

July 2007 Vol. 75 No. 7



The Briefs

A Publication of the Orange County Bar Association

SS,
JULY 4, 1776.

States of America,
Political bonds which have connected them
a decent respect to the opinions
man are united equal
Government

GEORGE F. INDEST III, P.A. THE HEALTH LAW FIRM

MAIN OFFICE • 220 EAST CENTRAL PARKWAY • SUITE 2030 • ALTAMONTE SPRINGS, FL 32701
TELEPHONE: (407) 331-6620 • (850) 439-1001 • TELEFAX: (407) 331-3030

BRANCH OFFICE • 37 N. ORANGE AVE., STE. 500 • ORLANDO, FL 32801

BRANCH OFFICE • 201 E. GOVERNMENT STREET • PENSACOLA, FL 32501

WEBSITES • WWW.THEHEALTHLAWFIRM.COM • WWW.HEALTHATTORNEYS.COM

REPRESENTATION OF HEALTH PROFESSIONALS

George Indest is board certified by the Florida Bar in the specialty of Health Law and is available to accept referrals of health care clients or to act as co-counsel on health care cases state-wide. We represent health care professionals.

- Medicare/Medicaid Audit Defense

- DOH/AHCA Investigations

- Administrative Hearings

- Medicare/Medicaid Fraud Defense

- Professional Licensing

- Medical Board Cases

- Office Leases

- National Practitioner Data Bank

- Hospital Credentials Hearings

- Physician Contracts

- Partnership Dissolutions

- Covenants not to Compete

- Medicaid Cost Reimbursement

- Report Denials

- Medicaid Appeal Hearings

- Disciplinary Proceedings

- Substance Abuse (PRN/IPN)

- Appellate Practice



**GEORGE F. INDEST III,
J.D., M.P.A., LL.M.**

- Over 20 Years legal experience

- Former General Counsel of Teaching Hospital

- LL.M. from George Washington University

- Admitted in Florida, Louisiana and D.C.

- Board Certified by the Florida Bar in Health Law



- Medical Malpractice Defense

- Insurance Company Audit Defense

- Regulatory Hearings

- Utilization Review Defense

- Preparation/Litigation of Physician Contracts

- Managed Care Contracts

- Nursing Board Cases

- Corporations, LLC's, Partnerships and other Business Entities

- Sales/Purchases of Medical Practices

- Peer Review Defense

- Physicians' Personal Counsel

- Risk Management Investigations

- Due Diligence Investigations

- Opinion Letters

- Complex Litigation

- Medical Staff Bylaws



**MICHAEL L. SMITH
J.D., R.R.T.**

- B.S., Nova Southeastern University

- J.D., Stetson Univ. College of Law

- Registered Respiratory Therapist

- Licensed in Florida

- Board Certified by the Florida Bar in Health Law



**JOANNE KENNA
J.D., R.N.**

- J.D., Stetson Univ. College of Law

- B.A., Business Management, National Louis University (with honors)

- Diploma, St Anne's Hospital School of Nursing

- Licensed in Florida

Put a specialist in Health Law to work with you or for your client.



LiveNote

Serious leverage at depositions

With only a small percentage of cases actually going to trial, the real battleground for most litigation is the deposition room. LiveNote's robust transcript and evidence management tools give you an edge by helping you easily pinpoint crucial testimony that will influence settlements.

Add LiveNote® Realtime to your arsenal and you've got an even

bigger advantage. Because whether you're accessing the live testimony from across the table or your whole team is accessing it from across the country, the live feed will intimidate your opponent and strengthen your presence during the deposition.

For more information, call **1-800-762-5272** or visit **livenote.com**.

© 2007 West, a Thomson business L-329651/4-07

THOMSON
WEST

LIVENOTE

Table of Contents

President's Message —————	3
<i>Who Are You?</i> C. Gene Shipley	
OCBA Luncheon Speaker —————	5
Otis Smith, General Manager, Orlando Magic <i>Create Your Own Magic</i>	
Editors' Note —————	7
<i>Chicken Biscuits and Bar Geeks</i> Kristyne E. Kennedy	
Professionalism Committee —————	9
<i>Practical Professionalism: Tips for Putting Professionalism to Everyday Use</i> Hon. John Marshall Kest	
Elder Law Committee —————	11
<i>Variable Annuities Are Not Elder Friendly</i> William B. Young, Jr.	
Feature Article —————	13
<i>Confidentiality in the Face of Adversity</i> Richard S. Dellinger	
Rainmaking —————	17
<i>Marketing Goals</i> Mark Powers	
Hearsay —————	18-19
Nicholas A. Shannin	
OCBA 2006-2007 President's Awards —————	23
Presentation Skills —————	24
<i>How to Pick Your Presentation Topic</i> Elliott Wilcox	
YLS On the Move —————	25
<i>Summer Camp Lineup</i> Taylor C. Kessel	
Financial Planning —————	26
<i>Is Your Investment Strategy Ready to Enter Treatment?</i> Andrew C. Orr, CFP®, CLU, ChFC, AIF®	
Legal Aid News —————	27
<i>Pro Bono Spotlight: Amy T. Iennaco</i>	
New Members —————	35
Announcements —————	32
Classifieds —————	33
OCBA Calendar —————	36



Page 5



Page 9



Page 11



Page 13



Page 27

The Briefs

© 2007

Co-Editors

Kristyne E. Kennedy & Thomas A. Zehnder

Affiliate Bar Editor

Jessica K. Hew

Features Editor

Judith Garabo Hayes

Communications Manager

Peggy Storch

Hearsay Columnist

Nicholas A. Shannin

YLS Columnist

Taylor Kessel

OFFICERS

C. Gene Shipley, *President*

Tad A. Yates, *President-Elect*

Diego "Woody" Rodriguez, *Treasurer*

Jessica K. Hew, *Secretary*

Thomas P. Wert, *Ex-Officio*

Elizabeth F. McCausland, *President, YLS*

EXECUTIVE COUNCIL

Frank M. Bedell

Wiley S. Boston

Kristyne E. Kennedy

Paul J. Scheck

Nicholas A. Shannin

William D. Umansky

William C. Vose

Esther M. Whitehead

Thomas A. Zehnder

EXECUTIVE DIRECTOR

Brant Bittner



880 North Orange Avenue

Orlando, FL 32801

(407) 422-4551 • Fax (407) 843-3470

Legal Aid Society 407-841-8310

Citizen Dispute 407-422-4551

Family Law Mediation 407-422-4551

Lawyer Referral Service 407-422-4551

Legal Placement Service 407-422-4551

Young Lawyers Section 407-422-4551

DEADLINE INFORMATION

Deadline for September Edition: 8/1/2007

The deadline for each edition is the first day of each month. If that day falls on a weekend or holiday, the deadline is the prior working day.

Publication of advertising herein does not imply any endorsement of any product, service or opinion advertised. The opinions and conclusions, including legal opinions and conclusions contained in articles appearing in *The Briefs*, are those of the authors and do not reflect any official endorsement of these views by the Orange County Bar Association or its officers and directors, unless specifically stated as such.

All contents ©2007 Orange County Bar Association. All rights reserved.

Visit the OCBA's Website:
www.orangecountybar.org



Who Are You?

C. Gene Shipley

Last month, I proudly summarized for you the foundation of the Orange County Bar Association and the incredible scope of services that the OCBA, through its members and staff, provides to our community. All of us living in close proximity to "The City Beautiful," and even people nationally,¹ appreciate the growth and prosperity our community has experienced over the years. However, while the OCBA has historically maintained a prominent reputation nationally for the professionalism, charity and overall character of its members, much of our local community still perceives the OCBA as simply a professional organization whose membership consists of lawyers and judges.

This month, I hope you caught the hint of uncertainty when you first started reading. Please don't take the title of my President's Message as meaning any disrespect; the leadership of the OCBA has always sought to learn more about just who you, the members, are. I recall a few years ago, during an Executive Council meeting, when a former OCBA president introduced the concept of changing the name of the Orange County Bar Association to the Central Florida Bar Association. No motion was ever made, but we had a fascinating discussion about the legacy of service rendered by members of neighboring bar associations, and about the identity of our members. And, along with the incredible growth of our membership lately, the seeds of this question continue to grow. In fact, you might be surprised to learn what the OCBA has grown into.

So, how would you answer the question, "Who are you?" Many of you may have bought into the misperceptions of our community: that we're all middle-aged white Caucasian men and women who wear suits and make a lot of money practicing law. As Brikena Isai Tomasic insightfully addressed in last month's *Briefs* article from the Professionalism Committee, that is the inevitable conclusion Hollywood would have us reach. But how else would you describe the members of the OCBA if a client, or any average person who watches nearly three hours of television every day, asked you this question? Would you say we primarily work in large firms, or are we mostly small firm and solo practitioners? Would you declare that a majority of our members are in their thirties or fifties? Would you feel comfortable at least saying that all OCBA members are attorneys who work in and/or practice law in Orange County?

Let's take those questions in reverse order. With a name like "Orange County Bar Association," it should be obvious who you are: attorneys who work in Orange County, right? Presently, 25% of Florida Bar members whose law firms

are located in Osceola County are members of the OCBA. Similarly, 13% of attorneys whose law firms are located in Seminole County are members of the OCBA. In total, more than 200 of us are attorneys who practice in firms that are not located in Orange County at all. While most of these members work from Seminole and Osceola Counties, you may be surprised to learn that more attorneys from outside of Central Florida and even out of state are joining the OCBA, due to its national reputation and the benefits offered to our members.

Would you be surprised to learn that nearly 15% of the OCBA membership consists of legal professionals who aren't even attorneys actively engaged in the practice of law? While most of us will always be Regular Members (actively practicing lawyers in good standing with The Florida Bar), we are honored to be joined by 134 judges (nearly 5% of our total members), or Judicial Honorary Members, who serve Central Florida from the bench and out in the community. Many of the accolades the OCBA receives nationally are due to the services of approximately 100 paralegals, who account for one half of our nearly 200 Affiliate Members of the OCBA. Other Affiliate Members include legal assistants, firm office managers, law librarians, law enforcement officers, judicial administrators, law students and paralegal students. The remaining OCBA members are Associate Members (retired attorneys or those not actively practicing law) and Special Honorary Members (those who have significantly contributed to the legal system and the mission of the OCBA).

For obvious practical reasons, it is difficult for the OCBA to accurately identify each OCBA member's stage in his or her life and practice.² If you're a member of the Young Lawyers' Section of the OCBA, to which every OCBA member age 35 and under belongs, you might be inclined to mistakenly believe that most attorneys in the OCBA are under or close to that age group. However, we should all feel both proud and honored to have over 750 attorneys (more than 25%) over the age of 50 who are and have remained members of the OCBA for most or all of their professional careers. The largest segment of our membership, at least those who voluntarily reported their age, consists of nearly 1,300 attorneys (over 40%) between the ages of 30 and 49. The future of our organization, attorneys under 30, represents the remaining 6.5% of OCBA's membership.

Continued on page 4

¹ At least those people outside our community who either watch the news, vacation with their children and/or retire here have their eyes on Central Florida.

² Nearly 25% (or 720) of our members did not volunteer their age on their membership applications/renewals last year.

President's Message *Continued from page 3*

Finally, you also might be surprised to learn that most of our members are not attorneys working with large firms. Actually, with the exception of Lowndes, Drosdick, Doster, Kantor & Reed (from whom an astounding 118 of the firm's approximately 130 attorneys have joined the OCBA in serving Central Florida and beyond), the State Attorney's and Public Defender's Offices comprise the largest collective "firm" in our association, with well over 100 attorney members.³ When you do the math, OCBA members from firms with 25 or more attorneys comprise less than 30% of our total attorney members, and nearly 50% of our members belong to firms with fewer than five attorneys.

If any of this information surprised you, you're in good company. I was shocked to learn how my personal stereotypes of the OCBA were wrong, in so many ways, especially having the historical membership data available to me while I've served on the Executive Council. In fact, until this year, I hadn't even considered my part in making the OCBA such a diverse and dynamic organization. I was born in Brevard County, raised in Osceola County, live in Orange County, and recently left downtown Orlando to join a firm in Seminole County.

All voluntary organizations strive to understand more about its members. To unite in accomplishing the primary

objectives of the OCBA, we must also appreciate our differences. I hope you will take the time to ask your fellow members, "Who are you?"

P.S. Articles in future editions of *The Briefs*, including my President's Messages, will be emphasizing some of the contributions current and former OCBA members have provided to our community. I would appreciate receiving any information you can offer to assist in identifying OCBA members, officers, committees and staff who have helped build the 74-year legacy of the Orange County Bar Association.⁴ It's time everyone in Central Florida recognizes why the OCBA has such an incredible national reputation.

³ Special acknowledgement must be given to John Lowndes, State Attorneys Lawson Lamar and Bill Vose, and Public Defender Bob Wesley for their leadership in encouraging attorneys in their respective organizations to serve Central Florida through the OCBA.

⁴ Please e-mail your information to me at gshipley@nardellachong.com, and please title the Subject section of your e-mail, "OCBA HISTORY." Additionally, as you may have seen in my last PM, I would always appreciate your comments and suggestions as to how we can better promote honor, dignity, truth and professionalism within the legal community.

C. Gene Shipley is a shareholder with Nardella Chong, P.A. He has been a member of the OCBA since 1998.

Refer to a Firm with Experience.



**3 Board Certified
Civil Trial Lawyers**

**7 Attorneys With
Over 150 Years of Combined
Courtroom Experience**

LILLY, O'TOOLE & BROWN LLP

Have a case in the 10th Circuit? The Lawyers of Lilly, O'Toole & Brown, LLP with offices in Hardee, Highlands and Polk Counties, are proud of the referral relationships they have with lawyers throughout the State of Florida. We welcome and carefully consider all referrals and are happy to serve as co-counsel in cases as well.

Bartow
(863) 533-5525

Haines City
(863) 422-1282

Lakeland
(863) 683-1111

Lake Wales
(863) 676-1991

Sebring
(863) 471-0003

Find out more about our Firm @ www.LOBLAWYERS.com

OCBA Luncheon Speaker



July 26, 2007



Otis Smith *General Manager, Orlando Magic*

Create Your Own Magic

Otis Smith was promoted to General Manager of the Orlando Magic on May 3, 2006. He is responsible for overseeing basketball operations, including player acquisitions via the draft, free agency and trades, player development, scouting and salary cap management. Smith was Assistant General Manager during the 2005-06 campaign, after serving as Director

of Player Development for two seasons.

During the 2005-06 season, Smith played a key role in obtaining Darko Milicic and Carlos Arroyo from Detroit, while also gaining future significant salary cap flexibility by obtaining the expiring contract of Anfernee Hardaway from New York, along with training Trevor Ariza for Steve Francis a week later. He also extended the contracts of Dwight Howard, Jameer Nelson and Tony Battie. Orlando won 16 of its last 22 games of the season, including 12 of its last 13 at home, in large part because of Smith's personal changes.

Smith spent the 2002-03 season as Executive Director of Basketball Operations for the Golden State Warriors. In that role, Smith oversaw the day-to-day operations of the Basketball Operations Department and worked in conjunction with the players and basketball staff. During the previous two-plus seasons, Smith was Director of Community Relations/Warriors Foundation.

Smith is no stranger to "The City Beautiful." Always a fan favorite, Smith was a member of the inaugural 1989-90 Magic squad and spent three seasons playing in Orlando (1989-92). Smith averaged 11.4 ppg., 4.1 rpg., 1.9 apg. and 1.01 stlpg. in 195 games with the Magic. He played in 375 career NBA regular season games with Denver, Golden State and Orlando, averaging 10.5 ppg., 3.8 rpg., 1.8 apg. and 1.01 stlpg. in 20.6 minpg over his playing career.

