

# FORUM 8

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Eighth Judicial Circuit Bar Association, Inc.

January 2016

## President's Message

By Rob Birrenkott

### GATHER, GROW, and GIVE in 2016



Dear EJCBA members, I hope your New Year is off to a great start! As we put 2015 astern and sail into 2016, I take a few minutes to reflect on our association's activities over the past few months and look ahead to opportunities available to our members in 2016.

#### We have gathered:

we partnered with the Federal Bar Association and sponsored a social to meet new UF Law Dean Laura Rosenbury; brought our families and friends out to the First Friday Food Truck Rally at Cymplify to "Pitch in for the Kitchen;" laughed and told stories together at Cedar Key; and we sat in circles and shared meals together at our monthly luncheons. I am looking forward to continuing to gather with members of our legal community in 2016. We have an outstanding line-up of monthly luncheon speakers and we will once again enjoy a fun evening together at our second annual "Spring Fling" social on Friday, April 8.

We have grown: Judge Hulslander organized a brand new "Trial Skills" series for EJCBA members; we sponsored a series of programs with the University of Florida Levin College of Law including the "Overton Lectures in Florida Constitutional Law" and "The Florida Constitution at 50 Years: Looking Ahead to the 2017-2018 Revision Commission." While most New Year's resolutions tend to focus on "not growing" (in terms of weight gain), consider challenging yourself

to intentionally grow (professionally) this year. Apply for the Florida Bar Leadership Academy (application due January 15), attend the "View from the Bench" CLE after the January luncheon, serve on the Judicial Nominating Commission (application due February 26), attend the EJCBA Professionalism Seminar (February 26), participate in the March 11 EJCBA luncheon and stay for the leadership roundtable event focusing on the challenges of implicit bias.

We have given: we helped transform an empty room into a first class kitchen for the GRACE Marketplace homeless center in time for Thanksgiving; we provided toys over the holidays to children in need; and the "Ask a Lawyer" and "Law in the Library" programs regularly provided access to justice that otherwise would not be available to residents of our community. The generosity of our members has been on abundant display. Looking ahead, there are opportunities to continue to make a positive impact on the lives of others.

Perhaps you will be one of the volunteers for the "Law and Justice Conference" on February 13 that helps local youth from underrepresented backgrounds in the legal profession become agents for positive change; play, sponsor, or volunteer in support of the golf tournament on March 18 benefitting the Guardian ad Litem Foundation; volunteer to share your insights with the public and present a "Law in the Library" session; and sign up to offer legal services to the homeless as part of the "Ask a Lawyer" program.

However you choose to get involved, I hope your membership in the EJCBA is one of the many reasons that 2016 is a great year! Happy New Year!



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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

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. Also please email a photograph to go with any article submission. 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

## Professionalism Seminar – REGISTER NOW

### Inexpensive (CHEAP) CLE Credits

By Ray Brady

Register now for the annual Professionalism Seminar (register at <http://www.8jcba.org/event-registration/2016-professionalism-seminar/>). This year the seminar will be held on Friday, February 26, 2016 from 9:00 AM until Noon at the UF Levin College of Law. Our speaker will be Greg Coleman, past President of The Florida Bar, speaking on “Practicing with Professionalism in the Electronic Age.”

We expect to be approved, once again, for 3.5 General CLE hours, which includes 2.0 ethics hours and 1.5 professionalism hours. Questions may be directed to the EJCBA Professionalism Committee chairman, Ray Brady, Esq., at 373-4141.

## Volunteers Needed: Law & Justice Youth Conference

The EJCBA will collaborate with the Josiah T. Walls Bar Association as a co-sponsor for the 2016 Law & Justice Youth Conference on Saturday, February 13, 2016. The event will take place at the University of Florida Levin College of Law from 9 a.m. - 3 p.m.

Volunteers are needed to work on the following committees: workshop presenters, registration, logistics, small group panels and food. The time commitments vary based on the assignment. If you can spare at least 2 hours, don't miss out on this opportunity to GIVE. We are expecting 100 middle school students to participate in this event. For more information about the conference or to sign up for a committee contact Meshon Rawls at [admin@jtwba.com](mailto:admin@jtwba.com).

