits of an issue and are not personal attacks upon you. (I have always loved a good fight and heated debate with a worthy adversary, who remains my friend at the end of the day.) Moreover, it means that the issues are decided upon their merits. It means that being an assertive, proactive, and fierce advocate on behalf of your client

does not preclude cooperation to resolve issues without judicial intervention, when it is possible. It means that while attorneys may chat with judges on a multitude of issues outside of the courtroom, neither engage in improper ex parte communications. It means that every effort is made to avoid even the appearance of impropriety and that full disclosure rules the day, even if it means falling upon your own sword. It means that I can take opposing counsel at his or her word and he or she accepts mine.

As I approach the end of my tenure as the EJCBA President, I can say that it has been my sincere honor and pleasure to serve you for the past year and a half. I am proud of the professionalism, competency, skill, and legal acumen that our local bar and bench demonstrate. I am proud of the camaraderie that we share. Having met and worked with the leaders of voluntary bar associations across the state, I can tell you that the favorable reputation of our circuit is well-known by many.



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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).

### About This Newsletter

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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

## Mediating the Middle East Crisis



By Chester B. Chance and Charles B. Carter

*Mediator:* Thank you for coming. Since we have representatives from Israel, Jordan, Syria, Egypt, and the PLO, I believe the mediation costs will be split 5 ways which means 20% each. I would like to deal with that up front.

*Syrian Rep:* Actually, Jordan, Syria, Egypt and the PLO have a common interest and will caucus together in the same room, so we think Israel should pay 50% of the costs and the rest of us can divide 50%.

*Israel Rep:* Typical. This is why even Henry Kissinger could not mediate a conclusion to our dispute. We are not paying half the cost of the mediation. We are one of 5 participants. Do the math. The Arabs invented modern math and the concept of zero, so they can figure this out.

*Jordanian Rep:* Yes, we are familiar with the concept of zero as that appears to be the chance of success in this mediation.

*Mediator:* Are we going to throw away the chance of peace in the middle east and perhaps peace in the world over the difference between 20% and 50% cost to Israel?

*All Reps (in unison):* Yes.

*Mediator:* Perhaps we can start a spirit of compromise and success. May I suggest for your consideration that Israel pay 35% and the rest of you pay 65%?

*Egypt Rep:* That is fine with us. We need to start as my Country is forming a new government. I need to get a new voter I.D. card.

*PLO Rep:* We also can agree to that pro-ration of costs but what will we get in return?

*Mediator:* Well, the lunch today is free.

*Israel Rep:* No ham sandwiches or wraps.

*Jordanian Rep:* Will there be hummus?

*Israeli Rep:* Did he say Hamas or hummus?

*Mediator:* He was referring to the chick pea dip. I will see what Publix has available and if you would just circle your preferences on the menus I will pass around.

*Egypt Rep:* I need to tell you now that although we have reserved all day for the mediation, I need to catch a flight back to Cairo at 4pm, therefore I must

leave the mediation no later than 3pm. It takes so long to get through the security at the airport.

*Israeli Rep:* You have known for 2 months we reserved all day. You are trying to shortcut the process. Typical bad faith.

*Egypt Rep:* Hey, watch that crack about our faith.

*Mediator:* I believe the Israeli representative was referring to bad faith in the mediation process, not to religion. Egyptian Rep: Oh, well then, my contact is available by telephone and I can be reached on my cell until my plane takes off.

*Mediator:* Well, thank you for letting us know in advance rather than waiting until 3 pm and then bolting. Can we begin?

*PLO Rep:* Is Israel willing to give all its land back to the Palestinians? Does the Israeli representative have that authority? He was supposed to come with authority up to our last demand according to the Supreme Court Rules for mediation, and our prior demand was all Israelis leaving Israel.

*Israeli Rep:* You are confusing this political negotiation with an insurance claim.

*Mediator:* Is there any insurer involved?

*Jordanian Rep:* We have a policy with Lloyd's of London covering us for claims similar to those made by Israel but they have denied coverage and rely on a warfare damage exclusion and an Act of God exclusion

*Israeli Rep:* Hey, wait just a second, what was that reference about excluding God?!

*Mediator:* Calm down, I believe the Jordanian Representative was referring to an insurance issue. Well, maybe we can begin. I wish to remind you everything here is confidential. Given confidentiality, I was wondering why Al Jeezeera is broadcasting this mediation?