Following his retirement as a player, Smith served as Community Relations Manager for the Magic for two years. During that time, the organization was awarded the Pro Team Community Award, given by the World Sports Humanitarian Hall of Fame. Smith was also Vice President of Marketing and Community Relations of the Boys and Girls Club of Central Florida.

Born and raised in Jacksonville, Florida, and a 1986 graduate of Jacksonville University, he founded the Otis Smith Kids Foundation on October 30, 1989, as a means to improve the quality of life and outlook for the future of deserving Northeast Florida elementary school children. The Foundation provides programs and services to hundreds of disadvantaged children each year in the areas of education, life skills development and personal growth. For nearly 17 years, this not-for-profit organization has touched the lives of thousands of Jacksonville-area children, providing opportunities for children to learn, grow and achieve. For more information on the Foundation, please visit www.otissmithfoundation.com.

The Ballroom at Church Street • 11:30 a.m. - 1:00 p.m.

225 S. Garland Avenue • Orlando, FL 32801

The July Luncheon is hosted by the Legal Aid Society of the OCBA.

Please RSVP for the luncheon no later than July 20, 2007.

RSVP to Wendy Mazlin, Events Manager, at reservations@ocbanet.org.

To ensure proper luncheon count, RSVPs are requested no later than 5 days in advance. Those reserving less than 24 hours in advance will not be guaranteed a name badge. If you have made a reservation and find that you are unable to attend, please notify us as soon as possible via e-mail. We appreciate your effort to keep us up-to-date on your reservation status.



the PATH
to common ground



For Upchurch Watson White & Max,
the road to resolution is well traveled.

Navigating a settlement between parties who don't agree can be a rocky road. We can help. For Upchurch Watson White and Max, the road to resolution is paved with thousands of agreeable outcomes.

Upchurch Watson White and Max specializes in settling disputes—anywhere. Considered by many as the go-to mediation and arbitration firm, our team of attorneys and former judges has handled many of the most high-profile cases undertaken over the past 20 years. We are committed to the satisfactory resolution of every case, from the simplest to the most complex.

Our Supreme Court certified mediators will help you and your clients find the road to common ground.



Upchurch Watson White & Max
uww-adr.com

DAYTONA BEACH

MAITLAND / ORLANDO

WEST PALM BEACH

MIAMI

BIRMINGHAM



Editors' Note

Chicken Biscuits and Bar Geeks

Kristyne E. Kennedy

Well, here we are - two new bar geeks are in charge! **Tom Zehnder** and I are both very excited to be taking over as your new Co-Editors of *The Briefs*. We are fortunate to be following in the footsteps of **Jessica Hew**¹ and **Tad Yates**, that outstanding duo who did such a fabulous job making *The Briefs* as great as it is today. These two will be a tough act to follow, but luckily all of their hard work is going to make our jobs easier.

The past few months have been very busy for the OCBA, filled with planning for the year ahead, transitioning into new roles, meeting new faces and learning new things along the way (not only am I learning more about the world of publishing, but I recently discovered that there are people who eat *chicken for breakfast*, who knew!?). This really is an exciting time for the OCBA (yes, I know only an über-bar-geek would utter such a phrase - hey, I am what I am!). As we continue to grow, many plans are underway for changes that will only keep improving an already great organization.

Expect to see some changes to *The Briefs*, including a number of new features and contributors. Your new "Hearsay" columnist, **Nick** "must give everyone a nickname" **Shannin**, has officially wrestled the column away from me and will continue to provide you with his witty and entertaining reports on what your fellow OCBA members have been up to. The "YLS on the Move" column also has a new voice: the ever cheerful breath of fresh air, **Taylor Kessel**.² We will also be adding some new regular features to *The Briefs*: former Co-Editor **Jessica Hew** will be bringing you monthly updates on other local voluntary bar associations, as our new Affiliate Bar Editor. **Judi**

"f.k.a. Garabo" **Garabo Hayes** has signed on as the new Features Editor, so be on the look out for her special reports and interesting news (...maybe even an occasional blind item...?). We also plan to include more photos every month of OCBA members (but fewer of **Tom Wert**). A number of other improvements and additions are being planned, so keep tuning in to see what is next!

Please let us know if you have comments or suggestions regarding anything you would like to see included in (or even eliminated from!) *The Briefs*. This publication is for you, the members of the Orange County Bar Association, and we welcome any suggestions or ideas you may have. Please feel free to contact either of us at kennedyk@jacksonlewis.com or zehnder@kdbzlaw.com if you have any comments or thoughts you would like to share about *The Briefs*, or even about the OCBA in general. One thing I know about true bar geeks: we are open to new ideas and willing to try new things ... even chicken biscuits for breakfast. Have a safe and happy rest of the summer, everyone!

¹ Ok, ok - I can't let go of my **bolding** the names Hearsay habit. And you know what? I don't *have* to let it go. I'm an *editor* now, and I can bold names if I want to. I like names to be in bold, doesn't everyone?

² Yes, it has occurred to me that Gator males seem to be taking over the columns. Do not fret, my non-Gator friends. I am keeping my eye on these guys, and will not allow their orange & blue references to get out of control, even if I have to get bossy about it. (That goes for you, too, Tom Zehnder!)

Kristyne E. Kennedy is an associate with Jackson Lewis LLP. She has been a member of the OCBA since 2001. Thomas A. Zehnder is a partner with King, Blackwell, Downs & Zehnder, P.A. He has been a member of the OCBA since 1996.

JUSTICE TEACHING - Reaching Florida's Students One School at a Time

Volunteer today for Justice Teaching, a civic education initiative of Florida Supreme Court Justice R. Fred Lewis.

The program needs judges, lawyers and other legal professionals to STEP UP and STEP IN TO THE CLASSROOM to serve as Justice Teaching Resource persons in our local elementary, middle and high schools.

- Receive all training materials
- Make classroom visits
- Help with in-service training!
- Volunteer only one hour a month!
- Participate in teacher conferences!
- Assist with law-related education!

Read more about the goals of Justice Teaching and apply to be a Justice Teaching volunteer at www.justiceteaching.org



S.C. Read, Inc. v. Seminole County School Board,

31 Fla. L. Weekly D1900a (Fla. 5th DCA 2006)
Dismissed sunshine law challenge to school rezoning plan.

Marriott International, Inc. v. Perez-Melendez,

855 So. 2d 624 (Fla. 5th DCA 2003)
Affirmed million dollar personal injury verdict based on the "two issue rule".

Savoie v. Southeast Bank, N.A.

529 So. 2d 1275 (Fla. 5th DCA 1988)
Reversed and remanded mortgage foreclosure for exercise of option to purchase.

Petry v. Petry,

768 So. 2d 8 (Fla. 5th DCA 2000)
Reversed conversion of rehabilitative alimony to permanent alimony.

Wenzel v. Boyles Galvanizing Co.,

920 F. 2d 779 (11th Cir. 1991)
Affirmed a 2.75 million dollar personal injury award.

Winn v. Winn,

669 So. 2d 1155 (Fla. 5th DCA 1996)
Reversed "woefully inadequate" permanent alimony.

McGhee v. Volusia County,

679 So. 2d 729 (Fla. 1996)
Clarified sovereign immunity/scope of employment rules for deputy sheriffs.

Brewer v. Flankey,

660 So. 2d 761 (Fla. 5th DCA 1995)
Reversed final judgment establishing a prescriptive easement.

Rykiel v. Rykiel,

795 So. 2d 90 (Fla. 5th DCA 2000)
Reversed dissolution judgment due to excessive awards against husband.

Acadia Partners, L.P. v. Tompkins,

759 So. 2d 732 (Fla. 5th DCA 2000)
Prevented multi-million dollar judgment addition in complex business litigation.

Your APPELLATE PARTNER

- All Florida Civil Appeals
- 30+ Years of Appellate Experience
- AV Rated - Martindale-Hubbell
- Florida Bar Certified in Appellate Practice
- Bar Register of Preeminent Lawyers
- Who's Who in American Law

Marcia K.
LIPPINCOTT

ATTORNEY AT LAW

P.O. Box 953693
Lake Mary, Florida 32795

(407) 688-2700

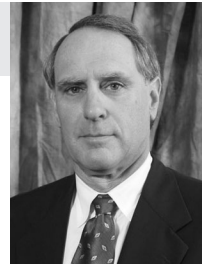
Toll Free (866) 688-2700

www.appellatepartner.com



Professionalism Committee

Practical Professionalism: Tips for Putting Professionalism to Everyday Use



Hon. John Marshall Kest

Consider how you would react in each situation. Your answers will guide you in putting professionalism into practice:

If You Were the Judge:

1. Is this really an issue that needs judicial involvement? Could it not have been resolved by the attorneys without taking hearing time of the Court?
2. Would it be more helpful if the memo was short and concise?
3. Would it be of assistance to the Court to have cited, and distinguished, adverse cases in addition to citing favorable cases?
4. Would I appreciate the pertinent sections of the case law highlighted?
5. If the hearing involves legal documents, would it be helpful to have the documents in question attached and provided?
6. Will I have time to read the memo and case law in the time available before the hearing, especially in light of the other cases in front of me?
7. Will the attorneys provide me a proposed order in a timely fashion while the facts and arguments are still fresh in my mind?
8. Are the attorneys coordinating with my JA all matters before the Court?

If You Were the Judicial Assistant:

1. Have the attorneys coordinated the time for the hearing with all the attorneys in the case?
2. Have the attorneys provided the original motion to the Clerk of the Court and filed a copy for the judge to review substantially prior to the hearing?
3. Has the time estimate for the hearing included sufficient time for all sides to present their positions?
4. If an emergency hearing, has the emergency nature been set forth in the motion?
5. Will the attorneys supply the appropriate number of

copies with the stamped, self-addressed envelopes?

6. Will the attorneys cancel the hearing times as soon as they are aware it is not necessary so the hearing time may be freed up for others?

If You Were Opposing Counsel:

1. Is discovery being provided in a timely manner so I don't have to request hearings before the Court? Am I being provided complete discovery? If discovery is late, does opposing counsel let me know why and when I can expect discovery?
2. Are hearing times being cleared sufficiently in advance? Is sufficient time being requested to allow each side to argue its position? Is counsel responding to requests to coordinate hearing times?
3. Am I being contacted ahead of time, to attempt to resolve issues, before a motion to compel is filed?
4. Are depositions being coordinated well in advance with all parties?
5. If true conflicts arise, such as personal emergencies, is counsel cooperative in rescheduling depositions?
6. Is opposing counsel cooperative in exchanging exhibits and producing items in responses to requests to produce? Is counsel stipulating to non-controversial exhibits?
7. Is counsel willing to discuss resolution of matters outside of Court-ordered conferences such as mediation or arbitration?
8. Does counsel return telephone calls and e-mails in a timely manner, thereby negating the need for the Court's involvement?
9. Does counsel make unnecessary objections at depositions and at trial?
10. Why is counsel propounding voluminous interrogatories and setting what appear to be unnecessary depositions? Is the purpose to harass and annoy my client? Me?

The Honorable John Marshall Kest is a judge in the Ninth Judicial Circuit. He has been a member of the OCBA since 1973.

For your next mediation please consider:



Patrick C. Crowell

Certified Circuit Civil Court Mediator



With more than 25 years legal experience in various matters including:

- Construction disputes
- Contract disputes
- Business issues
- Landlord/tenant issues
- Labor/employment issues
- Tort/personal injury cases
- Environmental concerns
- Real Estate/Title Insurance

"It would be a privilege to work with you in attempting to settle your client's dispute, avoiding the cost and time of trial. I offer my experience, understanding of negotiation and determination to achieve resolution efficiently."

407-251-1131

Patrick C. Crowell, P.A., 4853 S. Orange Avenue, Suite B, Orlando, Florida 32806

KANE & ASSOCIATES CERTIFIED PUBLIC ACCOUNTANTS

BUSINESS VALUATIONS

FORENSIC ACCOUNTING

*** Divorce * Business Damages * Litigation Support
* Shareholder Disputes * Expert Testimony**

www.kane-cpa.com

670 W. Fairbanks Avenue, Winter Park

(407) 644-6066



Elder Law Committee

Variable Annuities Are Not Elder Friendly

— William B. Young, Jr.



Like many investors, elderly retirees got burned when the unprecedented rise in the stock market during the 1990s gave way to dramatic declines in early 2000. Elderly investors who typically invested in FDIC-insured bank certificates of deposit had been lured into the equities markets with dreams of wealth and a better retirement. Sadly, when the markets corrected, those dreams became a nightmare, forcing many retirees back into the workplace or into a greatly reduced quality of life. As such, many will never again invest directly in the stock market, and for good reason - they don't have time to recoup their losses.

Retirees represent a large portion of investible assets, a fact not lost on the investment industry. Realizing that retirees, many of whom reside in Florida, had lost their faith in the stock market, brokerages and insurance companies needed a new way to access the retiree market and their money. In response, the two industries joined forces to create and market products that would accomplish two goals: 1) be palatable to retirees and 2) generate fee and commission income for the firms and their sales force. One such product is the tax-deferred variable annuity (VA). As the remainder of this article will discuss, VAs are rarely suitable for elderly retirees.

VAs are contracts with insurance companies sold through broker-dealers that permit the individual to invest in stocks, bonds or mutual funds. Most VAs are extremely complex and expensive products, which are sold by brokers who are paid high commissions. In fact, VAs are some of the highest paying products a broker can offer (as much as 10% of the principal investment). However, because of the complexity of the product, the brokers often know more about their payout than they do about the product's features. This has led to widespread abuse, particularly among the elderly population.

In many respects, VAs function like traditional investments only with an added insurance feature. The purchase amount is allocated to subaccounts that closely resemble mutual funds. The value of the annuity appreciates or depreciates depending on the performance of the underlying subaccounts. Management fees are assessed against the subaccounts much like mutual fund expense ratios. However, the insurance company also charges a Mortality and Expense risk charge (M&E), which is typically around 1.25% per year. This fee is used almost exclusively to pay broker commissions and provide profit to the insurance companies. Combined with other administration fees and subaccount management fees, the expense associated with a VA can cost the owner upwards of 2.5% annually as compared to approximately 1.5% for a comparable mutual fund.

Unfortunately, high expense ratios are not the worst features of VAs. Every VA has a Contingent Deferred Sales Charge, also known as an Early Redemption or Surrender Charge. To cover the upfront commission paid to the broker, the insurer includes a deferred sales charge in the contract. This charge covers the cost of the upfront commission should the purchaser wish to redeem the VA before the insurer has the opportunity to recoup the commission through M&E expenses. The deferral period can last decades and provides stiff penalties for early withdrawals. The penalty decreases each year until it completely disappears on a pre-determined date. This feature is often not disclosed by salespeople and can be very harmful to elderly retirees. For example, a retiree may purchase a VA, investing all or most of his liquid assets. Subsequently, the retiree incurs an unforeseen medical emergency or other major expense. He needs access to his money but discovers he can't get it without paying early redemption penalties. As he has no other option, the retiree redeems all or a portion of the annuity and loses a significant portion of his limited funds. This scenario occurs all over Florida on a regular basis.

The marketing of VAs is also suspect. VAs are pitched as a way for investors to accumulate wealth through tax deferral. However, regardless of whether the broker describes the VA as tax advantaged or tax deferred, this common sales practice is materially false for the majority of potential purchases by elderly investors. This is a false benefit for retirees as the tax impact is a function of the investor's age, time until retirement, and current and future marginal tax rates. The elderly purchaser does not have time to reap the benefits of the tax deferral.

