

FORUM 8

Volume 74, No. 1

Eighth Judicial Circuit Bar Association, Inc.

September 2014

President's Message



Welcome back! What's New?

By Ray Brady

Welcome back from our lazy EJCBA summer hiatus. I hope that everyone enjoyed a relaxing and safe summer. Based upon the photos popping up on Facebook, it appears that we had EJCBA members

vacationing in every corner of the world! Belize, Europe, Alaska...the list goes on. So, you all are either recharged, or perhaps you're exhausted from having had too much fun. (Is there such a thing?)

The EJCBA has been working over the summer to provide you with another year that is chock-full of activities and opportunities to enhance your legal practice. Please take a moment to flip to page 2 of this Newsletter to see your new EJCBA Officers and Directors for the coming year. I encourage you to reach out to us if there is any event that you would like to assist us with. We welcome any ideas or efforts that you would like to offer.

We are trying a few new things that I'd like you to know about (hopefully, these innovations will motivate you to renew your EJCBA membership now, so you will get member rates and privileges on all of our offerings):

Luncheons: We are trying two new things with our monthly luncheons at the (very popular) Woolly downtown. First, we are offering a limited "meal plan" to EJCBA members. For the flat price

of \$112.50, you can attend all nine luncheons. That's a \$40.50 savings on the regular member price for nine luncheons. This offer is open to the first 50 EJCBA members who sign up for it. If this "meal plan" proves popular, then we will consider expanding it next year. A second new feature is that a number of our luncheon speakers will be devoted to the "Building Bridges" series that I described in my remarks as your new President at last June's annual dinner (you remember what I said, right?). President-Elect Rob Birrenkott

is doing a great job putting this series together. We will hear from leaders who are in the forefront of areas that define our community, so they may share their initiatives with us, and we, as lawyers, may discover ways to support those initiatives and perhaps enhance our law practices. You will be hearing from leaders in innovation technology, the environment, and charitable organizations, to name a few.

Collaborations with Our Medical Community:

We would like to strengthen the ties between the legal and medical professions in the 8th Circuit. You may recall that about a decade ago, the EJCBA had a Medical-Legal Committee. That committee succeeded in having us partner with our local physicians to build a Habitat for Humanity House. We also jointly drafted and adopted an *Interprofessional Guide for Physicians and Attorneys*. I would like to rekindle that partnership. To that end, you are invited to attend a dinner 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 5th of the preceding month and can be made by email to dvallejos-nichols@avera.com.

About This Newsletter

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

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

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

Judy Padgett

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Deadline is the 5th of the preceding month

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.

To renew/apply for membership, please renew online at <http://8jcba.dev.acceleration.net/pay-dues/> or send a check payable to EJCBA in one of the following amounts:

- \$55 If, as of July 1, 2014, you are a lawyer licensed to practice law for five (5) years or less; lawyers with the State Attorney's Office, Public Defender's Office and Legal Aid with 10 years of experience or less; retired members of the Florida Bar pursuant to Florida Bar Rule 1-3.5.
- \$75 For all other lawyers and members of the Judiciary

Free If, as of July 1, 2014, you are a lawyers in your first year licensed to practice law following law school graduation. Free membership does NOT include cost of lunches.

*(YLD members can also include their yearly dues of \$25 for YLD membership if, as of July 1, 2014, you are an attorney under age 36 or a new Florida Bar member licensed to practice law for five (5) years or less)

You may pay your dues online at <http://8jcba.dev.acceleration.net/pay-dues/> or send a check, along with your completed application to:

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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: 2014-2015

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

President's Message *Continued from page 1*

moderated panel discussion with the members of the Alachua County Medical Society on October 14, 2014, beginning at 6 p.m. You will find details on making your reservation for this event on page 15 of this newsletter. The panelists, addressing the topic of our tort system and medical negligence claims, include Judge Toby Monaco and Gainesville attorneys Patrick Perry and Dale Paleshic. This is an opportunity to socialize with the physicians in our community. If this event is a success, I foresee more joint events (perhaps a community project) in the future.

A "Spring Fling": How about an outdoor party in Gainesville during our delightful Spring weather? You may have heard me describe this new event at the June annual dinner. This is a work in progress that is being chaired by President-Elect Rob Birrenkott. Here are our thoughts so far: Visualize an outdoor venue (like the Thomas Center lawn or Kanapaha Botanical Gardens?), a good band, craft beer and fine wine, food (either from a caterer or perhaps a food truck rally), the possibility of activities (like dunk the FSU mascot?), and maybe a silent auction to benefit local charities of your choice. How can you say no to that? Watch this space for more details, and feel free to email me or Rob with your great ideas. We hope this will become an EJCBA Spring tradition that bookends our great Fall event every year at Cedar Key.

Online registrations: I don't know about you, but I don't register for anything by mail any more (other than for my car registration and tag, but that's an issue for a curmudgeon column). Your EJCBA gets it, so we are working to make it so that you will be able to register and pay for our events online, on our website, in advance. Less paperwork; easier for us all. We will keep you posted on this improvement in member services.

Event Surveys: I challenge you to find me a lawyer who doesn't enjoy sharing his or her opinions. So, why not put your talent to use in telling your EJCBA what you like, and equally important, what you do not like, about any of our events that you attend? To this end, our Member Services Committee (chaired by Meshon Rawls) is working to develop focused surveys that you will receive after an event, so you can help us to improve your experience the next time you attend!

\$1 Raffle for a new Porsche: Not really. I'm just luring you into finishing reading my column.

This is a taste of what your EJCBA has been cooking up for you this coming year. In addition, we will endeavor to hit it out of the park on our usual EJCBA events, which will include: **our Cedar Key dinner**, which will be on October 16, 2014 (chaired by Norm Fugate); **Social events** in September, January and April (chaired by Anne Rush); **CLE events**, including a Leadership Roundtable like last year's April event (chaired by Stephanie Marchman); **the Holiday Project** (chaired by Anne Rush); **the Golf Tournament** (chaired by Mac McCarty); **the Law in the Library series** (chaired by Jan Bendik); **Law Week** (chaired by Past President Nancy Baldwin); **the Professionalism Seminar (and maybe a new "Professionalism Master Class Series")** (chaired by Ray Brady and Phil Kabler); and outstanding monthly **newsletters** from our Forum 8 Editor, Dawn Vallejos-Nichols.

So, put those beach chairs and umbrellas back in the closet, and get set for a fun, educational, and inspiring year of EJCBA activities. I look forward to working with, and hearing from each and every one of you during my year as your President.

Updated ADA Notification Required

The Court Administrator's office has updated the ADA notification that is required to be placed at the bottom of all notices of hearing. From this date forward, please use the following notification: "Under the Americans with Disabilities Act, if you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator, 201 E. University Avenue, Room 414A, Gainesville, FL 32601 at (352) 337-6237 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711."

New Standing Order For Family Law Matters

By Cynthia Swanson



A new administrative order was signed by Judge Roundtree, effective August 1, 2014, which applies to all original dissolution of marriage actions, separate maintenance, and annulment actions filed in the Eighth Judicial Circuit. It is Administrative Order 5.09, and can be found at

circuit8.org/administrative-orders.