*PLO Rep:* We want the world to know what is going on here today.

*Mediator:* But prior mediations at Camp David and other locales were not broadcast. There is a privilege which can be asserted by any party if statements made at mediation are injected into future proceedings. Besides, the camera lights are in my



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# Family Law

## Snooping



By Cynthia Swanson

When the Florida Family Law Rules of Procedure were created, the main goal in regard to the discovery provisions was to put the burden of producing documents on each party equally right from the beginning. Thus, parties in family law cases are required to produce financial

records, whether or not the other party ever requests them. With the present rules, most family lawyers give their clients the list of documents mentioned in Fla.Fam.L.R.P. 12.285 and just tell their clients to find all those documents and bring them in. Period. And I suspect that most parties really do just bring them in.

But sometimes they don't. And sometimes they pretend they don't have certain bank accounts, or property, or that they don't actually own the boat sitting in their driveway. So, sometimes, lawyers (and parties) have to do more digging to prove what the other party actually owns, or show where he or she has spent marital funds on an affair or gambling or on prostitutes.

The question always is how to find out that stuff. You can send a Request to Produce or "list of all the prostitutes you paid with marital funds," but, really, that seems unlikely to result in any useful information. So, you have to do more work to prove those misdeeds. If you're successful, you might hear a trial judge say, as one did in one of my cases, "I don't really think you would have any receipts for money you paid to prostitutes, but the fact that you don't have receipts doesn't mean you didn't waste marital funds on prostitutes."

So, if you suspect there are hidden funds or other assets, what can you do to prove it?

Well, one thing you (and your client) can't do is intercept electronic communications. I give credit for most of the following discussion to Abrams, Florida Family Law, §57A. The federal Electronic Communications Privacy Act ("ECPA"), comprising the Wiretap Act [18 U.S.C.S. § 2510 et seq.] and the Stored Communications Act [18 U.S.C.S. § 2701 et seq.], protects electronic communications from interception and unauthorized access. The Wiretap Act prohibits the interception of conversations, phone calls, and electronic communications, such as emails and text messages, while they are being transmitted. The Stored Communications Act ("SCA") prohibits unauthorized

access to voice mail and electronic communications stored on an electronic communication service, which means any service which gives users "the ability to send or receive wire or electronic communications," such as an email service provider, the host of an electronic bulletin board, and even social networking sites such as MySpace and Facebook.

The SCA prohibits an electronic communication service or remote computing service that serves the public from disclosing the contents of communications. Unlike the Fourth Amendment, the ECPA applies to private as well as government conduct. A "remote communication service" is one which provides the public with computer storage or processing services. Web-based email providers, such as Gmail and Hotmail, have been found to provide remote computing services with respect to opened emails stored online. Courts have also found that social networking sites, such as Facebook, provide remote computing services with respect to wall postings and profile information, to the extent that the user restricts access to this information. Similarly, at least one court has ruled that YouTube provides a remote computing service with respect to the videos it stores for the benefit of the user and those the user authorizes to view his or her videos.

There is still considerable uncertainty as to precisely what conduct violates the SCA. However, it is clear that logging on to another person's email account and reading his or her unread email violates the SCA, unless the person accessing the account has been authorized to do so. For example, if the husband has told the wife the password for his email account, a court might find that he has authorized her to access his account and read his emails.

It is equally clear that reading someone else's email or other electronic communications that are stored on a personal computer does not violate the SCA, although it may violate other laws. This is so even if the computer or email is password protected, and the person accessing the email has not been told the password, but has either guessed it correctly, discovered it through use of a keystroke logger, or found it through some other means. The SCA does not apply to unauthorized access to a computer unless the computer provides an electronic communications service, and although home computers are used for electronic communications, they do not provide an electronic communications service.

Continued on page 5

Whether or not the SCA prohibits reading emails that have already been read by the intended recipient but remain in storage with a web-based email provider is far less uncertain. At least two cases have suggested that previously-read email that a user does not delete but leaves on an email server is in electronic storage, because it is there for backup protection. In these jurisdictions, reading another person's opened emails violates the SCA if those emails are stored on an email server (as opposed to a personal or work computer). However, other cases have held precisely the opposite, reasoning that "electronic storage" does not include such long-term storage.