## Reserve Now for the 2016 Professionalism Seminar

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>WHEN:</b> Friday, February 26, 2016 – 9:00 a.m. – 12:00 NOON</p> <p><b>WHERE:</b> UF College of Law—Chesterfield Smith Ceremonial Classroom—Room 180</p> <p><b>PROGRAM:</b> Greg Coleman, Past President of The Florida Bar, speaking on “Practicing with Professionalism in the Electronic Age ”</p> <p><b>COST:</b> EJCBA paid members: \$40, Non-Members: \$75</p> <p><b>CLE:</b> 3.5 Hours of CLE is expected</p> <p><b>DEADLINE:</b> Register on or before <b>Monday, February 22, 2016 at:</b><br/><a href="http://www.8jcba.org/event-registration/2016-professionalism-seminar/">http://www.8jcba.org/event-registration/2016-professionalism-seminar/</a></p> | <p>When registering online, you will need to select your first and second choices for your area of specialty for small group discussions from the following options:</p> <ul style="list-style-type: none"> <li>Civil/Tort Law</li> <li>Family/Domestic Relations Law</li> <li>Criminal Law</li> <li>Estates &amp; Trusts Law</li> <li>Business Law</li> <li>Government Law</li> <li>Real Estate &amp; Land Use Law</li> </ul> |
| <p style="text-align: center;"><b>Parking:</b><br/>Decal requirements for <b>Commuter</b> parking will be waived.<br/>Spaces are limited, so <b>arrive early</b>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                |

# Alternative Dispute Resolution

By Chester B. Chance and Charles B. Carter



## Get Down with Your Bad Self

Aaron Peckham published a book in 2012 entitled "Urban Dictionary." In it, you will find "defs" for the most current word creations, such as:

**Aarping:** when an elderly person complains incessantly about nothing.

**Cheet:** the orange powder that coats your fingers and lips after eating Cheetos.

Your reporters are always trying to keep abreast (although that word is not politically correct) of what is PC, hip-hop, urban, and, of course, current.

Although there are hundreds of new words in the Urban Dictionary, we first tried to focus on either legally oriented or technologically oriented terms. Those terms included:

**Auto-incorrect:** when the auto-correct feature tries to correct your spelling but instead changes it to words that don't make sense. An example: Person 1: hey, what time should I come over? Person 2: I don't know...are you busty all evening? Person 2: I mean busy! Are you busy all evening? Gosh I hate auto-incorrect.

**BlackBerry Jam:** human traffic jams that occur in subway tunnels and bus stations caused by inconsiderate workaholics walking slowly while their noses are glued to their Blackberry devices.

**Bluetool:** a person who wears a Bluetooth wireless earpiece everywhere they go to seem trendy and important.

**Caps lock voice:** when a normally calm person has to raise their voice in an authoritative tone. It is the equivalent of using the caps lock key in the digital world. Example: I OBJECT!

**Connectile dysfunction:** the inability to gain or maintain an Internet connection or the inability to print, email or get to the Internet.

**Go primitive:** instead of keyboarding or texting a long and detailed story, using a phone call is a more direct way to have the conversation.

**Googleheimer's:** the condition where you think of something you want to google, but, by the time you get to your computer, you had forgotten what it was.

**Hand-me-up:** when the young generation of a family adopts and purchases new technology at a fast rate, old versions that are in working order but

are not up to current standards are given to the parents or older generations.

**Highlighter abuser:** someone who tends to highlight almost every part of the text he or she is reading, thus defeating the purpose of highlighting in the first place. Typically means the reader can't grasp the actual significance of what he or she is reading.

**iPhone effect:** after one person or group brings out their iPhone, the rest follow suit, ultimately ending all conversation and eye contact.

**Lawyer ball:** the art of playing the rules instead of playing a game. For example, trying to work-out a walk in slow pitch softball. Also applicable to wheenies who demand free throws after the slightest contact in a pick-up basketball game.

**Nagotiate:** negotiation by attrition. When a friend, spouse or another lawyer nags until they get what they want.

**Phone grope:** grabbing at pockets, patting yourself down to make sure you have your cell phone and don't need to turn around and go back home for it.

**Powerpuff presentation:** a PowerPoint presentation containing lots of flashing animation, cool pictures and all sorts of snazzy gimmicks, but almost entirely lacking in any real substance.

**Productive procrastination:** doing stuff to keep busy while avoiding what really needs to be done.

**Restless-lip syndrome:** when a person keeps interrupting a conversation and can't keep their mouth shut.

**Shatner commas:** oddly placed commas that don't seem to serve any actual purpose in punctuation but make it look like you should take odd pauses, as William Shatner does when delivering lines.