VAs are also marketed by touting the "guaranteed" return feature. This is particularly appealing to elderly retirees who previously lost money in the market or who are looking to preserve their retirement nest egg. Unfortunately, the salesperson often fails to disclose that the owner or third-party annuitant must die before receiving the guaranteed return of principal. This "guarantee" is of little use for those in need of their funds while they are still living.

Another of the common sales practice abuses occurs when a customer is persuaded to exchange one VA for another. This is an all too common practice, particularly among the elderly, who often blindly follow the advice of their financial advisor. Approximately 70% of annuity purchases are the reinvestment of proceeds from the sale of existing annuities. Annuity switching, much like "swapping" of mutual funds or the "twisting" of insurance policies, is typically of greater benefit to the salesperson than to the investor. When the VA is switched, the broker

Continued on page 14

JIM SEARS
CERTIFIED CIRCUIT CIVIL MEDIATOR

11 years mediation experience
32 years litigation experience

**When you want to focus on solutions
and make a good decision to resolve
the dispute call JIM SEARS.**

407-896-9068 - jsearslaw@gmail.com



LAKE CONWAY



3 Bedroom, 3 Bath, Built in 2003
Excellence in quality & design 2860 Sq. Ft.
Master, Family & Kitchen all with French
doors to lanai w/ full bar. Spectacular views.

\$1,125,000

See photos www.callhomes.com



SCOTT YOUNG
407-222-7370
Homevest Realty

**Your Appealing
Solution**

APPEALS – TRIAL SUPPORT – CONSULTATION

creative
effective
experienced

18 years experience • 6 years on the Florida Bar
Appellate Court Rules Committee



Barbara Anne Eagan

Broussard, Cullen, DeGailler & Eagan, P.A.
BEagan@BCDorlando.com

407-649-8717

**KELAHER
LAW OFFICES**

- :: Rated "AV" by Martindale-Hubbell
- :: Listed in Martindale-Hubbell's "Bar Register of Preeminent Lawyers"
- :: Listed in Leading American Attorneys
- :: Board Certified Civil Trial Lawyer by the Florida Bar
- :: Past President, Academy of Florida Trial Lawyers

**Who'sWho
in American Law.**

MARTINDALE-
HUBBELL
BAR REGISTER
OF
PREEMINENT
LAWYERS™



LEADING AMERICAN
ATTORNEYS

America's Most Respected Legal Counsel As Selected By Their Peers.

Representing victims of legal
negligence in Central Florida
for over 25 years...



James P. Kelaher
One Orlando Centre
800 N. Magnolia Ave
Suite 1301
Orlando, FL 32803
(407) 841-7698 Telephone
(407) 649-7760 Facsimile
jim@kelaherlaw.com

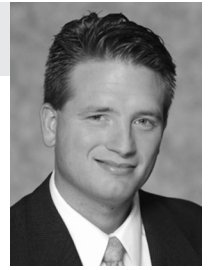
www.kelaherlaw.com



Feature Article

Confidentiality in the Face of Adversity

Richard S. Dellinger



When you see a doctor, you have to tell her where it hurts, so the doctor can fix the problem. You may tell your doctor embarrassing information, you may show her embarrassing things, and you will disclose some things that are not embarrassing at all. You expect that your doctor will not publicly disclose any of the information you provided her, both the embarrassing items and the items that are not embarrassing. And, you expect that the doctor will not reveal that you needed her services. This type of information remains confidential because doctors are bound by rules of confidentiality and because doctors need patients to be open and honest with them in order to do their jobs.

Lawyers, like doctors, are bound by strict rules of confidentiality. Information exchanged between an attorney and client is confidential and privileged. The attorney-client privilege is the oldest and most inviolable of privileges known to the common law. The rule of attorney-client confidentiality can be traced back to ancient Rome, when advocates could not be called as witnesses in legal proceedings. The practice continued in England; in 1577, the English formally adopted the practice of protecting communications between an attorney and client. Then, in 1776, Delaware became the first U.S. state to adopt the privilege along with the adoption of many other English laws. Since then, all U.S. states prohibit their attorneys from revealing confidential information and protect the confidentiality of attorney-client communications.

The attorney-client privilege encourages open and frank discussions between attorneys and clients in order to enable the attorney to provide the best possible service to the client. In 1888, Chief Justice Fuller for the U.S. Supreme Court stated: "The rule which places the seal of secrecy on the communications between attorney and client is founded upon the necessity, in the interest of the administration of justice, or the aid of persons having knowledge of the law and skilled in its practice, which assistance can only be safely and readily availed of when free from the consequences of the apprehension of disclosure."

In Florida, lawyers are ethically bound to protect client confidences. The Florida State Bar Rules provide: "A lawyer shall not reveal information relating to representation of a client" The privacy of the attorney-client relationship is "sacrosanct" in Florida, and it extends to both the communications between the attorney and client and can protect the identity of the client from disclosure.

In *Dean v. Dean*, 607 So.2d 494 (Fla. 4th DCA 1992) a party to a divorce had her house burglarized and items stolen from the house. An unknown person called an attorney to request legal advice about returning the stolen items through the attorney. The attorney gave the party legal advice and

accepted the stolen items. The attorney returned the stolen items and refused to reveal the identity of the person who returned the items. The Fourth District Court of Appeal held that the lawyer should not reveal the identity of his client because it is confidential.

All Florida lawyers are bound by duties of confidentiality and can suffer sanctions for violating them. A lawyer who reveals client confidences can be suspended from practicing law and reprimanded.

At times, the lawyer's adherence to rules of confidentiality can be politically unpopular. When now-Chief Justice Roberts was being confirmed by the Senate, he was criticized for refusing to release memoranda that he prepared while working as an attorney for Former President George H.W. Bush. Regardless of the content of the memoranda, Chief Justice Roberts could not release the memoranda without the consent of his client.

In Florida, lawyers may be required to protect client confidences even if it is not in the best interest of the lawyer. Lawyers must be loyal to their clients, maintain their confidences, and should generally subordinate their self interests to the interests of the clients. The mere fact that a lawyer maintains the client confidences and does not disclose them when questioned should not be considered an endorsement of the client's position. Lawyers may represent clients even though they do not endorse the client's political, economic, social or moral views.

The attorney-client privilege encourages frank and open discussions between attorneys and clients. With full disclosure, the lawyer can use that information to provide the best legal services available. The legal services provided by the lawyer are not necessarily an endorsement of the client's position; they are what is required by the cause. Lawyers must continue to maintain client confidences despite any political unpopularity associated with maintaining the privilege. The public disclosure of private and confidential information could damage the profession and the trust that clients place with their attorneys.

Richard S. Dellinger is a partner with Lowndes, Drosdick, Doster, Kantor & Reed, P.A. He has been a member of the OCBA since 2000.



MEDIATION James A. Edwards

**Commercial, Construction, Malpractice,
& Personal Injury**

Certified Civil Mediator & Certified Civil Trial Lawyer
Trial, Appellate, Pre-Suit & Federal Mediations

Downtown Conference & Media Facilities

(407) 872-7300 • JEDWARDS@RUMBERGER.COM

receives the high commission. Meanwhile, the investor is subject to starting over with the maximum declining sales charge period and surrender charges with no appreciable increase in benefits. This can become a recurring nightmare for those individuals who need access to their money and can't afford to pay large redemption fees.

Abuse also occurs any time an investor is persuaded to purchase a VA within a qualified plan or tax-advantaged account. For obvious reasons, there is little justification for placing tax-deferred funds in a tax-deferred vehicle such as a VA. The higher costs and disadvantages associated with the VA make it a highly suspect choice for tax-deferred funds held in IRAs or ERISA accounts. Broker commission is usually the primary motivator and any such transaction should be highly scrutinized.

As noted, many retirees are persuaded to purchase a variable product because they want to avoid losses. However, because VA subaccounts operate like mutual funds, their use and recommendation by salespeople are subject to the same suitability requirements as any other investment. In most cases, elderly retirees need conservative investments as they can't afford to lose their principal. Unfortunately, many brokers ignore this basic rule and invest the subaccounts in aggressive growth funds, subjecting the retiree to market risk and potential investment losses. The suitability issue is further aggravated by the fact the insurers often do not supervise the representatives who ultimately sell their products. The supervision is left to independent broker-dealers and insurance agencies, and history has shown that type of supervisory system is wholly inadequate to protect the elderly investor.

Widespread abuse in the sale of VAs has led to a litany of investor complaints. A search of the Internet will reveal countless articles about annuity fraud, many of which deal with the impact on the elderly. In response to investor complaints, the Securities and Exchange Commission (SEC) and the National Association of Securities Dealers (NASD) examined broker-dealers who sell variable insurance products. A summary of their findings was published on June 9, 2004, and can be found on the NASD website (www.nasd.com).¹

The joint report covered five areas: 1) Suitability, Sales Practices and Conflicts of Interest; 2) Supervision; 3) Disclosure; 4) Books and Records; and 5) Training. A thorough discussion of this report is beyond the scope of this article, but it's worth noting that the report found that recommendations to purchase variable insurance products are often made without the broker-dealer taking into account several factors which, if they had been considered, would have made the products unsuitable. Those factors include the customer's age, financial or tax status, investment objectives, investment sophistication and ability to understand the complexity of the products, risk tolerance, need for liquidity, and lack of need or desire for life insurance.

After the report was released, the financial services industry had no choice but to address sales practice

abuses. The industry also realized it needed to create more investor-friendly products to attract new capital. Accordingly, many of the newer VAs have shorter early redemption periods, increased benefits and pay lower commissions. Unfortunately, abuses such as non-disclosure and switching still occur. Also, realizing there was a stigma attached to VAs, the industry came up with another product, the equity-indexed annuity (EIA). Unfortunately, EIAs have many of the same negative characteristics and, thus, should not be sold to retirees. Further, depending on the mix of features, an equity-indexed annuity may or may not be a security. The typical equity-indexed annuity is not registered with the SEC and is outside the jurisdiction of the securities regulators. This provides greater freedom for the unscrupulous salesperson, which means abuse is sure to follow. Additional EIA information can be found on the SEC website at www.sec.gov/investor/pubs/equityidxannuity.htm.

In conclusion, while VAs are not unsuitable for everyone, the complexity of the product, the high costs, the questionable or limited benefits, and lack of liquidity clearly make the product unsuitable for the majority of elderly retirees. If an attorney has an elderly client who was sold a VA, the attorney should ask the following questions to determine suitability: 1) What is the age of purchaser? (over 70 is almost always suspect); 2) Does the client need current income? (if so, the product is probably unsuitable); 3) Was the product purchased in a qualified plan? (if so, it is unsuitable *per se*); 4) Was one annuity switched for another? (if there was no appreciable improvement in product benefits, unsuitable); 5) Was the client told the return was guaranteed or the client could not lose the principal? If the answer to any of these questions is yes, the client may have a viable claim for rescissionary and/or compensatory damages.

¹ See, Joint SEC/NASD Report on Examination Findings Regarding Broker-Dealer Sales of Variable Insurance Products (June 2004).

William B. Young, Jr. is an associate with Colling, Gilbert, Wright & Carter. He has been a member of the OCBA since 2003.

DOWNTOWN OFFICE SPACE FOR LEASE

600 - 900 Sq. Ft.

Available Immediately

320 North Magnolia Ave., Orlando

\$800-\$1,200/mo., Net Electric

Short-Term Leases Available

One Block from the Courthouse

CONTACT:

Craig A. Katterfield

First Capital Property Group, Inc.

407-872-0209 ckatterfield@fcpg.com

- Insurance Coverage
- Bad Faith
- Serious Personal Injury
- Medical Malpractice
- Product Liability

Lee D. Gunn IV

Focused On Insurance

“However, the focus in a bad faith case is not on the actions of the claimant but rather on those of the insurer in fulfilling its obligations to the insured.”

Berges v Infinity, 896 So. 2d 665, 677 (Fla. 2004)

**Gunn Law Group, focused on claims conduct cases.
Let us look at the issues for you.**



777 S. Harbour Island Blvd | Suite 765 | Tampa, FL 33602
813-228-7070 | 866-GUNNLAW | www.gunnlawgroup.com

For Sale or Lease - Office Condominiums

THE PLAZA

121 & 189 S. Orange Avenue - Orlando, Florida



For information, contact:

J. Paul Reynolds, CCIM
Alex Rosario
T: 407.404.5000
www.cbre.com

CBRE
CB RICHARD ELLIS

or

Tom Cook, SIOR
Marc Cook
407.849.0102
www.tomcookcommercial.com

TomCook
Commercial

PUT YOUR BUSINESS IN THE CENTER OF IT ALL.

Available Space

2,670 to 61,545 square feet of Class "A+" office space available

Location/Features

- On-site retailers (bank, restaurants, movie theaters, entertainment, etc.)
- Nine (9) story parking garage (spaces for sale or lease)
- Balcony space available
- 24 hour security
- Flexibility to "Own or Lease"
- Located at "Main and Main"
- Freedom to design your own work space

KUHN
COMPANIES



Rainmaking

Marketing Goals



Mark Powers

What is the one skill many of you would-be rainmakers are missing? The willingness and ability to set specific and measurable marketing goals on a regular basis. If you examined your marketing approach at the end of each year in order to measure its effectiveness, you'd be surprised at the impact on your results. For one thing, you'd know which activities and behaviors worked and which didn't. You'd have the opportunity to refine what worked and eliminate everything else. While we agree with Yogi Berra when he said, "It's tough to make predictions, especially about the future," it isn't impossible to set meaningful goals and achieve something close to what you intended.

To do this you must first recognize that the legal landscape in which you live is not static. Referral sources dry up or move, you are joined by a new partner, legislation changes the services you provide, you take on a newsworthy case, or you decide to launch your own practice. These are just a few of the many changes that can occur over the course of a year in your career. Fortunately, changes like these are fodder for the creative marketer. Depending on what happened during your year, you may need to adjust your marketing goals to compensate for a lack of referrals, to feature a change in the services you offer or to publicize a new firm.

Take the opportunity to retool your marketing efforts at least once a year. To point you in the right direction, read through the ideas listed below and extrapolate from them goals that are relevant to your practice.

Referral Sources

Once you determine who your primary or ideal clients are, identify those referral sources that are well-positioned to send you those clients. You'll have both a "top tier" group – these are the people that send you your best business and a "second tier" group who send you lesser business. Every year you'll want to review who is on your list and plan to add people to both tiers. Eighty percent of your marketing activity should be focused on this effort.

Listed below are activities that will support you in building rapport and relationships with your referral base. Read through these suggestions and plan to:

Spend more time with your referral sources to get to know them better

- *Sample Goal:* Dedicate three lunches a week to cultivating referral sources

Thank your sources for any referrals they send - whether or not the client engages you

- *Sample Goal:* Put thank you cards out on my desk to ensure I'll use them

Invite your referral sources to events they'd enjoy, or give them tickets

- *Sample Goal:* Purchase season tickets and give them to different referral sources

Introduce your referral sources to people they can network with

- *Sample Goal:* Use my marketing lunches to introduce referral sources to one another (this is especially useful if you don't have a lot of business you can send to them - and only applies when referrers are not competitors).

Refer business to your referral sources, whenever possible

- *Sample Goal:* Reward my referral sources with business whenever I can

Conduct satisfaction interviews to see how well your sources think you're taking care of their referrals

- *Sample Goal:* I'll use my marketing lunches to check-in with my referral sources on their perception of my service

Client Service

To inspire more client referrals, focus on increasing your level of client service.