The administrative order automatically enters a new Standing Family Court Order in those types of cases mentioned above. The Standing Order is effective as to the petitioning spouse at the time of filing. At that time, the Petitioner must sign the Standing Order, indicating their receipt of it, and file it with the petition. The Clerk is prohibited from issuing a summons unless the signed Standing Order is filed. The Clerk is directed to docket the signed Standing Order as a separate document with its own time stamp.

The Petitioner is required to serve a copy of the signed Standing Order with the petition and summons on the Respondent, and the Standing Order is effective as to the Respondent upon service of process, or upon the execution of a waiver of service of process.

The administrative order provides that failure to comply with the Standing Order is punishable by contempt and any other sanctions permissible by law and deemed appropriate by the court.

The Standing Order itself is essentially an injunction which applies to both parties (after the Respondent has been served) and prohibits them from the following:

From transferring assets – any assets, whether marital or non-marital, owned separately or jointly, of any type of property, and for any reason – without the written consent of the other party or a court order. The exceptions to this are when the transfer of assets would be in the “normal course of business,” or for “customary and usual household expenses,” or for “reasonable attorney’s fees in connection with this action.”

From incurring “unreasonable debts.” This includes a prohibition against additional borrowing against the marital home, or any marital asset, the unreasonable use of credit cards, and taking cash advances against bank cards.

From removing the minor child(ren) of the parties from the State of Florida – for any reason.

From removing either party or the minor child(ren) from any medical or dental insurance coverage.

From changing the beneficiaries of any existing life insurance policies or other financial products or accounts; from changing any existing life, auto, homeowner’s, and renter’s insurance policies.

In addition, if the parties have a child or children in common, then the party who may vacate the marital residence must provide his or her new address and telephone number within 48 hours of the move. And, further, the order requires those parties to “assist their children in having contact with both parties which is consistent with the previous habits of the family.”

This order was proposed via a committee of FLAG, the Family Law Advisory Group, whose stated purpose is to support and advise the Court in implementation of the Unified Family Court, to provide public education about court programs and policies, and to provide a forum for the communication of ideas, suggestions, comments and complaints between the Court and the community. The idea behind the order was a benevolent one – to keep the status quo in effect when an original dissolution of marriage action is filed.

Several meetings were held, at which the Family Division Administrative Judge, Judge Nilon, solicited comments on the proposed standing order from family lawyers. I personally and other attorneys objected to the entry of an order which awards relief which no party has requested, because this violates the due process rights of both parties. See, e.g., *Hunter v. Booker*, 133 So. 3d 623, 627 (Fla. Dist. Ct. App. 1st Dist. 2014), where a trial judge was reversed for awarding a rotating timesharing schedule in a domestic violence proceeding, when neither party had requested that any timesharing schedule be entered. See also, *Guida v. Guida*, 870 So. 2d 222 (Fla. Dist. Ct. App. 2d Dist. 2004), where a trial judge’s entry of an injunction prohibiting the husband from having contact with, etc., the wife and their son was reversed. There, the appellate court held that a permanent injunction cannot be properly granted in a suit simply on notice, without process duly served, and without formality of pleading, or presentation of

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proof, in the absence of waiver. *Guida*, at 225.

Here, it is a little unclear whether the Standing Order is to be considered a permanent order which would require separate pleading, service of process, and proof. The Standing Order itself states, "The Order shall remain in effect during the pendency of the action until modified, terminated, or amended by order of the court." Thus, the order is akin to a permanent order, in that it can only be terminated or amended by order of court. On the other hand, it does appear that a voluntary dismissal of the petition, where there is no counter-petition would mean the "pendency of the action," and thus the effectiveness of the order is terminated.

Judge Nilon pointed out, however, that many other circuits in Florida have similar standing orders and there are no reported cases in which those have been challenged.

So family law practitioners in the Eighth Circuit should do some careful planning with their clients about when and how to file the original petition for dissolution of marriage, separate maintenance, or annulment, and should also consider whether to file a counter-petition. Because of the hefty filing fee that goes along with the filing of a counter-petition, the decision is sometimes made to forego it. However, as has always been the case, of course, if the petition is voluntarily dismissed and there is no counter-petition, the action is terminated, and thus the Standing Order will no longer be in effect.

Additionally, when meeting for the first time with a client who has been served with the Standing Order, practitioners should educate their clients about all the provisions of the order to be sure they understand that they are no longer able to handle their own affairs as they see fit. In fact, they are prohibited from doing so. I can see many hearings revolving around whether a \$100 haircut or a new \$1,500 lawn mower or a new \$30,000 car is a customary household expense. I am also concerned – although this is not prohibited -- with the unilateral paying off of large debts. This often deprives the other party and the court of the ability to appropriately distribute assets and income. Lawyers who want to head off such contested hearings should consider attempting to reach an agreement with the other side about a household budget, the cash needed to run a business, and so on. These are all things that need to be done in pretty much any divorce case. It's just there will be a much greater sense of urgency now for those parties who will obey this Standing Order.

And there may be the need for more temporary relief hearings very early on in the case to set up those household and business budgets. And those hearings may well have to happen before discovery has been completed – simply because the parties have to have access to money to run their families and their businesses.

I've always said that there are basically two types of couples we see in divorce court – those who are more or less reasonable and have at least some modicum of trust and respect for the other, and those who do not. The former will have little problem in working with this Standing Order, but they would have worked out a pretty decent settlement sooner or later without the need for this order, because they would never think of removing the other party from their health insurance, for example.

In my opinion, however, there is not likely to be much beneficial effect for the latter type of couple. There are too many ways around it. And, after all, those people disobey court orders all the time – often with impunity. Savvy practitioners, however, should look at this order as another tool in their toolkit to help the first type of couples work through the issues that come up in every divorce and to help them do it sooner, rather than later, so as to avoid the need for the court to set up their household or business budget.

EJCBA Luncheon Dates For 2014-2015

The EJCBA has scheduled the following dates for its 2014-2015 luncheons, each of which will be held at The Woolly, 20 North Main Street, from 11:45 a.m. -1:00 p.m. Please calendar them now and plan to attend:

September 12, 2014
October 10, 2014
November 14, 2014
December 12, 2014
January 9, 2015
February 13, 2015
March 13, 2015
April 10, 2015
May 8, 2015

Alternative Dispute Resolution

ADR and The Curmudgeon's Corner

By Chester B. Chance and Charles B. Carter



Ah, perhaps you are too young, or, so old you are a bit senile and have forgotten.

Forgotten what you ask?

Well, forgotten the early embryonic years of this newsletter and the Curmudgeon's Corner. Authored by attorney and wit Sam Hankin. Sam wrote articles which most of the time had nothing to do

with the law; rather, in the articles he ranted and railed about everything.

We recall an article about sandwich pickle slices. Merely a witty focus on the advertised crunch of a Vlasic product. Just a refreshing dose of H.L. Mencken audacity.

And we ask: Quo Vadis?