**Technolust:** the constant desire to have the newest, fastest and shiniest gadget available even if the one you just bought is only two months old and still works fine.

**Coin wanking:** the active jangling of change held in a suit trouser pocket.

**Cognitus interruptus:** a disruption of a normal thought process, usually by an external distraction.

**Econnoisseur:** one who insists on the highest quality at the lowest price.

All of the words and definitions are taken

*Continued on page 6*



# Criminal Law

By William Cervone



For most of us, the Best Evidence Rule probably means that we had the best evidence at trial, or so we believe, and thus we won. Or should have. It's as simple as good, better, best evidence and it's in the eye of the beholder.

Not so, of course, as the Best Evidence Rule, codified in FS 90.952, actually states that "an original writing, recording or photograph is required in order to prove the contents of the writing, recording, or photograph." In this day of ever increasing video and audio surveillance, I suppose it was inevitable that the issue that follows would come up.

J.J., an un-named juvenile, and some friends were shopping, or at least that's what they call the act of taking items from a store shelf, putting them in their pockets, and leaving the store without paying. A misunderstanding, I'm sure, but one the security personnel in the store took exception to as they watched this unfold on a closed circuit store security system, which all the while was recording these events as well. And therein lies the rub, at least in the subsequently convicted J.J.'s eyes, for come trial the State was not able to play the video because doing so required proprietary equipment unavailable to the prosecutor or the court. Instead, the State merely presented the testimony of the various store security people who watched the theft occur, not personally but on the store surveillance monitors. The defense objected that without the video the Best Evidence Rule was violated and that the security dudes couldn't testify to what they saw on the monitor because the video that wasn't being produced was the best evidence and round and round we go. Intriguing, I suppose, from a literal and hyper-technical reading of things, but fortunately for my sanity wrong according to the trial court and, more importantly, the appellate court in *J.J. v State*, 40 FLW D1621 (Fla. 3d DCA 2015).

The distinction made by the Third DCA is that the security dudes were not proving the content of the recording, admittedly in existence but un-playable. They were merely recounting their own observations of events as they occurred, viewed live and in color, almost personally and definitely contemporaneously through the closed circuit system. A live video feed, the court said, is not a recording, it is merely an

electronic aid to a personal observation. That a recording is simultaneously being made does not convert that recording into a better piece of evidence, or, apropos of this lesson, the best evidence. Seeing something in this fashion is no different than seeing something with binoculars or a telescope. This is, by the way, the federal view of things, as well as that of other states ranging from liberal New York to conservative Texas.

To be sure, in order to distinguish away the case J.J. relied on, the court worked some semantic magic. In that case, *T.D.W. v State*, 137 So.3d 574 (Fla. 4<sup>th</sup> DCA 2014), an identification based on what an officer saw on an un-introduced recording of a burglary was not allowed because of the Best Evidence Rule. No matter, said the Third, because that other case involved testimony used to prove the contents of the recording. Say what? From reading *T.D.W.* it may be that the real distinction is that J.J. was caught immediately and identified through that apprehension and in *T.D.W.* the defendant seems to have gotten away and been apprehended later through someone's identification of him on a video reviewed after the fact. Because it gives me a headache to ponder these kinds of minutia and fine distinctions, I leave it to you in the defense Bar to follow up on all of that if you wish.

For me, suffice it to say that it's all good whether you see it live or see it via surveillance cameras as it's happening. That, and now that I have written an indisputably criminal law-related article to start the year for the next month or so I am free to ramble about anything I want.

## Free Family Law CLE

Family Law Section and FLAG will present a FREE CLE on January 19, 2016 at 4 p.m. in the Family/Civil Justice Center to discuss the appointments of guardians ad litem in contested family law cases. A panel of the volunteer attorneys who have served on a case will share their experience and feedback as guardians. The 8<sup>th</sup> Judicial Circuit is requesting any licensed attorney to volunteer to be a Guardian ad Litem in contested family law cases. Please contact Katherine Mockler at [mocklerk@circuit8.org](mailto:mocklerk@circuit8.org) if you are interested in volunteering.

directly from Mr. Peckham's book. There are literally hundreds we would like to share with you but we don't know how to clean them up to be appropriate in a professional newspaper, which means, of course: they are hilarious. Some examples that may pass muster:

**Omega male:** the male in the group who is least likely to take the initiative and lead. Opposite of Alpha male.

**Rebooty:** a booty call made with an ex, or a renewed relationship with an ex.

**Refrigerator blindness:** selective loss of visual acuity in association with common foraging of the refrigerator. Predominantly seen in children and men.