Make clients feel more welcomed and taken care of during each visit to your office

- *Sample Goal:* Offer clients a selection of beverages when they arrive

Enhance your level of communication with clients

- *Sample Goal:* Each client receives a check-in call on a regular (weekly, monthly) basis

Build more rapport with key clients

- *Sample Goal:* At the conclusion of each large case or matter, invite the client out to lunch to get to know them better and get feedback on your performance

Reputation

Take a look at how you and your firm are perceived by the larger community. Have you done anything lately to build your reputation?

Increase your visibility by being quoted or mentioned in the papers your clients read

- *Sample Goal:* Look at what you are doing that is noteworthy throughout the year and send press releases or write a column for a local newspaper or trade journal

Increase your visibility on local or national television

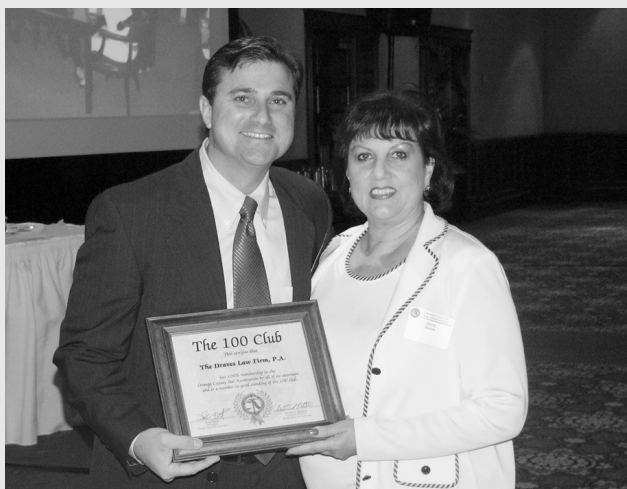
- *Sample Goal:* Cultivate television reporters

Continued on page 20

HEARSAY



Coalition for the Homeless of Central Florida Vice Chair Brian Wilson and President/CEO Brent Trotter at the June 7 "Hearts of Gold" fundraising event at Hard Rock Live, featuring a performance by the Little River Band. The June 7th fundraiser at Hard Rock Live raised more than \$226,000 for the Coalition for the Homeless.



Donna Draves of the Draves Law Firm, P.A. received a 100% Club certificate from new OCBA President Gene Shipley at a recent luncheon. Twenty-six firms have been recognized for participating in the program that recognizes 100 percent attorney membership in the association.



Orange/Osceola Chief Public Defender Robert Wesley spoke with students at Colonial High School for Law Camp 2007 as part of the OCBA's award-winning Law Week program.

O for a muse of fire that would ascend the brightest column of Hearsay! The Briefs for a stage, lawyers to act and judges to behold the swelling scene! Ok, would I really steal from the Bard for *The Briefs's* tabloid column? Aye, verily. Still, perhaps Ol' William will forgive, given that I actually have a Hearsay piece that ties to the famed author, who is so prolific he merits his own Bluebook Entry. [Rule 15.7(e) – I am a Board Certified Appellate Geek, after all!] The Hearsay, if you must know: Carlton Fields's own **Keith Hesse** has received the votes of his peers to ascend into the merry band of directors who doth govern the Orlando Shakespeare Theater. Lead, Sir Hesse, and Godspeed.

The book learnin' by OCBA members doesn't stop with Steak'n Shakespeare. **Matt Julian** of Baker & Hostetler, LLP has joined the board of directors of the Foundation for Seminole County Public Schools. And while not quite thirty-seven plays, **Michael Starks's** article "Deconstructing Damages for Destruction of Evidence" written last year for the *Florida Bar Journal* was good enough to garner Starks, an attorney with Holland & Knight, LLP, the 2006 Florida Bar Journal's Excellence in Writing Award. I say it was the alliterative title, decidedly designed to deserve distinction.

Do-Gooder Alert: The Bruce is IN. **Bruce** "Fish are friends, not food" **Blackwell** with King, Blackwell, Downs & Zehnder, P.A. has taken office as President of the Florida Bar Foundation. If you don't know what the Florida Bar Foundation does, know this: they specialize in projects that do good, help the helpless, change lives – the type of stuff that makes you proud to be a lawyer. Bruce is a natural fit – Godspeed to you, too, Mr. Blackwell.

Do-Gooder Alert #2: Dellecker, Wilson, King, *et al.* attorney **Bill** "The 'E.' is for Eagle" **Ruffier** is competing to be the do-gooder of his firm by becoming a VP for the Central Florida Council of the Boy Scouts of America. Bill may be able to tie a double-half hitch but, as cool as that is, his firm partner **Brian** "too cool to be a Beach Boy" **Wilson** is not ceding the do-good mantle for his firm. Brian, the vice chair of the Coalition for the Homeless, has been tapped as the County Representative on the Central Florida Regional Commission on Homelessness. Way to go, Brian and Bill!

I interrupt this talk of saints and scholars to bring you some election results. The last column went to press before the results of the Paul C. Perkins Bar Association (PCPBar) race were in. We knew that Orange County Public Defender **Aramis Donell** would be the new President, but Hearsay can now tell you with far more certainty than Gallup can muster that Federal Public Defender **Clarence** "every vote" **Counts** is the new President-Elect of PCPBar. Congratulations, Clarence! Speaking of Elections, OCBA Family Law Committee regular **Thomas** "not the Graham Builder one" **Marks** with The Marks Law Firm, P.A. assumed the Chair of that "Big 3" committee (I'll reveal the other two in coming episodes). Family Law Committee Chair-elect is **Deborah Korleski** with Deborah S. Korleski, P.A., who will assist Tom in continuing the great strides made under the previous Chair, Nardi & Nardi, P.A. attorney **Mary Nardi**.

Speaking of OCBA committees, they are going to be BIG this year. OCBA Prez **Gene** "Splice Boy" **Shipley** has dedicated serious manpower to making sure that they have the tools they need to be effective. If you haven't joined a substantive OCBA committee, now is the time. (Hey, you work comp types - Judge Sculco has his meetings at Smokey Bones. Whether the "new new" law will let this practice survive to the next decade, at least you can enjoy discussing the doom and gloom over some Brunswick Stew. Yum.)

Twins separated at Birth: **Bill** "State Attorney for Life" **Vose** with

Nicholas A. Shannin

his new do and Kojak? I think Bill's new do looks cool, and since he's permitted a side-arm, you should think so too. Still, add the trademark lollypop and we've got Savalas redux!

Triple-Crown Alert! No I'm not talking about Curlin's derailed efforts to get past the first leg of horse racing's holy trio. (Although if I were, I'd do so referencing **Claremagaret Groover's** very cool Kentucky Derby party atop the BOA, complete with cool hats and authentic Kentucky cured ham. Again, yum.) Instead, I refer to the NCAA Championships in collegiate football, basketball and baseball. Clearly, if UF was the first team to win football and basketball in the same year, no team has ever won all three. But, as of this writing, my athletically-challenged undergrad school, the Mighty Rice Owls, are at the College World Series in Omaha. If the winged warriors can prevail, RiceGator Nick will have had a very, very good year! Even if not, I guess I'll have to settle for the sweet Double-or-nothing special over the Buckeyes....

Alright, back to the land of lawyers. Kudos to **Frank** "Dude, you got a" **Bedell** with Winderweedle, Haines, *et al.*, who has been named the Chair-Elect of the Trial Lawyers Section of the Florida Bar. Frank double-dipped in the honors pool, having also been named a Fellow of the American Bar Foundation.

More Kudos: **Christine Ho** with Litchford & Christopher has been tapped to be the secretary for the Asian American Chamber of Commerce. Dean, Mead, Egerton, *et al.* attorney **David Akins** was elected a Vice President of the Central Florida Estate Planning Council. His partner, **Charles Egerton** was appointed to a task force of the ABA to study the growing problem of patenting tax strategies.

I don't know if you'll read this in time for the following advice to do you any good, but here it is: *you may actually stand a chance this year in the annual OCBA Trivia Contest!* Why? Because this year the OCBA Social Committee tapped me to be your resident "Alex Trebek" at the **Third Annual OCBA Summer Happy Hour and Trivia Contest**. Fun, but there's a lame-o rule saying that as the trivia host I'm somehow ineligible to answer the questions if I'm asking them! "What is a lame technicality?" say I! Anyhow, if you do get this in time, take advantage of my mandated absence from the field, gather your party of five and RSVP to OCBARSVP@aol.com to save your spot in the contest, which will be at Slingapour's on Wednesday, **July 18, 2007**. I hope everyone has a great time, and I'll give my stage-vantage observations in next month's column. If you miss out on this happy hour, mark your calendar now for the many other OCBA Social Committee events to come, including the **Joint Happy Hour** with CFAWL, HBA, PCPBar and YLS on **September 13, 2007** and the annual **Poker Tournament** on **November 15, 2007**. Stay tuned for details on those events, or contact OCBA Social Committee Chair **Kimberly Webb** with Rumberger, Kirk and Caldwell at kwebb@rumberger.com.

Remember to send your hearsay, lawyer-news or other tidbits to me at nshannin@floridalawonline.com. Enjoy July everyone, stay cool and I'll see you in August!

Nicholas A. Shannin is a Board Certified Appellate Attorney and a partner with Page, Eichenblatt, Bernbaum & Bennett. He has been a member of the OCBA since 1995.



Tom Wert officially became the Ex-officio President at May's luncheon in his own inimitable style. We won't say exactly what that style says about him!



Krista and Erika Wert, Tom's daughters, took turns "roasting" their Dad during the May luncheon. Here they retell stories about Tom teaching them how to play poker and telling them there are four rules in life, one of which is: "You're not allowed to go to college at FSU."



Law Week DUI mock trials featured assistant public defenders: "Prosecutor" Chris Monts at podium; "Defense Attorney" Winston Hobson at the table; "Judge" Nicole Maldonado; and "Defendant" Aramis Donell in the witness box.

and/or news anchors in your area so they turn to you for comments on local and national events.

Activities and Events

The perceptions of you and your firm are often shaped by the events and activities you participate in. Try to:

Hold a signature event every year

- *Sample Goal:* Host a party to celebrate the firm's anniversary every year

Begin a seminar or a series of speaking engagements

- *Sample Goal:* Schedule one speaking engagement a quarter

Weekly Lunches

Set goals to use your lunch hour for marketing. You can:

Have lunch with people on your first and second tier referral source lists

- *Sample Goal:* Meet influencers or potential referral sources for lunch two or three times per week

Energize Your Bar Participation

If you, like most attorneys, get much of your business from other attorneys, bar events are great places to:

Spend time with existing referral sources

- *Sample Goal:* Use every event as a chance to invite another bar member out to lunch in the following week

Sit next to new people at bar events to get to know them

- *Sample Goal:* Meet one new person at every event who could be a potential referral source for you

Participate or lead a committee

- *Sample Goal:* Join a committee and use it as an opportunity to meet and cultivate fellow members

Join Your Clients' Organizations

If you aren't a member of organizations other than the bar association, take a look at the kind of organizations that your clients join, both business and community related. Once you join, see if you can:

Become a high-profile presence in the group

- *Sample Goal:* Arrange to speak to or teach the group on a regular basis

Become recognized as an expert

- *Sample Goal:* Write an article or column for their newsletter or trade journal

Become a contributing member

- *Sample Goal:* Sponsor hospitality suites, golf games or dinners in conjunction with special events

Be a Sport

If you are a sports fan:

Schedule a regular sports or hobby-related marketing event

- *Sample Goal:* Calendar golf or tennis on Friday afternoons and invite different referral sources to participate

Marketing Assistant

If you aren't good at initiating marketing activities and events, recruit a paralegal or a legal assistant to act as your marketing assistant. They can:

Schedule your lunches and speaking events

Coordinate your signature event

Manage or coordinate updates to your web site

Write or coordinate others to write a firm newsletter.

Schedule an Annual Marketing Retreat

To keep your marketing efforts headed in the right direction, you might want to devote a half-day at the beginning of each year to look at your marketing goals and discuss them with partners and staff. The measurements listed below are indicators you can track to monitor your progress:

Track the number of inquiries generated by different sources, including print ads

Track the amount of clients that inquire based on your web site

Track the percentage of phone inquiries that convert to in-office consultations

Track the percentage of consultations that become clients.

Taking consistent action on the goals you've identified will dramatically alter your client development results. But, beware: you must regularly review your goals to remember to act on them. The more accessible they are the better, especially if the perfectionist in you resists making commitments for fear they aren't achievable. Set yourself up for success by keeping these goals with your weekly planning materials so that you view them often. Remember that even if you don't meet those commitments perfectly, by just trying to achieve them you'll do much more than you would have accomplished otherwise. So set your goals high, because in the words of Ralph Marston, "Your goals minus your doubts equal your reality."

Mark Powers is the President of Atticus, Inc. and a regular contributor to The Briefs. Mark co-authored "The Making of a Rainmaker: An Ethical Approach to Marketing for Solo and Small Firm Practitioners" and founded Rainmakers™, a simple process for attorneys at all levels to stay focused on marketing, creating fresh ideas, and on-going accountability to marketing. To learn more about Atticus or Rainmakers™, please visit the Atticus website at www.atticusonline.com or contact the Atticus office at 352-383-0490.

Ask Us About Immediate Occupancy Condos!

BALDWIN PARK

From \$299,900!



Artist's Conception

Right Place. Right Price.
Right NOW!

- 10-foot ceilings and 8-foot doors throughout (not on all models).
- Double French doors opening to wrap-around porches.
- Individual garages with direct access into your home (not on all models).
- Granite kitchen and bathroom countertops.
- A short walk to community swimming pool with fitness facilities, restaurants and shops.
- Parks with tennis, basketball and baseball.
- 5 minutes to downtown Orlando and Winter Park.

New Condos with 2 & 3 Bedrooms & Garages!



Shop and dine at The Village Center.



Wide sidewalks make Baldwin Park pedestrian-friendly.



Enjoy the pleasures of the city nearby.

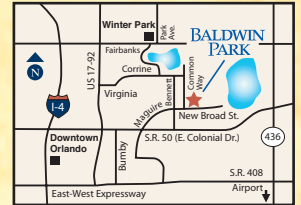
407-898-9929

Models Open Monday-Sunday 10 am - 6 pm



Let us show you how easy it is to buy a Centerline Home. Mortgages available through Centerpoint Financial.

Broker Participation Welcome



Oral representations cannot be relied upon as correctly stating representations of the developer. For correct representations, make reference to the documents to be furnished by the developer to a buyer or lessee. Floor plan and rendering are artist's concepts and may not be to scale. Dimensions are approximate and may vary in production. Centerline reserves the right to make modifications to floor plans and revise specifications at any time. ©2007 Centerline Homes. CBC#065044.

CENTERLINE HOMES
centerlinehomes.com

ORANGE COUNTY BAR ASSOCIATION MEETING FACILITIES

Choose from the various attractive facilities to conduct your meeting.

We can accommodate functions from 4 to 100 guests. Each room is wireless network compatible, has conference call capabilities and is designed with privacy and comfort to meet your expectations. Allow us to enhance your function by providing food and refreshments. We can arrange your needs from an informal lunch to a plated dinner with cocktails.

The OCBA is conveniently located in the downtown Orlando area with adequate parking and less than a half mile from the Orange County Courthouse.

To reserve your room, contact the Events Manager at 407-422-4551, Ext. 233.

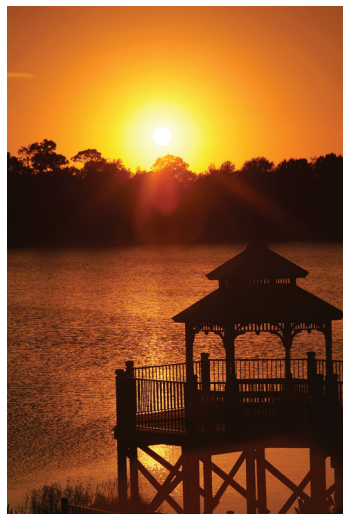


ORANGE COUNTY BAR ASSOCIATION
880 N. ORANGE AVE
ORLANDO, FL 32801



Developer Pays 3% of Purchase Price Towards Closing Costs!