The SCA does not permit discovery of the contents of an electronic communication stored on an electronic communication service or remote computing service, even if a civil subpoena is issued.

Suppression of evidence is not a remedy under the SCA. However, a Florida court may, in its discretion, rule that evidence obtained in violation of the SCA is inadmissible [see *O'Brien v. O'Brien*, 899 So.2d 1133, 1135-36 (Fla. 5th DCA 2005)]. In some cases, one spouse may have given the other spouse his or her password and permitted the other spouse to access his or her email account. In such cases, access has been authorized, and the question becomes whether the accessing spouse has exceeded his or her authority.

In the *O'Brien* case, Florida's Fifth DCA had before it the following scenario: The wife installed a spyware program on the computer her husband used, and it collected screen shots which showed everything the husband did on the computer, including his email, chats, and so on with another woman. When the husband realized this, he uninstalled the spyware, and filed a motion for an injunction to prohibit the wife from disclosing any information she received via the spyware program. Applying the provisions of Florida's Security of Communications Act found in Chapter 934, Florida Statutes, the trial court granted the injunction and also the husband's motion that the wife be precluded from offering that information in evidence in the divorce trial. The final judgment was entered without considering that evidence of the husband's misdeeds, and the wife filed a motion for rehearing which was denied, and then appealed.

The appellate court started out with a policy analysis: "Enactment of these prohibitions connotes a policy decision by the Florida legislature to allow each party to a conversation to have an expectation of privacy from interception by another party to the conversation . . . The purpose of the Act is to protect every person's

right to privacy and to prevent the pernicious effect on all citizens who would otherwise feel insecure from intrusion into their private conversations and communications."

The O'Brien court had to distinguish between communications which were intercepted as they were made (think an old fashioned telephone wiretap with the Feds sporting big headphones and hunched over a slowly revolving reel to reel tape recorder) (prohibited) and essentially stealing already stored communications (not prohibited). The wife argued that the communications were in fact stored before acquisition because once the text image became visible on the screen, the communication was no longer in transit and, therefore, not subject to intercept. The Fifth DCA disagreed, holding, "We do not believe that this evanescent time period is sufficient to transform acquisition of the communications from a contemporaneous interception to retrieval from electronic storage. We conclude that because the spyware installed by the Wife intercepted the electronic communication contemporaneously with transmission, copied it, and routed the copy to a file in the computer's hard drive, the electronic communications were intercepted in violation of the Florida Act."

The appellate court then considered whether the evidence that the wife obtained could be excluded from evidence. The court pointed out that the Florida act prohibited any intercepted "wire or oral communication" from being received in evidence, but specifically did not prohibit "electronic communication" from being received in evidence. The court reasoned that, if the Legislature wanted electronic communications excluded it could have said so, and because it didn't, then they're not automatically excluded.

However, the appellate court pointed out that although the intercepted communications are not automatically excluded, it is within the trial judge's discretion to decide what evidence of any kind is admitted. Here, it was a crime under Florida Statutes §934.03 for the wife to have intercepted these electronic communications, and the appellate court concluded that, because the interceptions were illegal, the trial judge did not abuse his discretion in deciding not to admit the intercepted communications.

The Family Law Section meets on the third Tuesday of each month, even if I forget to send out a reminder email, at 4:00 pm in the Alachua County Civil and Family Justice Center. I would also like to shamelessly refer you to my blog: <http://swansonlawcenter.blogspot.com/> . I post interesting items related to family law, adoptions, probate, and so on.

# Some Delightfully Refreshing Spring Thoughts From A Florida Bar Foundation Board Member



By Phil Kabler

Over the past year you have read my several articles (hopefully at least a few) about The Florida Bar Foundation, and the work the Foundation does to support statewide legal aid organizations, law school clinics, new lawyers pursuing careers in civil legal services, and administration of justice improvement initiatives. Quite a bit -- and very efficiently -- with the Fellows and other donations, IOLTA proceeds, and cy pres awards.

These outcomes do not occur in a vacuum.

In addition to the experienced lawyers needed to conduct the legal services the Foundation funds, there is (and needs to be) a continuing influx of committed "young talent" to continue this work into the future. One of the Foundation's programs intended to support the professional development of these new lawyers is the "Leadership Development Institute."