So we have asked Mr. Hankin to resurrect his foil and thrust with abandon. We were excited as we attempted to track him down, he who has been gone from our circuit a decade or more.

We searched high and low looking for the original Eighth Judicial Circuit Curmudgeon. We left no stone unturned so we could invite him to resurrect the tradition of his past columns.

Ladies and gentlemen, we proudly give you Mr. Hankin, direct from New Curmudgeon's Corner:

Okay, dammit. We could not locate him. We tried. We tried hard. But we could just not find him. We tracked him down to an Amish Burger King in southwestern Pennsylvania and then the trail grew cold and rutted with buggy wheels, but, we did not give up. We went to a very reputable establishment on Northwest 6th Street in Gainesville and enlisted the aid of a woman who specialized in acupuncture, astrology, homeopathic medicine, tarot cards, crystals, pyramid power, veganism, transgender bathrooms, and the Marketable Record Title Act.

Not surprisingly, she was able to channel Sam. For a fee of only \$350 and a tofu sausage sandwich, she reports Sam was thinking of authoring columns along the following lines:

"Sam has spoken to me", said Madam Windspirit. "He wonders why movie theaters offer large, extra-large and giant-sized drinks at the refreshment counter and the patron is told, 'We do not have medium-sized.' 'Of course you do,' shouts Curmudgeon Sam, 'It is between the large and giant offerings.'

Thus, when in Starbucks, Sam orders a small,

medium or large despite being told Starbucks offers no such selections. And, he sticks to his guns and asks for a china cup rather than the uncivilized paper cup. Sam, the intellectual, knows when Rome did away with the medium option and went to paper cups, the barbarians started crossing the borders of the empire smelling the decline of Roman civilization; and they were correct.

We handed Madam Windspirit another \$10 and a Kale salad and begged her to continue.

"Sam is angry about many things. He fears we are concentrating on sandwich pickles and ignoring more important things." He asks, 'Why can we no longer order 'Dolphin' or 'Dorado' in Florida restaurants but must defer to the Mahi-Mahi term from Hawaii? If the customer thinks Flipper is being ordered they should not be ordering seafood. Society will rise or fall over such matters.'"

She continued, "Sam ponders why people who ride bicycles for exercise rather than for commuting categorize what they do as transportation."

We handed Madam Windspirit another \$5 and asked her, "We believe you are communicating with the spirit of Sam Hankin. Oh, honest non-capitalist rip-off artist, what else does Sam tell us?"

Madam Windspirit took a sip of her Jack Daniels and cucumber smoothie and closed her eyes and meditated.

"Sam's spirit is restless," she said. "He questions many things. He asks if there really is such a thing as a fertile octogenarian. He wonders if the Rule Against Perpetuities is really just a suggestion. He is confused when he sees Judges wearing robes and lawyers wearing polo shirts. Sam is no longer a curmudgeon. He is a confused barrister who longs for the days when unisex meant you were a bachelor."

We were shocked. We meant to contact a former contributor of this newsletter and instead we channeled a troubled, confused, Amish lawyer; but, still, we did get to sit under a wallboard pyramid while getting an acupuncture treatment for fibromyalgia, so things were not a total loss.

"Thank you Madam Windspirit. Your scientific based channeling took us to a place almost forgotten: to the corner of the curmudgeon. You channeled the spirit of



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Three Rivers Legal Services Needs Volunteer Attorneys

By Marcia Green

Three Rivers Legal Services has undergone many changes this year and we are looking forward with renewed energy and commitment. Our new director, Chris Larson, is reaching out to the legal and client communities and we expect visits from our major funding sources within the next few months. While not dire, our financial outlook remains a concern. The Florida Bar Foundation and other funders are struggling and, although the Legal Services Corporation is strong, politics and the economy directly impact our clients individually and our program overall.

Thank you to those of you who volunteered to do pro bono work with Three Rivers and to those who responded to our recent appeal for donations in lieu of pro bono. We are so very grateful for your recognition and interest in of the legal needs of our clients and the mission of our program. Donations can be made directly through our website (Paypal) at www.trls.org and you can email your interest in volunteering to volunteer@trls.org.

We ask you now, however, to consider helping out in the area of family law. We just recently lost the grant that funded our family law staff attorney and legal assistant. The good news is that we didn't need to lay off a staff member; Nery Alonso, our family law attorney, moved to Tampa and will return to work remotely as an advocate on our Legal Help Line after her maternity leave.

Although we hope to ultimately renew the family law grant and are looking at other funding options, we are currently very shorthanded in our family law division. Our wonderful panel of volunteer family law attorneys is busy and gracious but the bottom line is that we need more!

As you probably know or suspect, Three Rivers gets numerous requests for help with divorces, custody and other family related issues. We carefully address each call to determine whether there is danger to the caller or the family, to make sure the client is financially eligible for legal services and to determine whether the issues can be resolved with pro se assistance or whether full representation is needed. The cases that we refer to private volunteer attorneys are those in which the circumstances are better addressed with an attorney involved and full representation is warranted. We work closely with the Levin College of Law Civil Legal Clinic and our domestic violence attorney, Merise Jalali, provides immediate-need services to victims of domestic violence.

Are you willing to become a family law volunteer? We pre-screen our clients for financial eligibility and we look at each situation to see if representation is necessary. Three Rivers provides malpractice coverage and can pay necessary costs (with prior approval); filing fees can

be waived. When possible, our clients are asked to pay some costs and we may be able to arrange reduced fee or pro bono court reporters. Three Rivers tries to provide whatever support is necessary to allow you to most effectively represent our client. Local, experienced private attorneys have offered to mentor new attorneys and our staff legal assistants have a wealth of information regarding the application for civil indigency as well as reduced fee mediation and parenting courses. We will provide training and CLE opportunities as they become available and we can help you access statewide webinars available to pro bono attorneys. Three Rivers can even offer office space and notaries if you prefer to meet your referred client here.

Please let me know if you are available! I have a couple of cases on my desk now that need to be referred and we get daily/weekly requests from individuals needing help. Let me know about your availability; contact me at marcia.green@trls.org or 352-372-0519, ext. 7327.

Curmudgeon's Corner *Continued from page 7*

the lawyer and savant who dared speak what others did not dare to utter and rarely understood. And, we got a copper bracelet to boot. Cool."

Madam Windspirit seemed troubled, but sincere. "Mr. Hankin was a compassionate curmudgeon. I can sense it," she said.

The original curmudgeon has many potential subjects for future articles. He must contemplate why so many people put toilet paper on the roll-holder with the end hanging from the backside instead of the front side. He knows that if we get such small details screwed-up how dare we think we can find a solution for peace in the Middle East. The curmudgeon challenges the idea that playing music to babies has a positive effect on their brains because the curmudgeon played country music to his children and yet they still do not know how to fix a car engine or work a chain saw. Mr. Hankin has an article burning inside him where he explains more people would like bicyclists if they wore normal clothes. The curmudgeon wonders why 90% of all cars driving under the posted speed limit are Priuses. The curmudgeon contemplates all these things and their societal and legal implications. And we miss this mundane yet significant analysis.