Luxury Lakeside Maitland Condos



1 & 2 bedroom featuring beach-entry pool with WiFi access, just 10 minutes from downtown

from \$129,900

Plus... now standard upgrades include new paint and stainless steel appliances!**

VISCONTI WEST

[DIRECTIONS] From I-4, exit Maitland Blvd West—Exit 90B. Turn left at Keller Road, then immediately bear left along Keller. Turn right at 1st light, Fennel Street, and Visconti West is just ahead.

[866] 441.6677

ViscontiWest.com

ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THE DOCUMENTS REQUIRED BY SECTION 718.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A BUYER OR LESSEE. *Up to \$10,000. Other conditions apply. See sales center for additional details. **Standard upgrades not included in \$129,900 units.



Network, socialize, play, mix,
mingle, rekindle, reacquaint...

2007-2008 OCBA Social Calendar

SUMMER HAPPY HOUR AND
TEAM TRIVIA

July 18, 2007 (Slingapours)

JOINT HAPPY HOUR WITH
PCPBAR, HBA, CFAWL, YLS

sponsored by WESTLAW

September 13, 2007

LAW STUDENT RECEPTION

sponsored by WESTLAW

October 18, 2007

TEXAS HOLD 'EM
POKER TOURNAMENT

November 15, 2007

WINTER WINE & CHEESE
PARTY

January 24, 2008

OCBA MEMBER BOOK SIGNING
AND HAPPY HOUR

(Urban Think! Bookstore)

February 21, 2008

OCBA SOCIAL EVENT

April 23, 2008

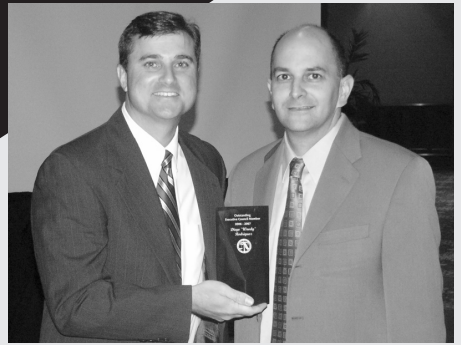


Visit the OCBA's website at www.orangecountybar.org for locations and registration information, or call 407-422-4551.

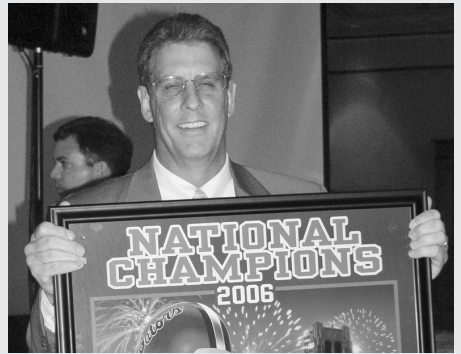
**Orange County Bar Association
presents the
Outstanding Service Awards
at the May 2007 Luncheon**



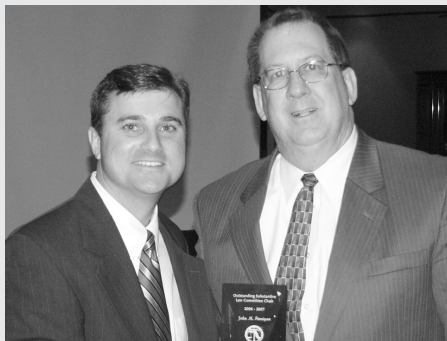
**President's Award for
Outstanding Service
to the
Orange County
Bar Association
2006-2007
Kristyne E. Kennedy**



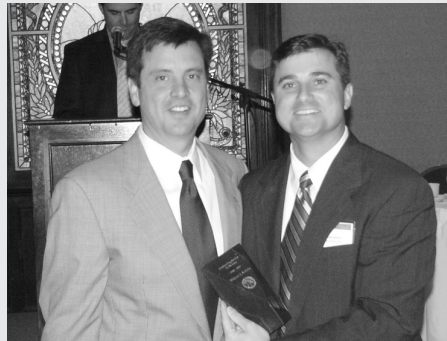
Diego "Woody" Rodriguez
Outstanding Executive Council Member
2006-2007



Brant Bittner
OCBA Executive Director
Special Recognition



John M. Finnigan
Outstanding Substantive Law
Committee Chair
2006-2007



William E. Sublette / 1998-2007
Vivian P. Cocotas / 2006-2007
Outstanding Service for the OCBA Gala
(Vivian P. Cocotas not pictured)

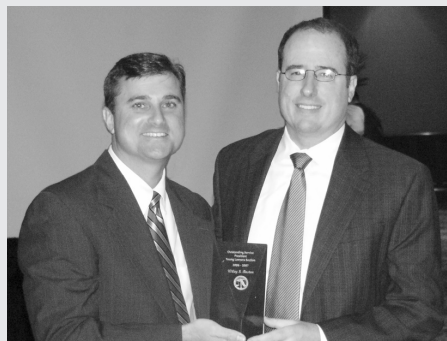


Lori M. Spangler & Lissa Bealke
Outstanding Committee Chairs
2006-2007
(Catrina Chapin accepted the award on behalf of Lissa)

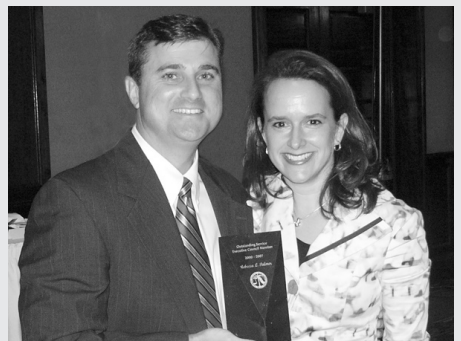
Thank you for your service as Officers on the Executive Council



Jamie Billotte Moses
Executive Council Member
2001-2007



Wiley S. Boston
President - Young Lawyers Section
2006-2007



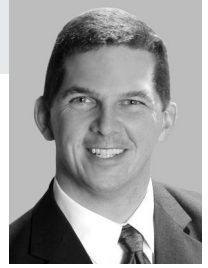
Rebecca L. Palmer
Executive Council Member
2000-2007



Presentation Skills for Lawyers

How to Pick Your Presentation Topic

Elliott Wilcox



As a skilled, talented, and personable lawyer, it won't be long before you're asked to speak to community groups, business associations, and chambers of commerce. These groups want to hear what you have to say, and they want to learn from your expertise. (They probably want a little bit of free advice, too). But before you agree to talk with any of these groups, you need to pick the right topic.

"How will I know if I've got the right topic?" you ask.

Good question. Picking the right topic is an essential part of a dynamic presentation. Regardless of your presentation skills, if you don't pick the right topic, your presentation won't be a success. So how do you know what you should talk about? Before you pick your topic, there are two important qualifying questions you must ask yourself.

The first question you need to ask is, "Have I earned the right to talk about this topic?" Anyone can read through a book or review some websites on a subject and then give a "book report" presentation. But just because you know a little bit more about the topic than your audience, this doesn't give you the right to speak. To speak persuasively and deliver a powerful presentation, you must earn the right to speak on the topic. There's a vast difference in presentation quality between a speaker who has earned the right to talk about a subject and a speaker who hasn't. For example, if you had to listen to someone speak for an hour on the topic of space travel, who would you rather listen to: a well-polished professional speaker who has read a dozen books and spent numerous hours on the internet researching the topic, or Mike Melvill, the guy who piloted the first privately built, manned vehicle into space?

Captain Melvill might not be as polished as the professional speaker, and probably doesn't have the same command of presentation skills, but wouldn't he be more interesting and more credible? That's because, having been in space, he's earned the right to talk on the topic.

How about you? Have you earned the right to talk about your topic? Or are you just presenting a book report? Don't fall into the trap of speaking about a topic you're not qualified to talk about. When a community group asks you to speak to their members or when your bar association asks you to speak at "Law Week" or a similar program, you're going to be honored that they've asked you to speak. But don't agree to speak until you know what topic they're asking you to talk about. As a lawyer, you've spent years studying your subject matter and becoming an expert in your field. If that's what they're asking you to talk about, you should jump at the opportunity to speak. But if they're asking you to talk about a subject outside the realm of your

professional expertise, don't be afraid to tell them "No," refer them to another professional, or ask if you can present a different topic.

To determine which topics you're qualified to speak about, list the areas of expertise that you've developed and the skills that you've mastered. Once you've got your list, you're halfway to your goal. The reason you're only halfway there is because earning the right to speak about your topic is just the first step in choosing your presentation topic. If you want your presentation to be memorable, you must ask yourself a second question: "Am I *excited* about this topic?" There are probably dozens of topics that you've earned the right to speak about, but that doesn't necessarily mean you should subject your audience to presentations on those topics. If you're not excited about the topic, your presentation is going to fall flat.

For instance, I've probably earned the right to talk about installing garbage disposals. I've installed quite a few of them in my life. I know where to connect the hoses, why you need to knock out the dishwasher drain plug, and how to attach the mounting ring so the disposal doesn't fall out of the sink. But even though I'm qualified to speak on the subject, I have no interest in talking about it. If you could find someone who was *fascinated* by how disposals are installed or who had developed a creative method for installing them, they could probably develop a powerful presentation that would keep you spellbound. That excitement for a topic makes the difference between a bland presentation and an interesting one.

Are you excited about your topic? In deciding what you should speak about, start looking through the list of topics you feel you've earned the right to speak about. Then consider this question posed by Dale Carnegie: "If someone stood up and directly opposed your point of view, would you be impelled to speak with conviction and earnestness in defense of your position? If you would, you have the right topic for you." If not, keep looking for a new topic. Choosing the right topic can be the most difficult part of your presentation. But when you choose a topic that you're qualified to speak about and that you're excited to speak about, the success of your presentation is almost guaranteed.

© 2007 Elliott Wilcox - All Rights Reserved

Elliott Wilcox is the editor of Trial Tips Newsletter. Visit www.TrialAdvocacyBlog.com or download his podcast on iTunes to start improving your courtroom presentations today!



YLS on the Move!

Summer Camp Lineup



Taylor C. Kessel

Congratulations to newly elected YLS Board members **Jason Hill** and **Nicole Smith**, and current board members **Ryan Davis**, **Maria Hale** and **LaShawnda Jackson**, who retained their board seats in the most recent YLS election. Also, congrats to the new Executive Officers: President **Elizabeth McCausland**, President-elect **Chelsie Roberts**, Treasurer **Eric Reed** and Secretary **Sarah Reiner**, who were all sworn in by the **Honorable Patricia C. Fawsett** at the May YLS luncheon.

As you may have noticed, **Judi Hayes** is no longer writing this column and, although we appreciate her hard work and dedication to YLS, the column has been safely restored to the trusted hands of a triple Gator. I will attempt to keep *YLS on the Move* as non-biased as possible, but it may prove tougher than expected if we continue to collect championship trophies like they are Star Wars figurines. Next up on the list of Gator Championships: cup-stacking and the geography bee. You heard it here first!

Now that the dust from the Billy Donovan fiasco has settled, the Magic have a new coach with a likeness to a certain Surreal Life cast member, and the Sopranos left us asking more questions than: "What exactly can you do with a degree from FSU?" - we can get down to what's on tap for the next few months. This summer is packed with exciting YLS events. The first thing, though, is to mark your calendar for the YLS July 19th luncheon at 11:30 a.m. at the Citrus Club. To RSVP, please e-mail **Taylor Kessel** at tkessel@dbksmn.com.

The second week of July kicks off the rigorous summer social schedule with the annual Law Clerks' Reception on Wednesday, July 11th. This year's Law Clerks' Reception will be at CityArts Factory on the corner of Orange Ave. and Pine St. in the heart of downtown, and all OCBA members are welcome. The reception will be from 5:30 p.m. to 7:30 p.m. and we look forward to another large turnout from the local legal community, including members from the judiciary present to support and recognize the summer clerks working here in town. If you or your firm is interested in sponsoring this great event, or to RSVP, please e-mail me at tkessel@dbksmn.com.

Next up is the UF Law Alumni and Summer Clerk Happy Hour on Thursday, July 12th at UrbanThink! Bookstore on Central Ave. This new event will be a great opportunity to reconnect with former classmates and faculty members, as well as meet the summer clerks from UF who are working in the Orlando area this summer. For more information, e-mail **Sarah Rumpf** at srumpf@cfl.rr.com. Come out and enjoy a great time with your fellow Gators. No worries - there will be plenty of National Championships to go around.

The social events schedule continues with the OCBA's annual Summer Happy Hour and Team Trivia on Wednesday, July 18th from 6:00 p.m. to 9:00 p.m. at Slingapour's in the

Wall Street Plaza. YLS members have historically shown up in large numbers and dominated the competition at this fun event. RSVP by July 11th to event chair **Shayne Thomas** at sthamas@ralaw.com. Come on out and show the members of the "Big Bar" that not only do young lawyers think they know everything, they actually do know everything!

Sticking with the social trend, the Young Lawyers' Summer Pub Crawl is on Friday, July 20th starting at 8:00 p.m. Venues will be announced in upcoming e-mail blasts and at the YLS lunches. For more info on the Pub Crawl, contact **Jason Hill** at jhill@shutts-law.com or **Kristen Cox** at kcox@shutts-law.com. Just a small piece of advice passed down from **Wiley Boston** (YLS immediate past president, and a Pub Crawl veteran and hero): it might be a good idea to start training now if you want to keep up with the rest of the crew.

The Dog Day Pet Picnic is slated for Saturday, July 28th at 10:30 a.m. at Fleet Peoples Dog Park, located off South Lakemont Ave. in Winter Park. Food and drinks will be served, and doggie gift bags will be distributed. Contact **Kristen Cox** at kcox@shutts-law.com or **Michael Caborn** at MCaborn@whww.com for details.

Near the official end of summer is the YLS Backpacks Service Project on Saturday, August 18th at 9:00 a.m. Keep an eye out for more info in the next few months or contact **Mary Musette Stewart** at marymusettestewart@hotmail.com. Also, be sure to save September 13th for the Fall Joint Happy Hour with the OCBA.

Looking further down the road, it's time to get the sticks out of the closet and start hitting the range to get ready for the 16th Annual Young Lawyers Golf Tournament on Friday, October 12th at the International Course at Champions Gate. This will be a shotgun start at 8:00 a.m. Breakfast and lunch are included in the registration fee. For more information, please contact committee chairs **Elizabeth J. Anderson** at eanderson@sctlaw.com or **Sunny Lim** at slim@sctlaw.com. For those interested in helping to plan this great event, the committee will hold its next meeting at Room Three Nine on July 10th at 5:30 p.m., and all YLS members are welcome.

Well, that's all for now, and the Gators have probably won another championship during the time it took to write this column, so I have to run out and buy another shirt commemorating it. Stay tuned for more details about upcoming YLS events. In the meantime, if you have any questions or want to find out more about our section, please contact me at 407-422-2454 or tkessel@dbksmn.com. I look forward to bringing you all the latest news and updates for YLS, and I promise to take the Gator pride down a notch or two next time! Until then, have a great summer and GO GATORS!!

Taylor C. Kessel is an associate at deBeaubien, Knight, Simmons, et al. He has been a member of the OCBA since 2005.



Financial Planning

Is Your Investment Strategy Ready to Enter Treatment?