**Textrovert:** one who feels an increased sense of bravery when texting as opposed to in person.

**Electile dysfunction:** inability to become aroused over any of the choices for president put forth by either party.

Of course, we had to add some of our own urban slang words and definitions which are legally oriented. Some of the words are lifted from Mr. Peckham's book and we added our definitions; some of the words we have invented ourselves. Legal-urban slang includes:

**Transitglory:** lawyer advertising on busses.

**A fudge:** a judge who is reluctant to make decisions.

**Miscovery:** evasive discovery responses.

**Mediamator:** an average mediator.

**10-plead:** adding extra counts to a complaint when you know they will be dismissed.

**Lawgasm:** what you feel when you find "the" case.

**Fauxlaw:** what you give the judge when you can't find "the" case.

**Fall on a grenade:** what an associate does when he/she argues a losing motion filed by a partner.

**Lexorcism:** taking in a new case because the last case you took in turns out to be a hopeless loser.

**Legal virginity:** what you lose when you try your first case.

**Legal Tourettes:** the uncontrollable urge to scream obscenities at the opposing lawyer who is making up facts and legal arguments.

**Carbon voicepoint:** the amount of CO2 and greenhouse gases emitted by one lawyer in one hour (your reporters note that an increase in greenhouse gases directly correlates with an increase in the number of lawyers).

**Factose intolerant:** inability to consider any fact that prejudices your case.

As always, if you have any legal urban slang which you have thought of, email it to [cartercdpa@bellsouth.net](mailto:cartercdpa@bellsouth.net).

## Uber Drivers: Employees or Independent Contractors

By Laura Gross



The Florida Department of Economic Opportunity recently issued a final order determining that two Uber drivers were independent contractors rather than employees and, thus, not entitled to unemployment compensation. This is in contrast to rulings in California and Oregon which have found that Uber drivers are

employees entitled to unemployment compensation and other benefits of employment.

The California Labor Commission relied on an appellate case wherein taxicab drivers were found to be employees, and found Uber drivers were akin to taxicab drivers as "[Uber is] in the business to provide transportation services to passengers. Plaintiff did the actual transporting of those passengers. Without drivers such as Plaintiff, Defendant's business would not exist."

The DOE rejected that approach as inconsistent with Florida law and old-fashioned for failing to recognize changes in society. The order states: "Technological advances like the internet and smart phones have provided new platforms for middlemen, and new services abound—like Ebay, StubHub, Expedia, Amazon Marketplace, and Airbnb. None of these would be in business without the sellers who use the platform, but that does not mean the sellers are automatically employees of the platform company." And, "We need not break new legal ground or upend economic progress by transforming middlemen into employers."

Whether drivers are employees or independent contractors is a big financial deal for Uber who in some states is responsible for paying unemployment compensation and other employment related taxes on its drivers, and in other states, like Florida, is not. While the DOE order says the law and the agreement between Uber and its drivers is "straightforward," that remains debatable given states' division on this issue.

# Trying Slow, Deciding Fast

By Siegel Hughes & Ross



Daniel Kahneman's recent book, Thinking Fast, Thinking Slow, provides some interesting ideas for trial lawyers. Dr. Kahneman is a professor emeritus of psychology at Princeton

University and won a Nobel Prize for his work in decision making, so his ideas must not be taken lightly by those who want to influence jurors' decisions. This article must start by giving a brief, probably inadequate, explanation of the book's basic premise. Kahneman explains that there are two separate systems used by the brain to make a decision. What he names System 2 is the conscious, reasoning, reflective process we use when we are "thinking." However, according to Dr. Kahneman, most decisions are made by the reactive, intuitive mental process he labels System 1. System 1 decisions generally are both unconscious and unavoidable. As an example, when we see a red traffic light our reactive system takes over and we automatically stop the car. We don't consciously think: red light, must stop, lift right leg from accelerator, move right leg to brake pedal, push brake pedal. However, our reflective System 2 can consciously override System 1 if we consciously focus our attention on the decision. We can consciously look around for crossing traffic and law enforcement and then run the light. That, however, is not our immediate reaction to a traffic signal but a conscious decision to override the reaction, and we, probably at least, began the System 1 reaction to stop before we made the conscious decision to run the light.