Later we saw Madam Windspirit driving down 6th street in her new BMW to deposit her check at Charles Schwab.

The curmudgeon would be smiling.

Southern Legal Counsel receives Florida Bar Foundation's 2014 Steven M. Goldstein Award for Excellence

A Southern Legal Counsel Inc. project to remedy due process violations by Florida's developmental disabilities Medicaid waiver program was honored June 26 by The Florida Bar Foundation with its 2014 Steven M. Goldstein Award for Excellence.

The biannual Goldstein award recognizes a project of significant impact work undertaken by a Foundation Legal Assistance for the Poor general support grantee, and its recipients receive a \$25,000 general support grant and a \$3,000 staff training scholarship.

In *Moreland v. Palmer*, Southern Legal Counsel, together with disability rights attorney Nancy E. Wright, filed a statewide class action lawsuit in federal court against Barbara Palmer, the director of Florida's Agency for Persons with Disabilities (APD) alleging due process violations in the agency's implementation of "iBudget," a new developmental disabilities Medicaid waiver program that cut the benefits of about 40 percent of those receiving services through the waiver.

Tina Russell of Port Orange, when looking at a 30 percent cut in the services provided to her 25-year-old son who has cerebral palsy, told the Daytona Beach News-Journal in March 2013 that she worried how he would be able to continue to go to his adult day training program, and if he couldn't, how she would be able to continue to work and pay the bills.

"This settlement provides a safeguard against arbitrary government action, and prevents the erroneous deprivation of these individuals' services

that are necessary to keep them living in the community, instead of an institution," Southern Legal Counsel attorneys wrote in their award application.

About 30,000 Floridians with developmental disabilities receive Medicaid waiver services from the APD. These are people who meet the level of need required for institutional care but who, instead of being institutionalized, receive services that allow them to live at home with family members, in their own homes or in a licensed group home, and to participate in community life.

The program has had more than 22,000 people on the waiting list and has been chronically underfunded, and iBudget was instituted in an effort to control spending and get people off the waiting list. However, by failing to provide written notice and explanation of the intended reduction in services, APD left those consumers who faced a loss of services without the knowledge they needed to request a hearing or present evidence to appeal the cuts.

After an evidentiary hearing and two oral arguments, U.S. District Court Judge Mark Walker entered a preliminary injunction in favor of the plaintiffs, and the parties mediated a settlement agreement to protect the due process rights of a class of more than 9,000.

Resulting changes include the reinstatement of all class members' cost plans on a pro-rated basis to the level they were prior to the transition to iBudget and an agreed-upon notice from APD of iBudget allocation and reduction of annual funding amount to all class members, and at the same time their parents, guardians, guardian advocates or authorized representatives. Notice will be in English and in the class member's primary language.

Southern Legal Counsel Inc., based in Gainesville, Fla., is a statewide not-for-profit public interest law firm that is committed to the ideal of equal justice for all and the attainment of basic human and civil rights. In 2013-14 it received a \$149,000 general support grant from The Florida Bar Foundation and a \$62,018 Children's Legal Services grant, as well as \$17,000 for legal aid attorney salary supplementation.

First runner up for the Goldstein Award was a successful effort by the Florida Legal Services Florida Institutional Legal Services Project to establish due process rights for people with developmental disabilities. The project received an award of \$10,000



Southern Legal Counsel staff attorney Kirsten Clanton and Executive Director Jodi Siegel, second and third from left, respectively, and disability rights attorney Nancy Wright accepted the 2014 Steven M. Goldstein Award for Excellence from Judge William A. VanNortwick, who chaired the award committee.

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Criminal Law



By William Cervone

Today, as you return from a summer of possible inactivity that may have made you less attentive to detail than ordinarily, I bring you a cautionary tale about being careful what you think you've agreed to because you might not have agreed to anything at all. This also falls

into the category of dancing on the head of pins and how many angels can accomplish that feat at the same time.

S.B., obviously a child because that's how he's identified in the opinion that I'll be drawing this from [found at 39 FLW D494 if you care], apparently battered a school board official in Broward County while disrupting a school function of some sort. In an unrelated case, he also apparently burglarized a vehicle of some sort. I say apparently because his convictions for those things were reversed and I certainly don't wish to intrude upon his presumption of innocence. He was, at the start of what became a long and no doubt torturous process found incompetent to proceed to trial on those charges.

Three, yes, three years later he came back before the court because a doctor had decided and reported that he had been restored to competency. Nothing unusual about that except maybe for the length of time it took to get there. A hearing was held, at which defense counsel advised the court that he had reviewed the doctor's report, talked to his client and his client's mother, and that as a result he, the lawyer, was "going ahead and stipulate that the child is competent to proceed..." The State likewise stipulated to S.B.'s competency, all common enough. Without further fuss and bother or hearing, the judge entered an order based on the stipulation of the defense and the State and its own review of the doctor's report. S.B. then went to trial, by jury interestingly enough so I assume he was eventually prosecuted as an adult even though he was a minor when the crimes occurred, where he was promptly convicted.

End of story, right? Wrong. You see, the defense attorney and the State had stipulated to the competency of S.B., but they had not stipulated to the content and admission of the doctor's report. And that, said the 4th DCA, is a significant distinction. There was, the 4th DCA noted, no agreement between the parties and the judge that the judge would decide the issue of competency on the basis of the doctor's

written report alone. Cue the music and enter the dancing angels.

Briefly and paraphrasing, Rule 3.121 requires a hearing to determine whether competency has been restored, at which experts are to testify. Case law allows the court to proceed on the basis of reports alone so long as the parties agree to that. But neither Rule nor case law sanction a stipulation to the ultimate issue of competency. And so the 4th DCA concluded that "[A]lthough it can be argued that by stipulating to the report's determination of competency, the parties stipulated to the report and agreed to determine competency based on the report alone, there is nothing in the case law to suggest that such implicit stipulations and agreements are sufficient to satisfy Rule 3.121." So out the window went the conviction in favor of a mandate requiring a new competency hearing, ironically at which the trial court "may consider any stipulations in accordance with" the opinion.

I assume that S.B., his original lawyer, the State, and the trial judge were all annoyed and perplexed at this result, as in a sense I am. I must confess, however, that this fine example of appellate nitpicking really does make sense in the strictest of constructionist senses. And I readily admit that as someone who has decried the death by a thousand cuts that good lawyering and the advantages it should create over bad lawyering on the other side have suffered in recent years, I should applaud the precision of the DCA's ruling, not to mention the work of S.B.'s appellate lawyer for finding much less putting forth this argument with a straight face. But really? And where's laches, one of my favorite legal terms, when you need it?

The moral of the story, to repeat myself, is be careful what you think you've agreed to. Or what you think the other side has agreed to.

Attorney Volunteers Needed

The 8th Judicial Circuit is requesting any licensed attorney to volunteer to be a Guardian ad Litem in contested family law cases. If you are interested, please contact Katherine Mockler at mocklerk@circuit8.org.