Andrew C. Orr, CFP®, CLU, ChFC, AIF®

A good friend of mine and fellow fee-only financial planner, Mark Hebner, wrote a great book titled: *Index Funds: The 12-Step Program for Active Investors*. The book's second printing, with fully updated indexes and historical data, just came out and I highly recommend that you read it. Why? Because you won't learn these facts from your present financial adviser if he or she works for a large brokerage firm or insurance company. These organizations have a vested self-interest in promoting active investment strategies (especially when their proprietary products are purchased) because, while the cost to the customer is much higher compared to passive investing strategies, the profit margins are also greater. Mark, like most of the nation's best fee-only planners, is a proponent of passive index investing for reasons that are too numerous to mention here (you'll have to buy the book). However, I would like to share the main tenants of Mark's 12-step program.

Step 1. Active Investors: Recognize an active investor.

Active investors hope to pick winners among the many stocks, times, managers or investment styles. But, the problem with the methods deployed by active investors is that markets are moved by news. News is unpredictable and random. Therefore, the movements of stocks, markets, managers, and styles are unpredictable and random. Markets are also efficient, meaning that news is rapidly reflected in market prices. As a result, active investing is not a viable strategy. The only reliable source of long-term returns is from consistent exposure to economic risk factors that have more than 80 years of history.

Step 2. Nobel Laureates: Recognize that Nobel Prize winners researched the market.

Nobel Prizes have been awarded to academics for their analysis of how stock markets work. The allure of their findings is that they're not biased by a need to earn a commission or sell you an IPO, magazine or newspaper. More than a hundred years of academic research has concluded that index funds are an investor's best investment. Sadly, the great majority of investors have never read these academic studies so they continue as active investors.

Step 3. Stock Pickers: Accept that stock pickers do not beat the market.

The primary factor influencing the success of a stock picker is simply luck. In numerous studies, only about 3% of stock pickers beat their benchmark. Most stock pickers invest in stocks that have done well recently; however, those same stocks do poorly in subsequent periods. Stock performance is random, just like the news that influences stock prices. Therefore, it is not possible to consistently pick stocks that will be top performers in the future.

Step 4. Time Pickers: Understand that no one can pick the right time to be in or out of the market.

When 32 market-timing newsletters were compared to the S&P 500 Index over a 10-year period, not one of them beat the broad market index. The primary reason for this inability to time the market is the high concentration of returns and losses that occur in a time period of a few days. In a recent 10-

year period, 100% of the total gain was concentrated in just 20 days. It is impossible to pick those 20 days in advance. Professors studied 15,000 predictions by 237 market timers and concluded that "There is no evidence that [market timing] newsletters can time the market."

Step 5. Manager Pickers: Realize that the winning managers were just lucky.

The S&P 500 Index consistently outperformed 98% of mutual fund managers over three years and 97% over 10 years, ending October 2004. In two 30-year studies, the S&P 500 outperformed 97% and 94% of managers. In addition, only about 12% of the top 100 of managers repeat their performance in the following years. Therefore, it is not possible to consistently pick next year's hot mutual fund manager. Index portfolios consistently capture the risk and return of markets, which in a high-risk index portfolio has been 14% annualized for the past 50 years, compared to 11% for the S&P 500.

Step 6. Style Drifters: Comprehend active management style drift.

Most mutual fund managers drift from one recent winner to another. playing fast and loose with investor's money. A fund's stated objective is altered by these style (value, growth, market-oriented, etc.) drifters. One study indicated that 40% of mutual funds drift from their originally stated style. To make matters worse for these drifters, style performance rotates randomly, and therefore it is not possible to consistently predict tomorrow's winning style.

Step 7. Silent Partners: Recognize the partners in your returns.

There are partners that subtly take a large slice of your investment return. In taxable accounts, over a 15-year period, active investors keep only about 50% of the total return earned by their initial investment. Meanwhile, investors in index funds keep about 85% of the total return by maintaining tight controls over the silent and often invisible partners of high fees, expenses, cash drag, taxes, transaction costs and more. By minimizing the cost of these silent partners, investors will increase their expected returns.

Continued on page 28



OCBA Legal Aid News



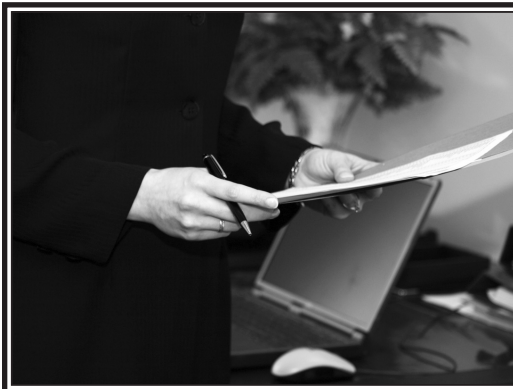
Pro Bono Highlight: Amy T. Iennaco, Attorney-at-Law

Legal Aid Society of the OCBA

Amy T. Iennaco, Assistant City Attorney, has been a member of the OCBA since 1988 and has always been a valuable asset to the Legal Aid Society's *pro bono* panel. She began by handling *pro bono* dissolution of marriage cases and later participated in the Citizens Dispute Mediation Program and volunteered as a public speaker. Since 1995, Amy has worked with the AIDS Special Wills Project. This project provides counseling, advice, and free preparation of wills and related documents to low-income residents of Orange County who have AIDS, ARC or who are HIV positive, and to families whose children have AIDS, ARC

or are HIV positive. Amy enjoys working with the Wills Project because, she notes, many clients feel a deep sense of peace once their final wishes have been memorialized, and she finds it gratifying to be instrumental in bringing a measure of comfort to those facing serious illness. The Legal Aid Society of the OCBA thanks Amy for her dedication and service to those members of our community who are in such great need.

Submitted by the Legal Aid Society of the Orange County Bar Association.



Need Qualified Legal Support Staff?

For pre-screened, experienced, professional paralegals, legal assistants and legal secretaries, call Charlotte Mason, Placement Service Manager, at 407-422-4551, or e-mail charlottem@ocbanet.org.

Orange County Bar Association

THE 100 CLUB!

Congratulations to the members of the Orange County Bar Association 100 Club

- Fishback, Dominick, Bennett, Stepter, Ardaman, Ahlers & Bonus, LLP • Halim & Pratt, LLC
- Billings, Morgan, Boatwright & Hernandez, LLC • Sublette, Sanders & Sanders, P.A.
- Graham, Builder, Jones, Pratt & Marks, LLP • Marcus, McMahon & Myers, PL
- Murrah, Doyle and Wigle, P.A. • N. Diane Holmes, P.A. • Wendy L. Aikin, P.A.
- Legal Aid Society of the OCBA • Roetzel & Andress, LPA • The Brennan Law Firm
- Quintairos, Prieto, Wood & Boyer, P.A. • Tangel-Rodriguez & Associates
- King, Blackwell, Downs & Zehnder, P.A. • Law Office of Jeffrey Feulner, P.A.
- Lewis & Crichton, Attorneys at Law • The Carlyle Appellate Law Firm
- Lynum & Sanchez, P.A. • Stovash, Case & Tingley, P.A. • Wolff, Hill, McFarlin & Herron, P.A.
- Perla & Associates, P.A. • The Draves Law Firm, P.A. • The Carr Law Firm, P.A.
- Wooten, Honeywell, Kimbrough, Gibson, Doherty & Normand, P.A.
- Fisher, Rushmer, Werrenrath, Dickson, Talley & Dunlap, P.A.
- Diaz & Moss • Page, Eichenblatt, Bernbaum & Bennett, P.A.

Is your firm part of the 100 Club? Any firm with two or more attorneys and 100% membership in the OCBA can be a member of the 100 Club. If you think your firm is eligible, e-mail a typed list of your attorneys to Susan Laviolette at susanl@ocbanet.org and she'll let you know!

Step 8. Riskese: Understand how risk, return and time are related. Lawyers speak legalese and the best investors speak riskese. Learning the language of riskese requires investors to have a basic understanding of the concepts of risk, return, time, and correlation. Understanding riskese is essential for successful investing. Most investors instead chase the short-term returns of stocks, markets, managers or styles, and never truly understand the impact of risk, time, and correlation on their returns. The more fluent you speak riskese, the higher your risk capacity, risk exposure and expected returns.

Step 9. History: Understand the historical risks and returns of indexes. Long-term data is required to estimate the expected risk and return for different stock market indexes. We now have 80 years of monthly risk and return data on several important indexes. This mountain of empirical evidence proves that index funds are the most reliable and logical investment choice. Since you can not predict the future based on a small sample of recent events, the study of long-term stock market data is the only source of meaningful data and resulting probability distributions of the expected risk and return of investments.

Step 10. Risk Capacity: Analyze your five dimensions of risk capacity. A Risk Capacity Survey will help you determine your individual and unique risk capacity. Five dimensions of your risk capacity will be thoroughly measured, resulting in a score and corresponding index portfolio. These risk capacity dimensions include time horizon, investment knowledge, net income, net worth, and attitude toward risk. This is your single most important contribution to the investing process, resulting in an

Investment Policy Statement that will provide the guidelines for your financial future.

Step 11. Risk Exposure: Analyze your five dimensions of risk exposure. Over 90% of the returns of diversified portfolios of index funds can be explained by their exposure to five dimensions of risk. They include market, size and value for equities, and term and default for fixed income. Once investors have determined their risk capacity, they will be matched to one of 20 Index Portfolios. Index funds are utilized to minimize taxes and maximize expected returns. A simulation of a properly designed index portfolio shows an outperformance over the S&P 500 Index by 3% annualized for the last 50 years at the same level of risk and after the deduction of fund fees and investment advisory fees.

Step 12. Invest and Relax: Invest, relax and stay balanced. The road to recovery for active investors ends with a recognition that a strategy of buying, holding, and rebalancing a portfolio of index funds is the best way for investors to maximize the expected returns of their investments. A financial advisor that speaks riskese and understands how markets work can best design, implement, and maintain a risk-appropriate, tax-managed, and highly efficient portfolio of low-cost index funds for investors. After investors implement this prudent investment plan, they can kick back and relax.

Andrew C. Orr, CFP®, CLU, ChFC, AIF®, is an independent, fee-only financial planner located in Orlando. He is President of ORRGROUP, a registered investment adviser and financial life planning firm providing comprehensive financial management services to individuals and businesses. For more info, visit: www.orrgroup.com.

CT Summation

Sales

- Pre-sales consulting
- Free Demonstrations
- Upgrades, additional licenses, maintenance
- Installation and Configuration available

telephone: 407-740-7587

Training

- By a CT Summation Certified Trainer in your office
- By the hour, day, or topic
- For IT staff, paralegals, attorneys

LAPTOPS *Plus*

email: Richard@laptopsplus.com

Consulting

- Problem solving
- Error resolution
- Troubleshooting
- Best Practices
- Remote access available

www.laptopsplus.com/summation



A Modest Proposal

Did you know that approximately 50% of our society cannot afford to hire an attorney and has to depend on a pro se course of action to try to resolve their legal issues?

They often find themselves in a "Catch 22," since they do not qualify for legal aid or low fee representation and can not afford to hire an attorney for \$200-\$250 an hour. Their only recourse is to proceed alone and hope the judge will understand.

The Orange County Bar Association proposes an exciting new concept for your consideration as you seek to develop your practice and help those in need: **The Modest Means Program**. The program's objective is to provide legal service to a significant segment of society that cannot afford or does not qualify for legal service through traditional means.

Are you looking for ways to expand your practice? This program needs energetic lawyers eager to work at rates that will accord them fair compensation while significantly reducing the financial hardship clients might encounter if they are billed at traditional firm rates.

The Modest Means Program is seeking attorneys who will make up a Modest Means Panel. Panel members then can take clients that are pre-screened for eligibility. In the initial phase of the program, cases covered will include: (a) bankruptcy; (b) family law -- dissolutions, custodial disputes, support enforcement, adoption, etc.; (c) landlord-tenant; and (d) Wills and trusts.

Individuals who qualify for the program will be responsible for paying participating attorneys according to the following schedule:

- a) Bankruptcy: \$1,500 for Chapter 13 cases, \$800 for Chapter 7 cases.
- b) Family Law: \$850 as a retainer for dissolutions and custodial disputes, and thereafter \$100 per hour to the extent that a participating attorney reasonably expends in excess of 8.5 hours of billable time in the case. For all other family law matters, \$350 as a retainer, and thereafter \$100 per hour to the extent that a participating attorney reasonably expends in excess of 3.5 hours of billable time in the case.
- c) Landlord-tenant: \$350 by way of retainer, thereafter \$100 per hour to the extent that a participating attorney reasonably expends in excess of 3.5 hours of billable time in the case.
- d) Simple Wills: \$100 for a simple Will; \$150 for a reciprocal will package; \$250 for a simple "planning package," including Will, designation of medical agent, and power of attorney; \$350 for a reciprocal planning package, including Will, designation of medical agent, and power of attorney.

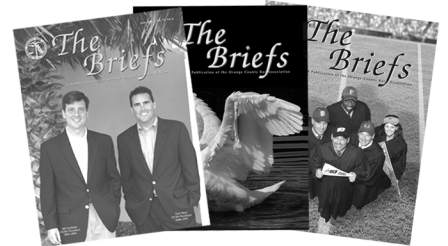
We are interested in determining OCBA attorneys' interest in the Modest Means Program. To share your comments and ideas, or for more information, please contact Austin Aaronson, Austin Aaronson, P.A., at 407-644-1336 or Malcolm P. Galvin, III, Malcolm P. Galvin, III, Esq., at 407-210-6593.

OCBA
Advertising &
Sponsorships



Increase Your Visibility! Promote Your Services! Build Your Practice!

The Briefs, our showcase publication, is distributed to more than 3,100 members and advertisers monthly. Place your firm's display advertisement and reach an influential readership - your next referral may come from a colleague who sees your ad!



Annual Membership Directory, an OCBA publication that's prized by attorneys and their staffs, offers you the chance to have your firm's message accessible to 3,100 attorneys (and other advertisers!) year round. Sign up for the Lawyer-to-Lawyer Referral Index, purchase a display ad, or place a classified!

For advertising information, contact the OCBA's Communications Manager at 407-422-4551, ext. 227.

Sponsor an OCBA Event! With more than 20 events each year, the OCBA offers your firm the high visibility associated with exclusive event sponsorship or co-sponsorship! Sponsor the Annual Gala, a Luncheon, a Young Lawyer's Happy Hour or a Golf Tournament, to name a few. Sponsorships include complimentary admissions, free advertising in *The Briefs*, free publicity in our e-mail "Discovery," signage at events and much more. Don't miss this opportunity to be front and center!

For information about Sponsorship, contact the OCBA's Executive Director at 407-422-4551.

OCBA Online Lawyer-to-Lawyer Referral Network

Brought to you by the Orange County Bar Association
in partnership with Browder Printing Co. Technologies

Getting Referrals Has Never Been Easier!

The Lawyer-to-Lawyer Referral Index of the OCBA's Membership Directory has always been a popular and beneficial way for members to receive case referrals.

This year, we offer you exciting new ways to significantly increase your visibility among your colleagues! By purchasing the Online Lawyer-to-Lawyer Referral Network media package, you will receive:

- Listings of up to five Practice Areas and all Board Certifications in the Lawyer-to-Lawyer Referral Index of the Membership Directory
- Listings of up to five Practice Areas and all Board Certifications on the new Online Lawyer-to-Lawyer Referral Network's searchable index
- Personal Practice Profile on the new Online Lawyer-to-Lawyer Referral Network that includes your photo, a 200-word description of your practice, a hyperlink to your website, and referrals with the click of a mouse

The Online Lawyer-to-Lawyer Referral Network is housed on Browder Printing Technologies' secure website and is accessible only by OCBA members via their membership username and password.