Preparing and trying a case is the ultimate System 2 reflective endeavor. We spend hours, if not days, consciously thinking, planning, and preparing a trial, often down to preparing specific questions for specific witnesses. However, what if, after all that reflective work, some, if not all, of our jurors respond with a System 1 reactive decision. What if something that happens at the very beginning of the trial triggers a System 1 response in a juror and causes him or her to react, either positively or negatively, to our case. Kahneman points out what every trial lawyer knows: once a person believes something is true, he or she is much more likely to believe the evidence that supports that belief than evidence which disproves it.

It seems this analysis identifies, at least, two tasks for the trial lawyer:

- 1) Find a way to present the case that creates a favorable System 1 reaction in the jurors, and/or
- 2) Find a way to minimize System 1 reactions and engage System 2 reflective thought.

One way identified by Kahneman to promote a favorable reaction is by framing the issue in a positive way. Is a criminal defendant a battered spouse or a "gold digger" trying to avoid a costly divorce? Is a civil defendant a reckless driver or a distressed parent trying to reach a child in need? We believe most trial lawyers will agree that a juror's decision on intent in the first case and his or her decision on speed in the second will depend on how he or she sees the defendant. Kahneman tells us how a juror sees each defendant may well be a System 1 reaction to the initial framework in which the case is introduced and not a reasoned analysis of the evidence.

Kahneman reports that the research demonstrates that once the reflective system is engaged in one task it is more likely to be used for another task. Therefore, one way to minimize the risk of an adverse System 1 reaction is to engage the juror's reflective system immediately. Ask hard questions, questions that require thought early in voir dire.

Certainly others can think of even more ways to use these principles in trial. We recommend Thinking Fast, Thinking Slow to other members of the trial bar and would love to hear your thoughts on using these principles in court.



EJCBA President Rob Birrenkott speaking at the December EJCBA luncheon

# Florida's Sector Planning Process<sup>1</sup>

By Jennifer B. Springfield



In 1998, due to the mounting realization that a twenty-year planning period was too short and the existing planning tools were too constraining in a fast growing state to adequately protect natural systems and avoid piece-meal planning, the Florida Legislature created §163.3245, *Florida Statutes* (FS), which

established an experimental pilot program titled *Optional sector plans*, that lasted for thirteen years.<sup>2</sup> It had become evident that a more “flexible, but principled” approach to land planning was needed in order to achieve the state’s conservation goals and develop livable communities utilizing large tracts of undeveloped land predominantly still under single ownership. In 2011, after several studies appraising the results of the pilot program, the Legislature amended § 163.3245, FS, establishing sector plans as a new tool for “long-term planning for conservation, development, and agriculture on a landscape scale.”<sup>3</sup>

In doing so, the Legislature expressed its intent that sector planning promote “[i]nnovation,” “facilitate protection of regionally significant resources,” and be “aspirational.”<sup>4</sup> In an article that appeared in the June 2014 *Florida Bar Journal*, the authors stated:

The best sector plans incorporate long-term commitments for preservation of environmental resources and agricultural lands as well as policy commitments that emphasize strong urban form to create livable communities and a balanced transportation network. In essence, sector plans provide an opportunity to plan in a manner that avoids the sprawling development patterns employed in Florida during the last fifty years. They also have an economic driver that is important to the larger community, and they are products of community-based negotiation by public and private partners in open and collaborative processes.<sup>5</sup>

The statute establishes two separate planning phases – long-term master planning that changes the existing land use designations in the local comprehensive plan for the entire area, and subsequent specific area planning for sub-areas of at least 1000 acres that provide a detailed plan of development consistent with the long-term master plan. While there are content requirements for these plans, there are no statutory criteria to guide

the local government in deciding whether to approve or deny a proposed sector plan. Consistency with the existing comprehensive plan is not required and the applicant is “not required to demonstrate need based upon projected population growth or on any other basis.”<sup>6</sup> The requirements for the initial long-term master planning portion are designed to provide a broad framework and general direction for the conservation, development, and agricultural activities envisioned. The items that must be generally identified in the long-term master plan include:

A map generally depicting the urban, agricultural, and conservation areas with densities and intensities and emphasizing sound urban form as the basis for development;

Water supplies needed and available sources, including water resource and supply development projects and water conservation measures;

Transportation facilities needed with an emphasis on multi-modal systems to optimize mobility;

Regionally significant public facilities needed to support the land uses and procedures to mitigate impacts on public facilities;

Regionally significant natural resources and procedures for their protection and conservation; and

Procedures and policies to facilitate intergovernmental coordination to address extra-jurisdictional impacts.<sup>7</sup>

The long-term master plan is subject to review by the Department of Economic Opportunity (DEO), the state land-planning agency, as to whether it complies with the statutory requirements and whether it “will adversely impact important state resources and facilities.” DEO may initiate a formal administrative hearing process regarding these issues, as can a third party.