Chapter 934, Fla. Stat., the Expectation of Privacy and the Smartphone in Your Client's Pocket

By Siegel Hughes & Ross

The Florida legislature has intended that parties to private conversations should enjoy an expectation of privacy in that conversation. *State v. Sells*, 582 So.2d 1244, 1245 (Fla. 4th DCA 1991). But today, with smartphones in every pocket, guarding that privacy has become ever more difficult. For instance, a potential client walks into your office and tells you that he used his iPhone to record a conversation with his next-door neighbor. He kept the iPhone in his pocket for the conversation, and the neighbor never knew she was being recorded. Your potential client tells you that in the recording, the neighbor apologizes for cutting down his prize magnolia tree. Your potential client wants to sue his neighbor for damages, and wants to use the recording as the sole evidence that she cut down the magnolia tree. Assuming that you are, in fact, in the tree litigation business, what can you do with that recording—and is this a case worth taking?

Section 934.03, Fla. Stat., states that interception and disclosure of oral communication is expressly prohibited, except in the limited circumstances set forth in the statute. The exception that is most likely to present itself in the civil litigation arena is set forth in §934.03(2)(d), Fla. Stat., which provides that it is lawful to intercept an oral communication only when all of the parties to that communication have given prior consent to such interception. “Intercept” is defined as the aural or other acquisition of the contents of any oral communication through the use of any electronic, mechanical or other device. See §934.02(3), Fla. Stat. “Oral communication” is defined as any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under

circumstances justifying such expectation. See §934.02(2), Fla. Stat. There are a couple of issues that must be examined to determine whether an oral communication is entitled to protection under §934.03, Fla. Stat.: (1) A person’s actual, subjective expectation of privacy and (2) whether society is prepared to recognize this expectation as reasonable. *Jatar v. Lamaletto*, 758 So.2d 1167, 1169 (Fla. 3rd DCA 2000) *cause dismissed*, 786 So.2d 1186 (Fla. 2001)(quoting *State v. Inciarrano*, 473 So.2d 1272, 1275 (Fla.1985)).

When examining the potential client’s situation, you must first look to whether the neighbor had an actual, subjective expectation of privacy. Of course, a person’s own testimony regarding whether she considered the communication to be private will be considered in establishing whether an actual, subjective expectation of privacy exists. Other factors that courts have looked to in order to determine whether a person had an actual, subjective expectation of privacy include whether any steps were taken to keep the conversation private (*Stevenson v. State*, 667 So.2d 410, 412 (Fla. 1st DCA 1996)), whether police fostered the expectation of privacy in a conversation between a suspect and his mother that took place in the Warrants Division of the jail (*Cuomo v. State*, 98 So.3d 1275, 1281-1282 (Fla. 1st DCA 2012)), and whether the communication is one that would ordinarily be protected by some form of privilege (*Brugmann v. State*, 117 So.3d 39, 48 (Fla. 3rd DCA 2013)).

In many instances, courts have noted that, even assuming a person had an actual, subjective expectation of privacy, such expectation was not one that society is prepared to recognize as reasonable. See *Brugmann* at 48. To determine whether an expectation of privacy is reasonable, courts look to eight factors:

1. The location where the communication took place;
2. The manner in which the communication was made;
3. The nature of the communication;
4. The intent of the speaker asserting Chapter 934 protection at the time the communication was made;
5. The purpose of the communication;
6. The conduct of the speaker;

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Expectation of Privacy *Continued from page 11*

7. The number of people present; and
8. The contents of the communication.

Brugmann at 48-49; see also *Brevard Extraditions, Inc. v. Fleetmatics, USA, LLC*, 2013 WL 5437117 (M.D. Fla. 2013).

Typically, courts primarily consider the location of the communication, the intent of the speaker and the number of people present as the most significant factors. As to location of the communication, courts are clear that society is willing to recognize a reasonable expectation of privacy in conversations conducted in a private home. *Jatar* at 1169. Likewise, courts typically hold that conversations held in secluded or enclosed areas are more likely to be protected. *Stevenson* at 412. In *Stevenson*, the Court held that a conversation held on a public street, between an individual in a van and two men on the street was not held in a location in which the individuals could have a reasonable expectation of privacy. *Id.* Therefore, the claimed expectation of privacy was not one which society would recognize as reasonable and the conversation did not qualify as an “oral communication” entitled to protection under Chapter 934.

Interestingly, although the *Jatar* Court specified that conversations within the home are accorded a reasonable expectation of privacy, it noted that the same blanket statement does not necessarily extend to communications in a business office. *Jatar* at 1169. The *Jatar* Court specified that with regard to communications in a business office, the intent of the speaker may not justify an expectation of privacy. *Id.* The Court noted that Mr. Jatar could not have a reasonable expectation of privacy in the oral communication he made at Mr. Lammeletto’s business office because he did not visit the office in the ordinary course of business, but rather with the intent to do harm to Mr. Lammeletto, specifically, by extorting him for money. *Id.* at 1168-1169.

Courts have also found there was no reasonable expectation of privacy at a business office where the recorded conversation involved numerous people. In *Molodecki v. Robertson Display, Inc.*, 2002 WL 34421226 (M.D. Fla. 2002), the Court held that a tape-recorded conversation did not violate Chapter 934, *Fla. Stat.*, where the recording was made at a business office and the conversation involved four men.

Compare *Jatar* and *Molodecki* to *State v. Sells*, 582 So.2d 1244 (Fla. 4th DCA 1991), in

which a sheriff’s deputy attempted to record a conversation with his superior officer, in his superior officer’s office. The superior officer admitted that he suspected Deputy Sells might record their conversation and arranged the chairs in his office in an attempt to determine whether Deputy Sells was carrying a tape recorder. *Id.* at 1245. The Court held that mere suspicion or implied knowledge that a communication might be recorded makes the expectation of privacy unreasonable, stating that “to permit recordings where the recorded party may be ‘suspicious’ would completely vitiate the consent requirement.” *Id.*

Although many of these cases were decided long before smartphones existed, it’s clear that your potential client may have violated Chapter 934, *Fla. Stat.*, by using the iPhone in his pocket to record the face-to-face conversation with his neighbor. Of course, if other neighbors were also present, or the conversation took place at the end of the driveway rather than around the kitchen table, the conversation may not qualify as an “oral communication” for purposes of Chapter 934. Unfortunately, your potential client now tells you that the recording was made in his living room and the only people present were himself and the neighbor.

You now have the unhappy task of telling your potential client that his iPhone recording is an interception of an oral communication and, as such, violates Chapter 934, *Fla. Stat.* Accordingly, it cannot be used as Exhibit A in the case against the neighbor, because §934.06, *Fla. Stat.*, specifically prohibits the use of intercepted oral communications as evidence:

Whenever any wire or oral communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the state, or a political subdivision thereof, if the disclosure of that information would be in violation of this chapter.