Sample Practice Profile

ONLINE LAWYER-TO-LAWYER REFERRAL NETWORK

HOME
SEARCH NETWORK
SIGN UP
UPDATE PROFILE
CONTACT US

John F. Doe

Firm: John Doe P.A.
Email: jd@johndopa.com
Website: www.jdpa.com

- Areas of Specialization -

Business, Aviation

Mr. John F. Doe has practiced in the area of business litigation, with an emphasis in construction litigation, real estate litigation and commercial litigation since 1993. He has represented numerous large and middle-market companies, general contractors, government entities, developers, financial institutions, small businesses and individuals in cases involving contract disputes, business torts, government bid protests, intellectual property rights, bankruptcy and creditor's rights. Mr. Doe has also represented several well known musical artists/entertainment groups concerning enforcement of trademarks and disputes with siness torts, government bid protests, intellectual property rights, bankruptcy

To refer a case to this attorney please fill out the following form and click submit.

Name: Firm:
E-mail: Phone:
Case Description:

Submit



The Online Lawyer-to-Lawyer Referral Network is:

- Quick
- Easy
- Current
- Searchable
- Secure
- Cost effective

A one-year subscription to the Online Lawyer-to-Lawyer Referral Network media package is only \$50.

Look for information on your Dues Renewal Statement about how to submit your Practice Areas, Board Certifications, and Personal Practice Profile and pay for the media package!



**“Where OCBA Members
Network ONLINE”**

Please contact George Enos with questions or for further information.
407-857-9178 • George@BrowderPrinting.com



New Members

Regular

Melanie F. ANDRE, ESQ

Alvarez, Sambol, Winthrop & Madson, P.A.
100 S. Orange Ave.
Orlando FL 32801
407-210-2796

David A. BEYER, ESQ

Litchford & Christopher, P.A.
390 N. Orange Ave., Ste. 2200
Orlando FL 32801
407-422-6600

David E. CONTOS, ESQ

Williams Law Office, P.A.
1310 W. Colonial Dr., Ste. 17
Orlando FL 32804
407-574-6936

J. Marshall GILMORE, ESQ

J. Marshall Gilmore
1150 Louisiana Ave., Ste. 4
Winter Park FL 32789-1755
407-629-7322

Elizabeth B. ILLSLEY, ESQ

State Attorney's Office
415 N. Orange Ave.
Orlando FL 32802
407-836-2400

David P. JOHNSON, ESQ

*Law Office of
David P. Johnson, LLC*
570 E. George St.
Maitland FL 32751
407-644-7920

Suzanne K. LIOTTA, ESQ

Ruden, McClosky, Smith, et al.
111 N. Orange Ave., Ste. 1750
Orlando FL 32801
407-244-8000

Gregory S. MARTIN, ESQ

Moye, O'Brien, O'Rourke, et al.
800 S. Orlando Ave.
Maitland FL 32751
407-622-5250

Adam K. McGINNIS, ESQ

Adam K. McMinnis, P.L.
318 W. Colonial Dr.
Orlando FL 32801
407-517-4734

Amber L. NEILSON, ESQ

Beusse, Wolter, Sanks, et al.
390 N. Orange Ave., Ste. 2500
Orlando FL 32801
407-926-7700

Jeremy M. PALMA, ESQ

Rissman, Barrett, Hurt, et al.
201 E. Pine St., Ste. 1500
Orlando FL 32801
407-839-0120

Penelope B. PEREZ-KELLY ESQ

McClane Tessitore
215 E. Livingston St.
Orlando FL 32801
407-872-0600

Hayden P. RIDORE, ESQ

Invictus Law Group, LLC
931 S. Semoran Blvd., Ste. 202
Orlando FL 32792
407-883-5335

Neil A. SAYDAH, ESQ

Neil A. Saydah, P.A.
425 S. Avalon Park Blvd.,
Ste. 1000, #302
Orlando FL 32828
321-558-8035

Kristen V. SCHLERETH, ESQ

*Law Offices of
Kim Michael Cullen, P.A.*
800 N. Magnolia Ave., Ste. 1301
Orlando FL 32803
407-254-4901

Melanie C. SHOEMAKER, ESQ

Dean, Mead, Egerton, et al.
800 N. Magnolia Ave., Ste. 1500
Orlando FL 32801
407-425-5128

Shanni SINGH, ESQ

Shutts & Bowen, LLP
300 S. Orange Ave., Ste. 1000
Orlando FL 32801
407-835-6792

Eric J. TRABIN, ESQ

State Attorney's Office
415 N. Orange Ave.
Orlando FL 32802
407-836-2400

Erick TRIVEDI, ESQ

Law Office of Erick Trivedi, LLC
390 N. Orange Ave., 5th Floor
Orlando FL 32801
407-447-0601

Jonathan D. WALLACE, ESQ

Dean, Mead, Egerton, et al.
800 N. Magnolia Ave., Ste. 1500
Orlando FL 32803
407-428-5163

Affiliate

Lee KUSAK

Meier, Bonner, Muszynski, et al.
37 N. Orange Ave., Ste. 1100
Orlando FL 32801
407-872-7774

Phillip A. MILLER

FAMU College of Law
201 Beggs Ave.
Orlando FL 32801
407-254-3292

Irene B. PONS

Ajilon Legal
390 N. Orange Ave.
Orlando FL 32801
407-648-0036

Affiliate Law Student

Christopher J. BILECKI

1726 Gurtler Ct., Apt. 1
Orlando FL 32804

Affiliate Paralegal Student

Alexander GODWIN, JR.

RYT-N-TYM, Inc.
921 St. George St.
Orlando FL 32805
407-432-2142

Samantha TAKAHASHI

5301 Halyard Ct.
Winter Park FL 32792
407-348-2222

Announcements

New Associate

David A. Beyer - *Litchford & Christopher, P.A.*

Kenneth Ray Noble - *Kirwin Norris, P.A.*

Management

Susan Clary - *Broad and Cassel, P.A.*

Speaking Engagements

Kerry R. Farney, CLI, Chief Investigator with Expo Confidential Services, recently spoke at the Florida Association of Licensed Investigators professional development conference in Daytona Beach. He lectured on the topic of private investigations related to driving under the influence matters.

News to Note

New Committees Start-up

Technology Committee: Chair – Terence F. Brennan. Tues., July 24, 2007, from 11:45 a.m. to 1:00 p.m. Roetzl and Andress, 420 S. Orange Ave., CNL Center II, 7th Floor. RSVP to Terrence Brennan at TBrennan@ralaw.com or 407-896-2224. **Intellectual Property Committee:** Chair – Hutch Hicken, Co-chair - Paul DeHart. Thurs., August 9, 2007, from 5:00 p.m. to 7:00 p.m. Litchford & Christopher, Bank of America Building, 22nd Floor.

Seminars

Elder Law Committee – Thurs., Aug. 2, 2007; Noon to 4:30 p.m. OCBA Center. *How to Conduct an Administrative Medicaid Fair Hearing*. 4.0 CLE (pending). **Workers' Compensation Committee** – Wed., Aug. 8, 2007; 3:00 p.m.- 5:00 p.m., followed by reception. OCBA Center. *The Employment Relationship During a Workers' Compensation Case: Issues and Answers*. 2.0 CLE (pending). To register, go to: www.orangecountybar.org.

Legal Aid Society – *GAL Lunchtime Training*. Tues., July 24, 2007, Noon to 1:30 p.m. First Presbyterian Church of Orlando, 106 E. Church St. Call or e-mail Misha Vanderhorst at 407-841-8310, ext. 3176 or mvanderhorst@legalaidocba.org.

JNC Seeks Applicants for Vacancy in the County Court, Orange County, Florida. This appointment is to fill the vacancy resulting from the appointment of Judge C. Jeffery Arnold to the Ninth Judicial Circuit Court. Applications are available on the Florida Bar's website: www.floridabar.org or at www.orangecountybar.org. Applications are due by Thurs., July 19, 2007.

The United States District Court, Middle District of Florida is currently accepting applications for one full-time magistrate judge position to be resident in Orlando. Applications are due by Fri., **July 27, 2007**. For full public notice and application, please go to www.orangecountybar.org. Alternately, please contact Sheryl L. Loesch, Clerk of Court, U.S. District Court, Middle District of Florida.



Which Orlando Law Firm? Offers Mediation Services

Certified Civil Circuit Mediators



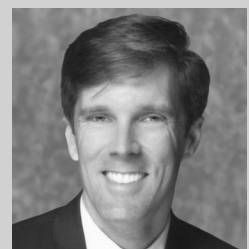
GARY RUSHMER



KAREL AVERILL



EMERY ROSENBLUTH



JOE AMOS

- Available for mediations of State and Federal Court civil actions throughout Florida.
- Spacious and comfortable conference facilities conveniently located in downtown Orlando.
- No "administration charge" for scheduling conferences or coordinating with parties.

Available in areas of:

- complex multiparty matters
- catastrophic injury cases
- wrongful death
- personal injury
- medical malpractice
- business/commercial litigation
- employment disputes
- nursing home
- presuit claims
- dental malpractice
- products liability
- legal malpractice
- insurance/bad faith
- corporate disputes
- property & construction

FISHER, RUSHMER, WERRENRATH, DICKSON, TALLEY & DUNLAP, P.A.

407-843-2111

Visit our Website at: www.fisherlawfirm.com

*Let us help you with your mediation
& dispute resolution needs.*



Classifieds

To reply to BRIEFS box number, address as follows: BRIEFS Box# _____
c/o Orange County Bar Association,
P.O. Box 530085 • Orlando, FL 32853-0085

Employment

BOGIN, MUNNS & MUNNS, an A-V rated law firm, seeks attorneys with three or more years experience in real estate, corporate, estates and general transactional to work in our offices in Clermont, Leesburg and Daytona Beach. Excellent opportunity to join growing dynamic firm. Send resume in confidence by fax to 407-578-2128 or e-mail to bmm@boginmunns.com.

BOGIN, MUNNS & MUNNS, an AV rated Orlando firm seeks bi-lingual attorney with 3-5 years experience in plaintiff personal injury including trial experience. Outstanding opportunity to join growing dynamic firm with excellent benefits and compensation package. Send resume in confidence by e-mail to bmm@boginmunns.com or fax to 407-578-2128.

A-V RATED LAW FIRM IN ORLANDO seeks attorney with three or more years of experience in wills, trusts, and probate. Experience in corporate transactions also helpful. Outstanding opportunity for growth and advancement. Creative compensation packages available. Send resume in confidence to Briefs reply box 320.

DOWNTOWN ORLANDO AV-rated civil litigation firm seeks associate attorney with 2-5 years litigation experience. Send resum , writing sample and brief cover letter outlining past successes and salary requirements to: jean@shrlaw.com or fax to (407) 926-7461.

ATTORNEY: to handle Commercial, Probate and Workers Compensation matters. Bright, hard working person, who pays attention to detail, and has solid interpersonal skills. Top 15%, law review, journal experience preferred. We are a small firm in College Park, minutes from downtown Orlando. Email resume to: joan@orlandolaw.com.

AV RATED WINTER PARK MEDICAL MALPRACTICE DEFENSE firm seeks associate with 0-3 years experience. Competitive salary and benefits. Send cover letter and resume to Larry D. Hall, Hill, Adams, Hall & Schieffelin, P.A., P.O. Box 1090, Winter Park, FL 32790-1090.

LEGAL SERVICES LAW FIRM seeks a Housing attorney to work in Orlando. Candidates must have the ability to work effectively/creatively with low-income clients. Florida Bar membership or 3 yrs. out-of-state Bar membership required; Spanish speaking desired. Excellent benefits including student loan repayment. Salary DOE. Send resume, writing samples, references to Virginia Horner at virginiah@clsmf.org or fax to (386)323-5762. E.O.E.

AV-RATED DOWNTOWN LAW FIRM w/ IMMEDIATE NEED seeking 3 - 5 year litigation associates with trial and insurance defense experience. Focus on SIU, PIP and BI as well as General/Commercial Litigation. Excellent writing and communications skills required. Extensive courtroom work available. Non Smoker. Outstanding opportunity to join an established, proven firm that offers a great work environment, competitive compensation and benefits! Interested candidates should send resume and writing sample to Hiring Partner via e-mail: recruiting@dbksmn.com or fax: 407-992-3595.

DOWNTOWN ORLANDO AV RATED FIRM seeks attorney with 3+ years commercial litigation experience. Great work environment and excellent benefit package. Send resume to Administrator, P.O. Box 3388, Orlando, FL 32802-3388.

AV-RATED ORLANDO LAW FIRM seeks 3+ years experienced attorney to service Legal Service Plan administered by the firm. Good people skills are necessary for primarily telephone consultations with a strong team approach; full-time status. Non-Smoker. Diverse legal background a plus. Reply to PPL, Managing Partner, PO Box 87, Orlando, FL 32802-0087, c/o recruiting@dbksmn.com or fax to 407-992-3595.

ESTABLISHED, MULTI-STATE AV LITIGATION FIRM, seeks workers comp associate to expand its growing practice. This position is based in the firm's Orlando (Winter Park), FL office. EXCELLENT CAREER OPPORTUNITY. Candidates must have 2 - 5 years experience in Workers' Compensation and/or insurance defense (FL Bar license required). Competitive compensation and benefits with total compensation incentive based. Firm provides significant and early responsibility in dealing with all aspects of litigation. Send resume to: Managing Partner, 1245 West Fairbanks Avenue, Suite 200, Winter Park, FL 32789, (407) 478-1257/Fax, kjohnson@gmlj.com.

KEATING & SCHLITT, P.A., a well-established Orlando law firm seeks the following: 1.) Construction Litigation Associate/Partner; and 2.) Real Estate Transactional Associate/Partner. Both positions require a minimum of three (3) years experience in related practice areas. Please e-mail resumes to: kgimondo@keatlaw.com.

LITIGATION ATTORNEY. A-V rated firm in Orlando is seeking an associate with 1 - 4 years litigation experience, insurance defense preferred. Salary is commensurate with experience and we offer an excellent benefits package. Please submit resume and salary requirements to Firm Administrator at (954) 568-0085, or e-mail to kjames@cmlbro.com.

AV RATED WINTER PARK MEDICAL MALPRACTICE DEFENSE FIRM seeks associates with 3-5 years experience. Competitive salary and benefits. Send cover letter and resume to Larry D. Hall, Hill, Adams, Hall & Schieffelin, P.O. Box 1090, Winter Park, FL 32790-1090.

AV-RATED MULTISTATE FIRM seeks experienced, energetic, and qualified litigation attorneys with between 5-15 years litigation experience. Insurance background a plus. Positions available in expanding Orlando & Fort Myers offices. Excellent benefits. Another part-time attorney research, writing and reporting position available -- that attorney could possibly work virtually through firm internet portal. Florida Bar required. Fax resume in confidence to managing partner, 407-209-1001.

SPECIALTY DEFENSE FIRM seeks associate attorneys with 2-5 years litigation experience for its Maitland and Tampa offices. SIU/anti-fraud insurance defense experience preferred. Fax/mail resume to: Office Manager (407) 647-9966, Kingsford & Rock, P.A., 2300 Maitland Center Parkway, Suite 101, Maitland, FL 32751.

REAL ESTATE ATTORNEY: Lowndes, Drosdick, Doster, Kantor & Reed, P.A., an AV-rated law firm located in Orlando, Florida, seeks an attorney with a minimum of three years transactional real estate experience to assist with dynamic and expanding real estate practice. Applicant must possess good academic credentials, excellent writing skills and excellent references. Compensation will be commensurate with experience. The law firm offers outstanding financial stability with steady practice growth, sophisticated clientele, outstanding credentials and excellent facilities. Send resume and writing sample in confidence to Nicholas A. Pope, Esq., or Jacqueline Bozzuto, Esq., Post Office Box 2809, Orlando, Florida 32802.