Now in its second year, the Florida Legal Aid Leadership Development Institute has become a stepping stone for legal aid attorneys wanting to advance in legal aid. The 14-month program is teaching 13 up-and-coming legal aid attorneys leadership skills with support from more experienced attorneys and leaders in legal aid who serve as mentors.

Jodi Siegel, the Executive Director of Southern Legal Counsel in Gainesville, and a Florida Legal Aid Development Institute mentor, commented as follows,

It has been very gratifying to work with Champagne Girten, a young lawyer from Legal Services of Greater Miami, and help her develop her leadership project. She is training professionals in the foster care system about the federal educational rights of students with disabilities, and establishing a pro bono referral system to advocate for improved educational services for foster children. I feel proud of her accomplishments.

The Florida Bar Foundation allocated \$100,000 and collaborated with the Center for Legal Aid Education (CLAE) to create the Institute, which was held for the first time in 2009 through 2010. The 2010-2011 Leadership Institute Fellow in the EJCBA's area

is James R. Le Mieux of Three Rivers Legal Services.

If you have questions about The Florida Bar Foundation or the Leadership Development Institute, 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).

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## President's Letter

*Continued from page 1*

We are truly fortunate to know that our favorable reputation is well-deserved.

They say that home is where the heart is. It is my hope that no matter where your life may lead you, each and every one of you will always consider the Eighth Judicial Circuit your home (or, at least, a home away from home). More importantly, I hope that part of the Eighth Judicial Circuit remains in your heart. I know that it will always remain in mine.



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# Abdullah the Kid

By Stephen N. Bernstein



The federal government's reaction to the Sept. 11 terrorist attacks once again returned to the Supreme Court as justices considered whether former attorney general John D. Ashcroft could be held personally liable for the detention of an American Muslim.

Abdullah al-Kidd, a U.S. citizen, was arrested in 2003 and held as a material witness. But Kidd contends that he was not detained because he had information about terrorism. Instead, he says, he was detained as part of a plan approved by Ashcroft to sweep up Muslim men the government suspected but could not prove had ties to terrorism. Ashcroft, President George W. Bush's attorney general from 2001 to 2005, claims legal immunity from the lawsuit, and the Obama administration is defending him. Acting Solicitor General Neal Katyal told the justices on March 2, 2011 that Ashcroft cannot be subjected to personal liability for actions he took while performing his job. "The prosecutor's act of seeking the material witness warrant is integrally associated with the judicial process and entitled to absolute immunity," Katyal told the justices.

But the U.S. Court of Appeals for the 9th Circuit said the lawsuit could proceed for Kidd to try to prove his allegations. American Civil Liberties Union lawyer Lee Gelernt, representing Kidd, argued in his brief that his client should be allowed to prove that Ashcroft had a policy of misusing the material witness law, which is intended to ensure that witnesses are available for trial. "If a material witness arrest is constitutional, it can only be because its purpose is to secure testimony and not to preventively detain and investigate the witness himself," Gelernt wrote.

Kidd is a onetime University of Idaho football star, born Lavoni T. Kidd. He converted to Islam in college. He was arrested at Dulles International Airport in 2003 as he was boarding a plane for Saudi Arabia, where he planned to study. The government persuaded a federal judge to issue a warrant for Kidd's arrest by saying he was necessary to the investigation of Sami Omar al-Hussayen, who was eventually indicted on charges of supporting terrorism. Kidd was never called to testify against Hussayen, who was acquitted of the most serious charges against him. Kidd maintains that in his more than two weeks of detention, he was

strip-searched, shackled, interrogated without an attorney present and treated as a terrorist.

Even though the argument was limited to the question of whether Ashcroft had immunity, Justice Ruth Bader Ginsburg took note of Kidd's allegations. "There are allegations here that this man was kept awake, the lights shining in his cell for 24 hours, kept without clothes," Ginsburg said. "Now that doesn't sound like the way one would treat someone whose testimony you want." Chief Justice John G. Roberts Jr. focused on whether allowing prosecutors to be held personally liable would cause them to shrink from their responsibilities. "That type of burden is particularly heavy when you're talking about if they guess wrong, it comes out of their pocket," Roberts said. "And if I'm the officer in that situation, I say, 'Well, I'm just not going to run the risk of, you know, having to sell the house.'"

This could really get interesting. The case is *Ashcroft v. al-Kidd*. Look for it in a slip opinion coming soon to a law library near you.