In *Perdue v. State*, 78 So.3d 712, 714-715 (Fla. 1st DCA 2012), the Court held that the disposition of a motion to suppress turned on whether the recording

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Workplace Flexibility and How to “Make Thousands of Dollars Working From Home!”



by Laura Gross

More and more businesses are offering family friendly policies that allow workplace flexibility including working from home. “Studies show that flexibility makes workers happier and helps companies lower turnover and raise productivity,” according to President Obama’s remarks this summer at the White House

Summit on Working Families. This is true, Obama explained, because “[m]ost of our days consist of work, family, and not much else. And those two spheres are constantly interacting with each other. When we’re with our family, sometimes we’re thinking about work, and when we’re at work, we’re thinking about family.”

Work-at-home policies allow employees to better cope with the demands of parenting and care-taking. Many large companies recognize that family friendly policies build employee loyalty and help keep talented employees. Small businesses can also benefit. At my law firm, we have used our workplace flexibility policy to retain a top employee who left Gainesville and to allow other employees to work from home at times to care for children or aging parents.

In creating workplace flexibility, here are the top five legal considerations for employers.

1. Wage and hour. For employees who are entitled to an hourly rate, the employer should establish a clear remote work policy that details timekeeping, which hours are mandatory, and that overtime requires prior written approval. Additionally, mandatory travel to and from the office may become compensable.

2. Discrimination and reasonable accommodations. A work at home policy must be applied equally without regard to race, color, religion, sex, age, disability or other protected status. And, telecommuting can be a reasonable accommodation option for a disabled or pregnant employee.

3. Confidentiality and security. To maintain control over information, the employee should sign a written non-disclosure agreement and use company issued computers and equipment at home.

4. OSHA and workers compensation. While employers are not required to ensure that employees who work from home are working in an OSHA (Occupational Safety and Health Administration)

compliant environment, a safety inspection may prevent an injury during remote work which might be brought as a workers’ compensation claim.

5. Applicable state laws. Generally, the laws of the state where the employee works from home apply. In other words, a Florida business that employs a single employee who works from home in Georgia may become subject to the employment laws in Georgia, too.

Expectation of Privacy *Continued from page 12*

fell within an exception set forth in §934.03, *Fla. Stat.* Once that determination was made, §934.06, *Fla. Stat.*, mandated suppression of the recording. *Id.* Similarly, in the civil arena, by the plain language of the statute, once it has been determined that the recording is an interception of an oral communication, the contents of that recording are inadmissible and all testimony or evidence regarding the recording or the contents or substance of the communication contained in the recording must be excluded.

Finally, you will need to inform your potential client that not only is the iPhone recording inadmissible, but Chapter 934 provides both criminal penalties and civil remedies for its violation. See §§ 934.03, 934.10, *Fla. Stat.* The civil remedies available include preliminary, equitable or declaratory relief, actual damages, but not less than liquidated damages computed at the rate of \$100 a day for each day of violation or \$1,000, whichever is higher, as well as punitive damages and attorney’s fees. §934.10(1), *Fla. Stat.* While the statute of limitations of two years is shorter than that for many other civil actions, it is two years from the date upon which the claimant first had a reasonable opportunity to discover the violation. §934.10(3), *Fla. Stat.* You cannot advise the client to destroy the recording, as to do so would be destroying evidence. But you can, and should, advise the potential client that he will not be able to use the recording in litigation, and that, if he chooses to proceed with the lawsuit, it will be his word against his neighbor’s. As smartphones become more and more prevalent, it is imperative that clients understand that attempting to use a smartphone to gather evidence will often result not only in inadmissible evidence, but could also result in criminal charges and civil liability.

Plum Creek's Proposed Alachua County Comprehensive Plan

Amendment

By Jennifer B. Springfield and Alexander Boswell-Ebersole



Plum Creek Timber Company ("Plum Creek"), the largest private landowner in both Alachua County and the entire nation, proposes to develop a significant portion of the 65,000 acres of land it owns in Alachua

County east of Newnans Lake. To accomplish its proposed plan, Plum Creek seeks the Alachua County Board of County Commissioners' ("County Commission") approval of amendments to the County's "comprehensive plan." The Plum Creek plan has generated significant public interest in the local community. Through a Plum Creek funded "community planning process" called Envision Alachua,¹ Plum Creek advocates for its plan by pointing to benefits such as economic development combined with land conservation and environmental sustainability. Others in the community, like the Stand by Our Plan group,² do not see it the same way. Despite the overarching controversy, two basic questions are often asked: 1) where does the County Commission get its authority to dictate how Plum Creek uses its land, and 2) what is a comprehensive plan?

Like all other local governments in the United States, the County Commission has significant authority to regulate land use within its jurisdiction. Dating back to at least the 18th Century, the law has recognized the power of local governments to regulate land use where the power was delegated to the local government by the state.³ This power continues today and, based on interpretations of the 10th Amendment of the United States Constitution, the power is deemed a "police power" reserved to the individual states, as opposed to the federal government.⁴ The individual states, in turn, delegate this power to local governments either by enabling statutes or through the state constitution. "Police powers" are broad inherent powers, allowing local governments to regulate to protect what is often described as the "health, safety, morals, or general welfare" of its citizens.⁵ However, while broad, some restrictions also apply to this power. For example, the government may not take private property without providing proper compensation to the property owner.⁶

Originating from these "police powers," comprehensive plans establish a coherent vision

for the extent, distribution, and timing of future development and growth, and thus serve as a guide to future land use decisions. In Florida, state law requires all local governments to adopt comprehensive plans for their jurisdictions.⁷ Moreover, in addition to adopting comprehensive plans, local governments are responsible for amending comprehensive plans and for implementing the plans through appropriate land development regulations, keeping in mind these regulations must be consistent with the comprehensive plan.⁸

Since Plum Creek's plan contemplates an area of more than 15,000 acres, it seeks amendment to the comprehensive plan through a "sector plan." A sector plan is essentially an optional land use planning tool that local governments can use to facilitate long term planning for larger geographical areas.⁹ Sector plans consist of two planning phases—a conceptual long-term master plan and more precise detailed specific area plans that implement the master plan.¹⁰ Plum Creek has submitted a long-term master plan to the Alachua County Growth Management Department,¹¹ and these master plans must be adopted by amending the comprehensive plan.¹² The second phase comes later and is concerned with the detailed specific area plans,¹³ which require no comprehensive plan amendment.¹⁴ Although the County Commission will decide whether or not to adopt a sector plan for the Plum Creek property, a variety of other entities have been, may be, or will be involved in the process, such as the regional planning council (the North Central Florida Regional Planning Council in this case), the Alachua County Planning Commission, the St. Johns River Water Management District, and the Florida Department of Economic Opportunity.