The statute also attempts to link land, water and transportation planning, which was missing in the past and created many difficult development issues amongst the state, regional and local governments. For instance, the water needs, sources and water resource and supply development projects identified in the long-term master plan must be incorporated into the applicable water management district’s water supply plans, and any MPO long-range transportation plan must be consistent with the long-term master plan to the maximum extent feasible.

Once a long-term master plan is approved and in place, local government approval of two or more detailed specific area plans (DSAP) may be sought as local development orders, which are not subject to state review, but must be consistent with the long-term master plan. At this stage, the statute requires detailed and

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# Rosewood: The Road to Reparations

## How Positive Outcome Can be Accomplished by Advocates Who Use Their Legal Skills and Knowledge in Pursuit of a Remedy

By Marcia Green

Please join Three Rivers Legal Services and Southern Legal Counsel at a Gala Dinner to be held Thursday, February 4, 2016 to celebrate how advocacy can bring justice.

Shortly after starting my employment with Three Rivers Legal Services, I assisted an elderly woman who was trying to get her Social Security benefits. It was in the early 1980s. She was being denied her retirement benefits because she couldn't prove her age; she didn't have a birth certificate because all of her records had been burned. There was no family bible or school records; she had nothing! She told me she was from Rosewood and that the town had been burned; I was surprised and maybe a little incredulous. I had lived in Gainesville since the 60s and had never heard this. She never expressed bitterness; she was just 65 years old and wanted to get her Social Security and was struggling to get the documentation required.

Fast forward to a year ago, when Martha Barnett, a retired partner with Holland and Knight and former president of the American Bar Association, met with the staff at Three Rivers. The discussion began with our work providing civil legal services to the poor in North Central Florida and her participation in Chief Justice Labarga's Commission on Access to Civil Justice. Following our great discussion of the needs of our community and her goals on the Commission, our Executive Director, Chris Larson, asked Ms. Barnett about her involvement with the survivors of Rosewood. The story that unfolded was spellbinding, inspiring and brought me to tears.

When I had encountered my client some 30 years ago, I never fully understood or recognized what it meant to the families and residents of Rosewood to have their entire community destroyed. I didn't know that prior to 1923, Rosewood had been a vibrant community of African Americans just east of Cedar Key; a community of people who owned their homes and land, farmed, and worked for the timber and turpentine industries. I didn't know, and most of us didn't know, because the survivors spent years living in fear and fled the town to never speak of the story.

The story that Martha Barnett told was not just about the people of Rosewood; the story was also about the survivors who came forward to tell their story, the reporters who took interest, the historians who listened and researched, and the attorneys who

took up their cause. It is a story of hard work, tedious and difficult research and gaining the trust of the survivors. It is a story of lawyers finding a way to get compensation for the survivors and lawyers working selflessly for a greater good. For the Rosewood survivors, the help came in the form of legislative advocacy and the political savvy of the attorneys who led the charge.

After listening to the story, we realized how exciting it is to be a part of the legal community that can use its strength to advocate for what is right and what is just. Although our eyes were opened to an unbelievable horror, we recognized that this story should be shared ... and not to focus on the wrongs that occurred but rather to focus on how advocacy can bring justice.

Please join Three Rivers Legal Services and Southern Legal Counsel for a gala dinner to share some of the stories of how advocacy made change. We will be joined by Stephen Hanlon, former partner with Holland and Knight, who represented the survivors and descendants of the Rosewood families,

*Continued on page 12*

The poster features a blue sky background with a sunburst effect. At the top, it reads 'SOUTHERN LEGAL COUNSEL AND THREE RIVERS LEGAL SERVICES PRESENT' with logos for both organizations. The main title 'ROSEWOOD: THE ROAD TO REPARATIONS' is written in large, stylized blue letters. Below the title, it lists the guest speakers: 'STEPHEN HANLON, CIVIL RIGHTS ATTORNEY' and 'MICHAEL D'ORSO, AUTHOR OF LIKE JUDGMENT DAY'. The event details are: 'FEBRUARY 4, 2016, AT 6:00 PM' at the 'UF HILTON CONFERENCE CENTER, 1714 SW 34TH STREET'. A note at the bottom of the poster says 'A GALA FUNDRAISING DINNER TO BENEFIT SOUTHERN LEGAL COUNSEL AND THREE RIVERS LEGAL SERVICES'. At the very bottom, it says 'SPONSORED BY' with a logo, and 'SAVE THE DATE!!' in large, bold black letters.