## PETER K. SIEG

is pleased to announce his certification as a

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# Criminal Law



By William Cervone

As I type this, the Legislative session is well underway. One of the hot topics is state employee compensation. I have very strong feelings on that topic, not to mention admitted biases, especially for those state employees in the criminal justice system.

Frankly, I'm very offended by the growing sentiment that state employees are somehow all underworked, overpaid do-nothings. With due deference to the enormous fiscal problems Florida faces, figures I've seen show that Florida's state employee workforce is rather small (per capita-wise) and rather poorly paid. The tradeoff for lower pay than the private sector might provide, certainly for my Assistants, has always been the benefits package.

This month I want to provide you with some perspective. What follows is the testimony of a young prosecutor from Broward County who, without her boss's knowledge and on her own time, traveled to Tallahassee to appear at a Senate hearing on financial matters. I hope her words help put a face on this situation for those of you who are concerned about what is happening in our State.

"I drove eight hours. This is very important to me and all of my colleagues. My name is Anita White and I am a prosecutor with the State Attorney's Office of Broward County

I'm here representing myself, but I'm also here because I have paralegals, secretaries, and people who work for me who cannot afford even one percent being taken out of their pay to go to their retirement.

We were made promises when we signed on with the state. I was promised that I would have my Bar dues paid. This is now gone.

I was promised that I would get health insurance. Now I'm being forced to give money to that.

I was promised that I would have life insurance at twice my pay. And then I was told last year that my life is only worth \$25,000 and I had to purchase additional life insurance.

So in one year, I have already received three pay cuts. Three! And you're asking me to take another. And you're asking people who make less than I do to take another.

I do what I do - I'm a Career Criminal prosecutor, I spent three years as a sex crimes prosecutor - I do it for love. I use my personal resources because I love what I do.

I do it day and night, on the weekends. I come in. I meet with victims after hours so that they don't have to be inconvenienced.

But nobody cares about inconveniencing us. Nobody cares that we have to take second jobs. Nobody knows about that because we are being portrayed as villains. We have no union, we have no one to speak up for us. And that is why I am here, to speak up for us.

It is wrong - the way you frame things, the words you use are important.

People call it fairness - and they call it a contribution. I call it what it is, it is a tax."

I am not writing this in some foolish expectation that false sympathy will be generated. I do, however, want to make the point that those of us who are career public servants are not the problem that it has become popular to cast us as, not just in Florida but across the nation. Speaking only for Florida, as I mentioned, a Department of Management Services report issued in December of 2010 stated that Florida has an average of 117 state workers per 10,000 residents, almost half of the national average and the lowest in the country. The report goes on to state that not only is Florida's state workforce the leanest in the country, but also it is about the cheapest. Florida spends an average of \$38 per resident for state government, as opposed to the national average of \$72. Most if not all state agencies are also smaller now than they were when the financial crisis we seem to still be in the midst of started several years ago.

I have no idea where this will all go. I do know that reality is sometimes not the same as rhetoric, political or otherwise, that government has some core responsibilities that it must provide, and that the current mantra of "Cut cut cut!" is pretty simplistic.

# The Florida Bar Board of Governors Report



By Carl Schwait

At its March 25, 2011, meeting in Orlando, The Florida Bar Board of Governors:

- Approved a legislative position opposing numerous pending legislative bills and proposed constitutional amendments which would dramatically undermine the courts as now written. Opposed bills include splitting the Supreme Court into civil and criminal supreme courts, eliminating the Bar's role in nominating candidates for some judicial nominating commission seats, removing JNCs from the selection process for DCA judges and Supreme Court justices (that bill also creates Senate confirmation for those jurists), and requiring that justices and DCA judges get 60 percent approval in retention elections. (Another measure would have the Legislature take over procedural rule-making from the Supreme Court; the Bar already has a legislative position opposing that.) The board-approved resolution also set out four principles for legislation affecting the judicial branch: a stable, secure, adequate, and permanent source of funding for the courts; the efficient, fair, and impartial functioning of the courts and administration of justice that recognizes the courts as a co-equal branch of government; providing access to the courts and legal services for all Floridians; and a continued meaningful role in the judicial selection process.

- Approved the Bar budget for the 2011-12 fiscal year. The budget projects revenues of around \$38 million and slightly less expenditures.