- 1 Envision Alachua's website is available at <http://www.envisionalachua.com>.
- 2 Stand By Our Plan's website is available at <http://standbyourplan.org>.
- 3 See *Respublica v. Philip Urbin Duquet*, 2 Yeats 493 (1799).
- 4 See, e.g., *New York v. United States*, 505 U.S. 144 (1992).
- 5 See, e.g., *Harrell's Candy Kitchen, Inc. v. Sarasota-Manatee Airport Authority*, 111 So. 2d 439 (1959).
- 6 See, e.g., *Haire v. Florida Dept. of Agriculture and Consumer Services*, 870 So. 2d 774 (Fla. 2004); see also U.S. Const. Amend. V; see also Art X § 6, Fla. Const.
- 7 Fla. Stat. § 163.3167; Alachua County's current comp plan became effective in 2011 and is available at

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The North Central Florida Chapter of the Federal Bar Association is Hosting its Annual Meeting and Reception

The Program will include Recognition of the Honorable Stephan P. Mickle for his Faithful Service on the Federal Bench (1998 – 2014)

The North Central Florida Chapter of the Federal Bar Association (“Chapter”) will convene its Annual Meeting to elect its officers and general board members on Thursday, **September 18, 2014**, from 5:00 p.m. to 8:00 p.m. at the Martin H. Levin Advocacy Center at the University of Florida Levin College of Law. The Chapter will be recognized for its receipt of the 2014 Chapter Activity Presidential Achievement Award from the national Federal Bar Association due in large part to its April 2014 program, “A Leadership Roundtable: Women, the Law, and Leaning Into Leadership.” The Annual Meeting will also include recognition of the Honorable Stephan P. Mickle for his faithful service on the federal bench from 1998 to 2014.

All members of FBA are invited to attend the Chapter’s Annual Meeting and Reception (to become a member of the FBA, please visit www.fedbar.org and complete a membership application). Complimentary hors d’oeuvres, wine, and beer will be provided. Parking restrictions on campus are lifted during the event.

If you plan to attend, please **RSVP** to FBA Chapter Secretary/Treasurer Jamie White at jwhite@dellgraham.com by September 11, 2014.



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http://growth-management.alachuacounty.us/comprehensive_planning/documents/2011_2030_Comprehensive_Plan.pdf.

- 8 Fla. Stat. § 163.3167.
- 9 See Fla. Stat. § 163.3245.
- 10 Fla. Stat. § 163.3245(3).
- 11 Alachua County Growth Management Department’s webpage relating to Plum Creek’s plan is available at http://growth-management.alachua.fl.us/development_services/plumcreek/.
- 12 Fla. Stat. § 163.3245(3).
- 13 Id.
- 14 Id.

October CLE Event With Alachua County Medical Society

The EJCBA and Alachua County Medical Society are participating in a dinner and panel discussion to be held on Tuesday evening, October 14 from 6-8:30 p.m. at the Hilton UF Conference Center, 1714 SW 34th Street. 1.5 hours of CLE are anticipated. The topic for the evening is:

Navigating the Current Malpractice Environment and Tort System: A Panel of Lawyers, Physicians and a Judge Shares Insights and Answers Questions

Moderated by:

David Winchester, M.D.

Judicial/Lawyer Panelists

Judge Toby Monaco, Patrick Perry, Esq. and Dale Paleschic, Esq.

Physician Panelists:

Karen Harris, M.D. and Patricia Moser, M.D.

Advanced Registration Required by:

October 6, 2014

6-7 p.m. social hour

7-8:30 dinner/discussion

\$46 Members; \$55 Non-members (appetizers & dinner); Cash Bar

For additional information and to register:
Contact Judy Padgett @ execdir@8jcba.org

Annual Cedar Key Dinner To Be Held October 16

EJCBA's Annual James C. Adkins, Jr. Cedar Key Dinner will be held on Thursday evening, October 16 in Cedar Key, Florida. Please calendar this event now and watch for additional information as it becomes available.

New Administrative Orders

Administrative Order 2.01, Appellate Procedure, was signed by Chief Judge Roundtree on July 1, 2014. This Administrative Order consolidates and supersedes Administrative Order 2.01(v1), dated October 5, 2012. You can view this Order at <http://circuit8.org/administrative-orders>.

On July 3, 2014 Judge Roundtree signed Administrative Order 3.06, Retention of Documents Filed in Civil Cases. This Order lists the documents that must be retained by the Clerks of Court in the Eighth Judicial Circuit in civil cases absent a specific order by the Court. This Order is also viewable at <http://circuit8.org/administrative-orders>.

Administrative Order 4.15 (v1), Transportation of Incarcerated Individuals, was signed by Chief Judge Roundtree on July 28, 2014. This Order sets forth the procedure to be used in both civil and criminal cases for the transportation of prisoners to the courthouses of the Eighth Judicial Circuit. The Order is viewable at <http://circuit8.org/administrative-orders>.

On July 17, 2014, Judge Roundtree signed Administrative Order 5.09, Standing Family Court Order. This AO requires a Standing Family Court Order to be entered in all dissolution of marriage, simplified dissolution of marriage, separate maintenance, and annulment cases filed in the circuit. The Order is viewable at <http://circuit8.org/administrative-orders>, and is the subject of Cynthia Swanson's article in this issue on page 5.

Southern Legal

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plus a \$1,000 training scholarship. Second runner-up was The Consortium Project by Legal Services of Greater Miami Inc, which received \$5,000 plus a \$1,000 training scholarship.

The mission of The Florida Bar Foundation (www.flabarfdn.org) is to provide greater access to justice. The Florida Bar Foundation is the only funder linking 30 legal aid organizations in Florida to form a comprehensive, statewide legal services delivery system. Other Foundation programs include grants to improve the justice system, public service fellowships for law students, and loan repayment assistance for attorneys at its legal aid grantee organizations. Principal support for the Foundation's charitable activities comes from the Interest on Trust Accounts (IOTA) Program implemented by the Florida Supreme Court in 1981. Additional support comes from gifts by Florida attorneys, law firms, corporations, foundations and from other individuals.

Circuit Notes

Congratulations to the Eighth Judicial Circuit's Class of 1964 who have now been members of The Florida Bar for 50 years. Thank you for your service to our profession: **P. Ause Brown, Jr., Carlos P. Lamar III, James G. Larche, Jr., and David W. Roquemore, Jr.**

On July 1, 2014, Chief Justice Jorge Labarga appointed Chief Judge Robert E. Roundtree, Jr. Commission Vice-Chair of the Trial Court Budget Commission (TCBC) through June 30, 2016. Fourth Judicial Circuit Judge Mark Mahon is the Commission Chair. The Trial Court Budget Commission (TCBC) is responsible for recommending to the Supreme Court budgeting and funding policies and procedures for the trial courts' budget. Chief Judge Roundtree currently serves as a member of the Executive Committee of the Trial Court Budget Commission, is Chair of the TCBC's Budget Management Committee and Chair of Trial Court Technology Strategies Funding Workgroup.

Chief Judge Robert E. Roundtree, Jr. is also the incoming Chair of the Judicial Administration Committee of the [Conference of Circuit Judges](#).

Judge David P. Kreider was appointed to the Circuit Court bench by Governor Scott in June. Judge Kreider previously served as a County Court Judge from May, 2010 through June, 2014. Judge Kreider filled the position left by Judge Ysleta MacDonald, who retired.

EJCBA members Norm D. Fugate and S. Scott Walker have been appointed to the Eighth Judicial Circuit Nominating Commission.