## Sector Planning Continued from page 8

specific identification and analysis of the following items within the specific area plan boundaries:

Maximum and minimum densities and intensities of use and distribution, extent and location of future land uses emphasizing compact urban development;

Water resource development and water supply development projects and related infrastructure and water conservation measures to address water needs;

Transportation facilities to serve future land uses promoting multiple modes of transportation;

Other regionally significant public facilities, including those outside the host government, and impacts of future land uses and required improvements;

Major public facilities needed to serve development, including developer contributions, in the local government's five-year capital improvements schedule;

Measures to ensure the protection and restoration and management of lands identified for permanent preservation through recording conservation easements, to ensure that off-site environmental impacts are avoided or minimized and mitigated; and

Procedures to facilitate intergovernmental coordination to address extra-jurisdictional impacts.<sup>8</sup>

DEO may appeal a local government's approval of a DSAP to the Land and Water Adjudicatory Commission on the grounds that it is not consistent with the comprehensive plan or the long-term master plan. An aggrieved or adversely affected party may also challenge the development order in court pursuant to § 163.3215, FS.

Local governments are primarily responsible for enforcing DSAP's, but the DEO may initiate administrative or judicial action pursuant to § 380.11, FS, if it believes that a violation has occurred or is about to occur.<sup>9</sup>

An application for approval of the long-term master plan for Plum Creek's Envision Alachua Sector Plan is currently being considered by Alachua County.

Ch. 98-176, § 15 at 20, Laws of Florida.

§ 163.3245(1), *Fla. Stat.* (2015)

§ 163.3245(1), *Fla. Stat.* (2015)

Sector Plans, Powell, David L., Gary K. Hunter, Jr. and Robert M. Rhodes, *The Florida Bar* 2014

§ 163.3245(3)(a) and (b), *Fla. Stat.* (2015)

§ 163.3245(3)(a), *Fla. Stat.* (2015)

§ 163.3245(3)(b), *Fla. Stat.* (2015)

§ 163.3245(5), *Fla. Stat.* (2015)

§ 163.3245(5), *Fla. Stat.* (2015)

## January Luncheon Speaker & Free Post-Luncheon CLE



On January 15, 2016, Eighth Judicial Circuit Chief Judge Robert Roundtree will deliver his annual State of the Circuit address at the EJCBA Luncheon. Immediately following the EJCBA Luncheon,

County Court and Circuit Court Judges from the Eighth Judicial Circuit will participate in a moderated panel discussion. The Judges will share their thoughts on courtroom procedures, recent administrative orders, changes to judicial assignments and good and bad practices. Following their initial comments, the Judges will entertain questions from the audience. The program is designed to provide lawyers with an opportunity to elicit the views of judges on issues that arise in the court system and the everyday practice of law. 2.0 CLE credits are anticipated. This CLE is free to lawyers and Judges who attend the January Luncheon. The discussion will end at 2 p.m.

## Mark Your Calendars Now

**The Leadership Roundtable will Immediately Follow the March 11<sup>th</sup> EJCBA Luncheon**



The purpose of the Leadership Roundtable is to bring together leaders from the local legal community, including law professors, experienced lawyers, and judges, with young lawyers and law students to discuss topics and solutions related to diversity and inclusion in the legal profession.

This year's Leadership Roundtable will be on March 11, 2016 from 1:00 to 4:00 PM. To set the stage for the Leadership Roundtable, American Bar Association President Paulette Brown, who is also Partner and co-chair of the firmwide Diversity & Inclusion Committee at Locke Lord LLP, will be speaking on implicit bias in the legal profession. President Brown's remarks will be followed by a workshop on implicit bias, a networking reception, and, of course, roundtable discussions. Additional information for the March Luncheon and Leadership Roundtable will be distributed to EJCBA Members in January.