- Heard former Bar President Miles McGrane, chair of the Judicial Qualifications Commission, asking the board to oppose a proposed constitutional amendment in the Florida Legislature that would dramatically reduce confidentiality of complaints made to the JQC. The board later in the meeting adopted a legislative position opposing such changes.

- Heard the final recommendations from the Special Committee to Study Mandatory Paralegal Regulation, which have been referred to the Program Evaluation Committee. The special committee recommended that lawyers could not in any communications refer to its support staff as a paralegal unless that person is a Florida Registered Paralegal. A minority report from the special committee opposes that recommendation. During the Program Evaluation Committee report, Chair Greg Coleman said the

Bar had surveyed registered paralegals and out of more than 2,000 responses, only 40 were in favor of mandatory paralegal regulation.

- Also as part of the legislative discussion, the board heard Barry Richard, the Bar's outside legal counsel, recount his discussions with the Speaker of the House's office regarding Richard's personal views on legislative issues. Richard told the Speaker's office that he did not represent the Bar on legislative matters, and that he could not speak for or commit the Bar to any legislative position. Those discussions apparently will help lead to a dramatic change in various House proposals with a resulting lesser impact on the courts.

- By a separate motion (as noted above), the board also approved a legislative position opposing the proposed constitutional amendment that at some point in the process would make public all complaints filed against judges with the JQC.

- Bar Chief Legislative Counsel Steve Metz said after a rocky start, the courts appeared to be doing reasonably well in the budget process for the 2011-12 fiscal year. The House preliminary plan would have cut judicial salaries by 8 percent, but the Speaker interceded and included enough money to keep judicial salaries intact. Attempts to reduce overall judicial pensions appear to have failed, although judges may wind up contributing to their pensions, as will other state employees including court staff.

- Chief Justice Charles Canady spoke to the board on the court's current year budget crisis, caused by a sharp reduction in foreclosure filings which provide the bulk of the court system's funding. He said House and Senate leaders were amenable to a plan for the courts to borrow funding to make it to the end of the fiscal year, but that Gov. Rick Scott asked for more information and so far had only agreed to provide funding to keep the courts going until the end of April. He also praised the House Speaker for restoring money to prevent a judicial salary cut, which Canady said would have undermined the ability to attract and keep qualified judges. He warned, though, that the preliminary House budget, perhaps by mistake, eliminated 14 law clerks from the Supreme Court, which he said would substantially undermine the court's ability to efficiently handle cases.

- Heard from Mark Schlakman of the Florida State University Center for Human Rights, who

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## Middle East Crisis

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eyes and the camera is adding 15 pounds to my appearance.

*Syrian Rep:* O.K. Al Jazeera can go. They can be waiting in the hall.

*Israeli Rep:* Did you say something about the wailing wall?

*Mediator:* No, you misunderstood, but, thank you for your questions so we can clarify any misunderstandings. Have there been any pre-mediation discussions or negotiations?

*Israeli Rep:* Yes, for the past 60 years.

*Mediator:* Well, that is a good start. I am glad to see ya'll have been talking. You know the majority of disputes are resolved at mediation. I am sure we can resolve this dispute in the next 5 hours. Remember, 80% of the movement occurs in the last 20% of the time.

*Syrian Rep:* Since we have been talking for 60 years that would mean we still have 12 years to work out a resolution. We did not have to invent the zero to conclude 5 hours is not enough time.

*Mediator:* Has any party filed a proposal for settlement?

*Israeli Rep:* We have proposed several settlements on the West bank of the Jordan.  
*Mediator:* No, no. That is one of the issues we need to address. I was referring to an offer of judgment.

*Egyptian Rep:* Is lunch here? At Camp David President Carter served fried chicken. Will the Israelis pay the entire cost of mediation and leave the land conquered in the various wars they instigated?

*Israeli Rep:* You instigated the wars. And no, we will not pay the entire cost of mediation. We did that with Kissinger and we are still paying his consulting firm.

*Mediator:* Please consider the cost of failing to reach an agreement. In the last 20 years had there been peace among the Arab states and Israel, those countries would have generated another 12 trillion dollars in gross national product. The standard of living of the entire region would be raised considerably. In human cost, 100,000 lives would have been saved. Instead of litigation costs can we discuss costs in terms of human lives and economic well-being.

*All Reps:* Those are things we all should consider but . . . .

*Mediator:* I can see why you have been at an impasse for so long. Has any prior mediator suggested a silver bullet?