2014 Florida Super Lawyers & Rising Stars

Congratulations to all of the Eighth Circuit attorneys selected as 2014 Florida Super Lawyers or Rising Stars. Selection to Super Lawyers is based on a statewide survey of lawyers, independent evaluation of candidates by attorney-led research staff, a peer review of candidates by practice area, and a good standing and disciplinary check. No more than 5% of attorneys in the State of Florida are selected for inclusion in Super Lawyers. Those selected, as well as their practice area, are listed below:

Attorney – Super Lawyer

Laura Gross
 John C. “Jack” Bovay
 Robert S. Griscti
 Robert O. Stripling, Jr.
 Jeffrey L. Price
 Robert A. Rush
 Larry G. Turner
 Sam W. Boone, Jr.
 Shannon M. Miller
 Ellen R. Gershow
 Richard M. White
 Leonard E. Ireland, Jr.
 Jeff Lloyd
 David R. Saliwanchik
 Marcia Davis
 Carl B. Schwait
 Mark A. Avera
 Alan E. McMichael
 John D. Jopling
 Daniel J. Glassman
 Michael D. Sechrest
 Melissa Jay Murphy
 David M. Delaney
 Lance F. Avera
 Anthony J. Salzman
Attorney – Rising Star
 Kristine J. Van Vorst
 Laura dePaz Cabrera
 Chris Chestnut

Practice Area

Employment and Labor law
 Estate and Probate Practice
 White Collar Litigation
 Alternative Dispute Resolution
 Construction Litigation
 Criminal Defense
 Criminal Defense
 Elder Law
 Elder Law
 Estate Planning & Probate
 Estate Planning & Probate
 General Litigation.
 Intellectual Property
 Intellectual Property
 Personal Injury General: Defense
 Personal Injury General: Defense
 Personal Injury General: Plaintiff
 Personal Injury General: Plaintiff
 Personal Injury Medical Malpractice: Defense
 Personal Injury Medical Malpractice: Plaintiff
 Personal Injury Products: Plaintiff
 Real Estate
 Schools & Education
 Workers’ Compensation
 Workers’ Compensation
Practice Area
 Business Litigation
 Personal Injury General: Defense
 Personal Injury General: Plaintiff



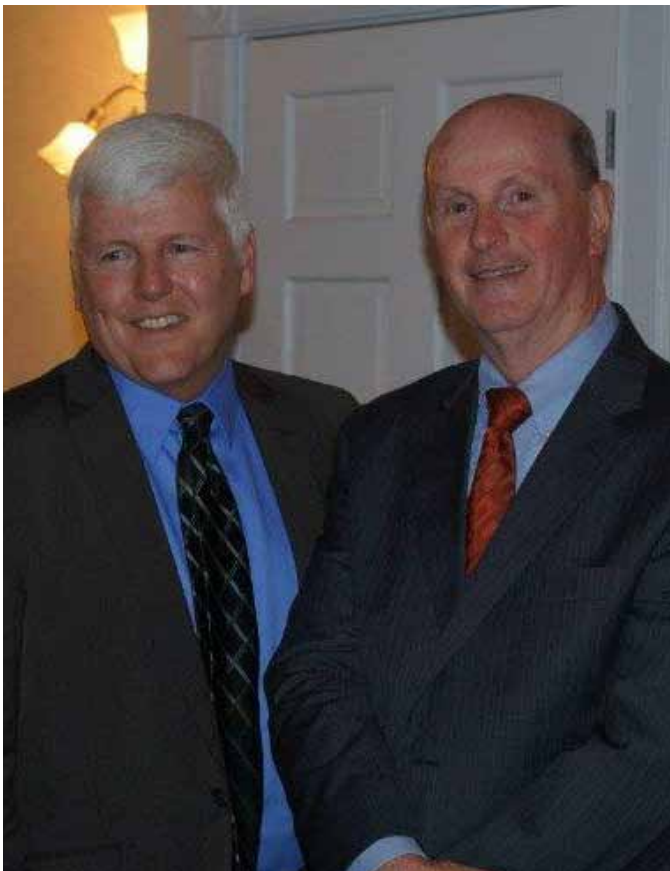
Judge Roundtree thanks retiring Trial Court Administrator Ted McFetridge for his service at the EJCBA Annual Dinner in June.



EJCBA President-Elect Rob Birrenkott and President Ray Brady at the Annual Planning Retreat in July



Your 2014-2015 EJCBA officers and directors at the Annual Planning Retreat in July.



Judge William Davis and Tomlinson Professionalism Award Winner Bill Cervone at the EJCBA Annual Dinner



EJCBA President Ray Brady speaks at the Annual Dinner in June at Sweetwater Branch Inn

2013-14 Luncheon CLE Reporting Information

If you attended the following EJCBA luncheons during the 2013-14 year, don't forget to register for CLE credit. The pertinent information is below:

Date: 9/20/2013
Reference No: 1308018N
Title: Legal Framework of
Protecting Lakes, Streams
CLE Credit: General 0.5

Date: 3/14/2014
Reference No: 1401866N
Title: Nat'l Security & Media v.
Individual Privacy
CLE Credit: General 0.5

Date: 2/21/2014
Reference No: 1401865N
Title: Dealing with the Media
CLE Credit: General 0.5

Date: 4/11/2014
Reference No: 1402635N
Title: Leadership Roundtable:
Women, the Law & Learning
CLE Credit: General 6.0; Ethics 1.5

September 2014 Calendar

- 1 Labor Day Holiday – County and Federal Courthouses closed
- 3 EJCBA Board of Directors Meeting – 5:30 p.m.
- 5 Deadline for submission to October Forum 8
- 6 UF Football v. Eastern Michigan, 4:00 p.m.
- 10 Probate Section Meeting, 4:30 p.m., 3rd Floor Conference Room, Alachua County Criminal Justice Center
- 12 EJCBA Luncheon, “Efforts to Assist the Homeless,” with Theresa Lowe, Executive Director, Alachua County Coalition for The Homeless and Hungry, and Kirsten Clanton, Esq., Southern Legal Counsel, The Woolly, 11:45 a.m.
- 13 UF Football v. Kentucky, 7:30 p.m.
- 16 Family Law Section Meeting, 4:00 p.m., Chief Judge’s Conference Room, Alachua County Family & Civil Justice Center with Guest Speaker Stacey Steinberg
- 20 UF Football at Alabama (Tuscaloosa), TBA
- 25 Rosh Hashanah Holiday – County Courthouses closed

October 2014 Calendar

- 1 EJCBA Board of Directors Meeting – 5:30 p.m.
- 4 UF Football at Tennessee (Knoxville), TBA
- 6 Deadline for submission to November Forum 8
- 8 Probate Section Meeting, 4:30 p.m., 3rd Floor Conference Room, Alachua County Criminal Justice Center
- 10 EJCBA Luncheon, Jane Muir, Director of Florida Innovation Hub at UF, The Woolly, 11:45 a.m.
- 11 UF Football v. LSU, TBA
- 13 Columbus Day Holiday – Federal Courthouse closed
- 16 EJCBA Annual James C. Adkins, Jr. Cedar Key Dinner, 6:00 p.m.
- 18 UF Football v. Missouri, TBA
- 21 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 to 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.