## Luncheon and CLE



Carl "Santa" Schwait talks about the rewards of participating in the EJCBA Holiday Project at the December luncheon



Appellate practice attorney Paul Regensdorf goes head to head with First DCA Judge Scott Makar at the CLE entitled "Appellate Practice Before the First District Court of Appeal" on December 11, 2015



Honorable First District Court of Appeal Judge Scott Makar speaking at the December luncheon



Nell Paige of Southern Legal Counsel and Chris Larson, Executive Director of Three Rivers Legal Services speaking about the January, 2016 program, "Rosewood: The Road to Redemption" at the December luncheon



Attorney Paul Regensdorf, EJCBA President-Elect Stephanie Marchman, attorney Bill Hoppe, Honorable Scott Makar of the First DCA, and EJCBA President Rob Birrenkott

and Michael D'Orso, award winning author of [Like Judgment Day: The Ruin and Redemption of a Town Called Rosewood](#).

The dinner will be Thursday evening, February 4, 2016 at the UF Hilton Conference Center and will focus on the positive outcome achieved for the survivors and the work accomplished by the advocates who used their legal skills and knowledge in pursuit of a remedy.

Tickets and sponsorship information are available at <http://www.trls.org/calendar.html> or [http://www.southernlegal.org/index.php/upcoming\\_events/](http://www.southernlegal.org/index.php/upcoming_events/). Funds raised from the event will support the advocacy of Three Rivers Legal Services and Southern Legal Counsel. We thank the Eighth Judicial Circuit Bar Association for their sponsorship of this event. If you or your firm are interested in tickets or being a donor or sponsor for this event, please contact Colette Cimino at 352-415-2320 or [colette.cimino@trls.org](mailto:colette.cimino@trls.org).

## New Administrative Orders:

Attorneys, please be aware of the most recent Administrative Orders in the Eighth Judicial Circuit.

4.18, Veterans Treatment Court, signed by Judge Roundtree on November 19, 2015

5.09, Standing Family Court Order, signed by Judge Roundtree on November 19, 2015 - Please note the changes to paragraph three regarding school registration and recurring appointments for the minor children. These Administrative Orders can be found in their entirety here <http://circuit8.org/administrative-orders> along with a comprehensive list of all effective Administrative Orders.

## January 2016 Calendar

- 1 New Year's Day – County and Federal Courthouses closed
- 5 Deadline for submission to February Forum 8
- 6 EJCBA Board of Directors Meeting – 5:30 p.m., UF Law, Room 285D
- 13 Probate Section Meeting, 4:30 p.m., Chief Judge's Conference Room, 4<sup>th</sup> Floor, Alachua County Family & Civil Justice Center
- 15 EJCBA Luncheon, Chief Judge Robert E. Roundtree, Jr., "The State of the Circuit," The Woolly, 11:45 a.m.
- 15 EJCBA CLE Panel Discussion, "View From the Bench," The Woolly, 1:00 p.m.
- 18 Birthday of Martin Luther King, Jr. observed, County and Federal Courthouses closed
- 19 Family Law Section Meeting, 4:00 p.m., Chief Judge's Conference Room, Alachua County Family & Civil Justice Center
- 19 Family Law/FLAG CLE – "The Appointment of Guardians ad Litem in Contested Family Law Cases," 4:00 p.m., Family & Civil Justice Center

## February 2016 Calendar

- 3 EJCBA Board of Directors Meeting – 5:30 p.m., UF Law, Room 285D
- 4 Rosewood: The Road to Reparations, Gala Dinner, UF Hilton Conference Center, 6:00 p.m.
- 5 Deadline for submission to March Forum 8
- 10 Probate Section Meeting, 4:30 p.m., Chief Judge's Conference Room, 4<sup>th</sup> Floor, Alachua County Family & Civil Justice Center
- 12 EJCBA Luncheon, Bruce Blackwell, CEO/Executive Director, The Florida Bar Foundation, The Woolly, 11:45 a.m.
- 13 2016 Law & Justice Youth Conference, UF Levin College of Law, 9 a.m. – 3 p.m.
- 14 *Valentine's Day – show the love!*
- 15 President's Day Holiday – Federal Courthouse closed
- 16 Family Law Section Meeting, 4:00 p.m., Chief Judge's Conference Room, Alachua County Family & Civil Justice Center
- 26 EJCBA Professionalism Seminar, Greg Coleman, Past President of The Florida Bar, "Practicing with Professionalism in the Electronic Age," UF Levin College of Law, 9 a.m. – 12 noon.

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