*Jordanian Rep:* Are you talking about an arms deal?

*Mediator:* No, I was talking about a suggestion for resolution where the mediator. . . . on second thought: I think this is more complicated than a simple whiplash case. I need to bring in another mediator to help. Perhaps Dr. Phil. Or Judge Judy. Can we reschedule this for some time before Armageddon?

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## CGAWL's Annual Judicial Assistant's Luncheon

The Annual Judicial Assistant's Luncheon will be held on Friday, May 6<sup>th</sup> from 11:30 a.m. to 1:30 p.m. at the Gainesville Country Club. This is always a special event and a fun way to salute the great JAs in our circuit. This year's featured speaker will be the Honorable Nelly Khouzam, Judge for Florida's Second District Court of Appeal. The cost is \$30 for CGAWL members and members of the judiciary and \$35 for non-members of the Clara Gehan Association for Women Lawyers. Checks should be made payable to CGAWL and sent to Margaret Stack, President CGAWL, 408 West University Avenue, Suite 110-B, Gainesville, FL 32601. If you need additional information, please contact Margaret Stack at [mmstack@att.net](mailto:mmstack@att.net) or at (352) 377-8940.



Mac McCarty, Judge Pierce, EJCBA luncheon speaker Ken Bryk (Florida Bar Counsel), Elizabeth Collins, Judge Jaworski and Judge Hulslander following the April 8 luncheon at Ti Amo

# It's that time again!

The Eighth Judicial Circuit Bar Association Nominations Committee is seeking members for EJCBA Board positions for 2010-2011. Please consider giving a little time back to your bar association. Please complete the application below and return the completed application to EJCBA. The deadline for completed applications is **May 2, 2011**.

## EIGHTH JUDICIAL CIRCUIT BAR ASSOCIATION, INC.

### Application to Nominations Committee

Name: \_\_\_\_\_ Bar No. \_\_\_\_\_

Address: (Office) \_\_\_\_\_  
\_\_\_\_\_

Telephone Numbers: (Home) \_\_\_\_\_ (Office) \_\_\_\_\_  
(Fax) \_\_\_\_\_ (Cellular) \_\_\_\_\_  
(E-Mail) \_\_\_\_\_

Area of practice: \_\_\_\_\_ Years in practice: \_\_\_\_\_

Office of Interest: (Check all that apply)

Secretary \_\_\_\_\_ Treasurer \_\_\_\_\_  
Board member \_\_\_\_\_ Committee Member \_\_\_\_\_

Preferred Committee Interest: (Check all that apply)

<input type="checkbox"/> Advertising	<input type="checkbox"/> Law Week	<input type="checkbox"/> Professionalism
<input type="checkbox"/> Annual James C. Adkins Dinner	<input type="checkbox"/> Lawyer Referral Services	<input type="checkbox"/> Publicity/Public Relations
<input type="checkbox"/> Annual Reception	<input type="checkbox"/> Luncheon/Speakers	<input type="checkbox"/> Social
<input type="checkbox"/> CLE	<input type="checkbox"/> Member Survey	<input type="checkbox"/> Sponsorships
<input type="checkbox"/> Community Service	<input type="checkbox"/> Membership	<input type="checkbox"/> Website
<input type="checkbox"/> Judicial Poll	<input type="checkbox"/> Policies and Bylaws	<input type="checkbox"/> Young Lawyers Division Liason
<input type="checkbox"/> Judicial Robes and Reception	<input type="checkbox"/> Pro Bono	<input type="checkbox"/> Other (Describe Below)

Briefly describe your contributions, if any, to date to EJCBA.

What new goals would you like to explore for our association?

How many hours per week can you devote to your EJCBA goals?

Return to: EJCBA – Nominations Committee  
P O Box 127  
Gainesville, FL 32602-0127

Or email completed application to: [execdir@8jcba.org](mailto:execdir@8jcba.org)

## Board of Governors

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presented a letter from former Supreme Court Justice Raoul Cantero calling for the Bar to endorse a review of Florida's death penalty process. President Downs said the Executive Committee will review and act on that matter.

- Approved, at the recommendation of the Member Benefits Committee, three new benefits for Bar members: Medjet Assistance, an insurance program guaranteeing medical transport when traveling; Sears Commercial Marketplace, which offers a wide range of online shopping for home and office products; and STI Tabs3 Trust Accounting Software, which assists lawyers in setting up and maintaining their trust accounts.

- Heard Board Review Committee of Professional Ethics Chair Carl Schwait report that the committee will be presenting its recommendations for amending Bar advertising rules at the board's May 27 meeting. He said the Florida Supreme Court has ordered that the amendments be submitted to it no later than July 5. He also led the discussions on whether single practitioners can use the term "we" and "us" in advertising. The Board voted that single practitioners cannot use these words.

I thank you for allowing me to continue to represent our circuit on the Board of Governors and look forward to continuing my work on your behalf.

### Save The Date!

Please mark your calendars now for the EJCBA's *Annual Reception*, to be held Thursday evening, June 2, 2011 beginning at 6:00 p.m. at the Historic Thomas Center. Watch for further information and we hope to see you there!

### Advertisement

For Sale: Filing cabinets. Two open, 6 shelf, 17 deep x 36 wide x 78 high; 1 each, 8 shelf open, 16 deep x 36 wide x 81 high; one each, two shelf sliding drawers with cover and lock, 20 deep x 36 wide x 28 high; 2 each, 3 sliding drawers, 18 deep x 42 wide x 41 high; 2 each, 2 full drawer plus one half drawer; 18 deep x 42 wide x 41 high. All tan color good condition, \$25 to \$50 each. Call Bruce Hoffman 373-2411 or email: [bhoffman\\_10@hotmail.com](mailto:bhoffman_10@hotmail.com).

## EJCBA Young Lawyers Division Awarded 2011 Community Partner Award

On March 10, 2011, the East Gainesville Development Corporation awarded the EJCBA's Young Lawyers Division a 2011 Community Partner Award for its contribution to children in the foster care system. The EJCBA YLD program, targeted to children who were aging out of foster care, provided education and training on how to perform basic life tasks that they would encounter upon entering the adult world, such as leasing an apartment, opening a bank account, and filling out a credit card application.

Congratulations to all the EJCBA YLD members who participated in this worthwhile project and special thanks to Rhonda Stroman and Kelly McNeal who led this effort.

The EJCBA YLD is open to all lawyers who are under 36 years old or admitted to practice in Florida for less than 5 years. The EJCBA YLD is committed to serving the young attorneys of the Eighth Judicial Circuit of Florida by offering opportunities for mentoring, socializing, continuing education, opportunities to meet and get to know our judges and community assistance programs. Interested in joining? Visit <http://www.8jcba.org/yld.aspx> to apply.



Jacob A. Rush (center) accepts the 2011 Community Partner Award on behalf of EJCBA's Young Lawyers Division



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

## May 2011 Calendar

- 2 Applications for 2011-2012 EJCBA Board of Directors due to Nominations Committee
- 2-6 Law Week – contact Nancy Baldwin ([baldwinnt@cox.net](mailto:baldwinnt@cox.net)) for information
- 4 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 June Forum 8
- 5 CGAWL meeting, Flying Biscuit Café, NW 43<sup>rd</sup> Street & 16<sup>th</sup> Avenue, 7:45 a.m.
- 6 Annual Judicial Assistant's Luncheon, 11:30 a.m. – 1:30 pm at the Gainesville Country Club; Honorable Nelly Khouzam, speaker
- 11 Probate Section Meeting, 4:30 p.m., 4<sup>th</sup> Floor, Family & Civil Courthouse
- 13 EJCBA Luncheon, Ti Amo!, 11:45 a.m., Charity Auction to benefit Interface Youth Program
- 19 EJCBA Social at Jolie on University Avenue; 6:00 p.m.
- 24 Family Law Section Meeting, 4:00 p.m., Chief Judge's Conference Room, Alachua County Family & Civil Justice Center

## June 2011 Calendar

- 2 CGAWL meeting, Flying Biscuit Café, NW 43<sup>rd</sup> Street & 16<sup>th</sup> Avenue, 7:45 a.m.
- 2 EJCBA Annual Reception at *The Historic Thomas Center*, 6:00 p.m.
- 8 Probate Section Meeting, 4:30 p.m., 4<sup>th</sup> Floor, Family & Civil Courthouse
- 28 Family Law Section Meeting, 4:00 p.m., Chief Judge's Conference Room, Alachua County Family & Civil Justice Center

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).