DEMPSEY & ASSOCIATES, PA, an AV rated firm, seeks attorneys with a minimum of five years experience in trials and general litigation. Focus on civil commercial and employment discrimination matters. Excellent research and writing skills are essential. Excellent salary and benefits provided. Immediate openings for qualified candidates. Interested parties should reply to Robin McCutcheon at P.O. Box 1749, Orlando, FL 32802-1749 or rmm@dempsey-law.com.

ASSOCIATE POSITION: SOLE PRACTITIONER with busy estate, guardianship and real estate practice needs full time personable, detail oriented associate. Candidate must have minimum 3 years experience in above fields and a dedicated work ethic. Please respond by email to lynn@yergandyergery.com or fax to 407-843-0433.

ESTABLISHED ORLANDO/COLLEGE PARK personal injury practice seeks candidates for associate attorney position. Position requirements include solid academic background, minimum of 3-5 years of litigation experience, preferably in personal injury/medical malpractice field. Interested candidates should send resume and writing sample to Briefs Box 400.

Legal Support Staff

RECEPTIONIST/FILE CLERK - DOWNTOWN ORLANDO: Litigation firm seeks part-time, with potential to become full-time, Receptionist/File Clerk for duties including: answering phones, filing, opening/closing files and general legal assistant duties. Bilingual (Spanish) preferred. Must have experience in Microsoft Word and Client Profiles. Applicant must be organized, detail-oriented, energetic and professional. Non-smokers only. Fax resume and 3 references to: (407) 426-9304.

Office Space to Share

DOWNTOWN OFFICE SPACE: Office space overlooking Lake Eola for two attorneys and separate adjoining space for two staff. Garage Parking included. Shared reception area, conference room, library and kitchen. 407-422-5742.

OFFICES/SHARE SPACE on 18th Floor of Bank of America Building across from the courthouse. Lake Eola view. Space for 1 to 2 attorneys & staff. Share receptionist, conference room, copier, etc. 407-426-2060.

Office Space

PRESTIGIOUS BALDWIN PARK: New, 1750 sq. ft., office suites in Baldwin Park. Includes 2 available offices. Furnished conference room, reception area, and kitchen. 2 bathrooms and ample on-site parking. For rental information call (407) 896-9810.

SOLE PRACTITIONER OFFICE SPACE for rent near Courthouse. Includes use of conference room, copier, fax/scanner, telephone system, and cable internet. Call (407) 422-1235.

FERNCREEK PROFESSIONAL CENTER - Office space available just minutes from downtown Orlando. Free parking and signage on busy road. Receptionist, conference rooms, phone system, fax machine, copier, high speed DSL, and other services provided. Call (407) 898-4848.

DOWNTOWN ORLANDO OFFICE SPACE: High Profile, Class A+ new office space with incredible views at The Plaza. Available immediately – Up to 3 executive offices and 3 built-in support staff spaces, shared reception area and conference room, breakroom, copy/file room, high speed DSL. Call 407-426-9300.

EXECUTIVE SUITES - Full service. Convenient location. Starting at \$375/mo. 407-682-9600.

EXECUTIVE SUITES located behind the Court House. Full Service. Price includes Personal Receptionist Services, Utilities, Conference Rooms, and more. Tel. 407-412-7050
Call now and enjoy special promotion!

DOWNTOWN HISTORIC LAW OFFICE, newly renovated, one block from Courthouse, a beautiful, spacious office. Available immediately at \$1,500.00 per month, includes computer, telephone, use of conference room, receptionist and copy machine. Bring your briefcase and you're in business. 203 East Livingston Street, 407-245-7700.

VIRTUAL OFFICES: Starting at \$75 per month – No contracts. Located behind the court house and 1 mile from the OCBA
Call 407-412-7050.

EXECUTIVE MEETING AND CONFERENCE ROOMS AVAILABLE. Located behind the Court House. Starting at \$15 per hour. Catering Services available for your meetings call - 407-412-7050.

USE OUR CONFERENCE ROOMS TO MEET CLIENTS: CLASS "A" DOWNTOWN ORLANDO offices and conference rooms available for sole-practitioners or small firms, 23rd floor of the Bank of America Building. We have telephone answering, conference rooms, offices, onsite parking, full service copy center, kitchen and secretarial support, etc. Contact Kenn Gluckman, Esquire, kgluckman@lawofficesamerica.com or 407-956-1000.

DOWNTOWN OFFICE SPACE: Luxury office space across from courthouse. Office space for one attorney and separate, adjoining space for one staff. Garage parking included. Shared reception area, receptionist, conference room, library, kitchen, copy and fax facilities provided. 407-843-5785.

3,033 ± SF 1st FLOOR SUITE; 6,155 ± SF 2nd FLOOR SUITE (may subdivide): New construction available at excellent downtown location where you may plan your space within an outstanding building design. Fiber optic Internet connection available to tenants. Shell completion by May 2007. Please contact Kim Gimondo at 407-425-2907 for further details.

THORTON PARK office space for lease. 600 sq.ft. plus 1 parking. \$800. Call 407.425.3456.

DOWNTOWN ATTORNEY'S BUILDING OFFICE(S) RENTAL: SR50, 5 min from court, single/multiple/large/small available, nice people, parking, many amenities, excellent prices. Shon Douctre 407-694-0651

DOWNTOWN SMALL OFFICE BUILDING Lake Lucerne at Delaney. Furnished, receptionist service, approx. 1500 sq ft., free parking. Call Sandy at 407-843-7060.

PROFESSIONAL OFFICE BUILDING FOR LEASE - Approximately 1650 SF (Lee Road), Beard Ave., W.P., 407-425-2786 #226 Ample Parking.

OFFICES FOR RENT AT 28 EAST WASHINGTON Street. Downtown Orlando, walking distance to courthouse. Up to 3 window offices. Support staff space available. Receptionist included. Full kitchen and three conference rooms. Individual offices start @\$1,200.00 per month. Contact 407/423-2622.

VIRTUAL OFFICE - STARTING AT \$100/mo. Near downtown. Call 407-682-9600.

DOWNTOWN OFFICE SPACE: Furnished office space for attorney and staff. Use of copier, fax, conference room. Call 407-849-7072.

SINGLE OFFICES with secretary areas, and Double offices available close to courthouse, at 1000 E. Robinson St. Master conference rooms can be used without charge. Call J. Bloom, Coldwell Banker Commercial 407-571-5558.

OFFICE SPACE AVAILABLE. Up to 3 professional offices located in Baldwin Park. Two furnished with desks and file cabinets. Free parking, phones, copier, fax, conference room and kitchen. Computer network and high-speed data lines available. \$750/mo. per office. Contact Nancy at 407-581-3978.

FREE OFFICE SPACE! Downtown location across the courthouse. If you are looking for office space, have at least three years practicing criminal law, want some referrals and are willing to learn a little bit about personal injury practice, we may be able to do business! Call (407) 423-0029 ext. 118 for details.

THORNTON PARK OFFICE FOR LEASE: Beautifully restored two story home converted to professional office. Six offices, conference room; on-site parking; security system. \$6000mo/modified gross. CitiSpace Orlando, 407-538-9034.

DOWNTOWN OFFICE SPACE, 2,700 sq. ft., move in ready, 16 W. Pine, ground floor storefront location, contact Bill at Bywater Co. 407-206-7300.

Office Space for Sale

OFFICE CONDO FOR SALE: Office condo located on second floor with four private offices, reception area and full bath. Very close to the Sodo/Orange Ave. Redevelopment Project. Ample parking. \$269,000 CitiSpace Orlando 407-538-9034 or 407-721-2167.

Professional Services

CARLOS TORRES, Attorney Discipline, UPL, and Bar Admission matters. Former TFB Ethics Prosecutor (407) 849-6111.

BARRY RIGBY - DISCIPLINARY DEFENSE and Bar Admission matters. Former Florida Bar Chief Headquarters Discipline Counsel. 407-999-2630. www.barryrigby.com

THE LEGAL MEDICINE GROUP, LLC - "Excellence in Medical Records Reviews". * Plaintiff and Defense Litigation Support Services * Board Certified Reviewers * Medical Malpractice and Personal Injury Specialists. 407-949-9160 www.legalmedicinegroup.com.

EDWARD C. BESHARA, P.A. - Exclusive & Experienced Immigration Attorney. Past President, American Immigration Lawyers Assoc. (Central Florida Chapter) For direct Inquiry call 407-629-6455.

PHONE ANSWERING SERVICES - Professional receptionist answers the phone for you, takes your message or transfer your calls to your office or cell phone. Staring at \$125 per month. Call 407-412-7050.

PHILIP L. PARTRIDGE, PA

ALTERNATIVE DISPUTE RESOLUTION

Bank of America Center
23rd Floor/across from courthouse

NEW WEBSITE WITH CONVENIENT CALENDAR

www.philpartridge.com

Five conference rooms &
wireless connection

Handling Personal Injury,
Insurance claims, Estates Litigation,
Appeals & General Civil Litigation

Certifications/Qualifications

16 years of balanced civil litigation experience

Florida Supreme Court Certified
Circuit Civil Mediator

5th DCA Qualified & Approved
Appellate Mediator

Florida Supreme Court Approved Arbitrator

Certified BBB Autoline Arbitrator

(407) 956-1111

Email: philpartridge@mac.com

Federal Public Defender United States Court of Appeals for the Eleventh Circuit

The United States Court of Appeals for the Eleventh Circuit invites applications for its Federal Public Defender position for the Middle District in Florida, stationed at Orlando. Minimum qualifications include 5 years active criminal law practice, significant supervisory experience, and active membership in a bar association of any state. The current salary is \$145,300. Although the incumbent Federal Public Defender intends to seek reappointment to the position, the Court will review all applications under the same standards.

The Court is also soliciting comments from concerned citizens and members of the bar concerning the job performance of the incumbent Federal Public Defender. All comments will be treated confidentially.

Full job announcement and application are available on the Court's website at www.ca11.uscourts.gov, from the Clerk of the Eleventh Circuit Court of Appeals, the Clerks of the District Court of the Eleventh Circuit, and from the Circuit Executive's Office. Comments and applications should be submitted in confidence to the Circuit Executive's Office, United States Court of Appeals for the Eleventh Circuit, 56 Forsyth Street, NW, Room 304, Atlanta, Georgia 30303, not later than 31 July 2007.

The United State Courts Are Equal Opportunity Employers



**Place your Classified or
Display Ad in The Briefs!**

**Contact the Publishing Department
at info@ocbapublishing.com**

SENIOR LAW CLERK

Fifth District Court of Appeal

Salary \$53,585.76 annually

Open until filled

Job announcement
with application
requirements are posted
at www.5dca.org

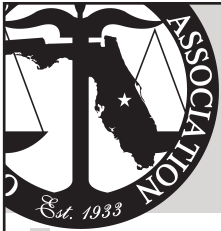


Downtown Orlando Office Bldg. FOR SALE

8,461 SF freestanding professional office strategically poised on E Colonial for great exposure! 36 parks w/7 covered spaces +add'l street parking. Very nicely appointed offices, conference rooms, library w/ neutral colors & many designer finishes. \$2,400,000 / \$283 SF

Dennis M Sargent II, CCIM (407) 571-5520
Harry W Champ, CCIM (407) 571-5559





2007

July -August Calendar

OCBA Luncheon • July 26, 2007

Otis Smith

General Manager, Orlando Magic

RSVP by July 20th to reservations@ocbanet.org

July

- 9 CFFLAIOC**
5:30 p.m. • TBA
- 10 Executive Council**
11:30 a.m. • Bar Center
- OCBA Paralegal Committee**
5:30 p.m. • Bar Center
- 11 Estate Guardianship & Trust Committee**
12:00 p.m. • Bar Center
- International Law Committee**
12:00 p.m. • Bar Center
- Judicial Relations Committee**
12:15 p.m. • Courthouse
- YLS Law Clerks' Reception**
5:30 p.m. • CityArts Factory
29 S. Orange Ave.
- 12 Legal Aid Executive**
8:00 a.m. • 100 E. Robinson
- Real Property Law Committee**
12:00 p.m. • Bar Center
- CFPA Luncheon**
12:00 p.m. • Café Annie's
- Social Security Committee**
12:00 p.m. • Bar Center
- 13 Workers' Compensation Committee**
11:45 a.m. • Smokey Bones
- 17 Legal Aid Society Board Meeting**
11:45 a.m. • 100 E. Robinson
- Professionalism Committee**
12:15 p.m. • Bar Center
- 18 Solo & Small Firm Committee**
12:00 p.m. • Bar Center
- Insurance Law Committee**
12:00 p.m. • Bar Center
- Summer Happy Hour & Team Trivia**
6:00 p.m. • Slingapour's
Wall Street Plaza
- 19 YLS Luncheon**
11:45 a.m. • Citrus Club
- Paul C. Perkins Bar**
12:00 p.m. • Bar Center
- 20 Family Law Committee**
8:00 a.m. • 425 N. Orange Ave.
- YLS Summer Pub Crawl**
8:00 p.m. • TBA
- 24 Technology Committee**
12:00 p.m. • GrayRobinson
- Legal Aid Society**
GAL Luchtime Trainings
12:00 p.m. • First Presbyterian
Church
106 E. Church St., Orlando
Misha Vanderhorst:
mvanderhorst@legalaidocba.org
- 25 CFACDL**
11:45 a.m. • Sorosis Club
- Business Law Committee**
12:00 p.m. • Baker & Hostetler
SunTrust Bldg.
- 26 July Luncheon**
*Otis Smith, General Manager
Orlando Magic
"Create Your Own Magic"*
11:30 p.m. • Ballroom at
Church Street
- 27 Bankruptcy Law Committee**
12:00 p.m. • Bar Center
- Labor & Employment Committee**
12:00 p.m. • Bar Center
- 28 The Dog Day Pet Picnic**
10:30 a.m. • Fleet Peoples Dog
Park
S. Lakemont Ave., Winter Park
- 29 CFAWL Board Meeting**
12:00 p.m. • Bar Center
- 7 Criminal Law Committee**
12:00 p.m. • Bar Center
- OCALSS**
5:30 p.m. • Bar Center
- 8 Estate Guardianship & Trust Committee**
12:00 p.m. • Bar Center
- International Law Committee**
12:00 p.m. • Bar Center
- Workers' Compensation Seminar**
*The Employment Relationship
During a Workers' Compensation
Case: Issues and Answers*
3:00 p.m. • Bar Center
- 9 Legal Aid Executive Meeting**
8:00 a.m. • 100 E. Robinson
- Real Property Law Committee**
12:00 p.m. • Bar Center
- CFPA Luncheon**
12:00 p.m. • Café Annie's
- Social Security Committee**
12:00 p.m. • Bar Center
- 10 Workers' Compensation Committee**
11:45 a.m. • Smokey Bones
- 13 CFFLAIOC**
5:30 p.m. • TBA
- 14 Executive Council Meeting**
11:30 a.m. • Bar Center
- OCBA Paralegal**
5:30 p.m. • Bar Center
- 15 Solo & Small Firm Committee**
12:00 p.m. • Bar Center
- Insurance Law Committee**
12:00 p.m. • Bar Center
- 16 YLS Luncheon**
11:45 a.m. • Citrus Club
- Paul C. Perkins Bar**
12:00 p.m. • Bar Center
- 17 Family Law Committee**
8:00 a.m. • 425 N. Orange Ave.
- 18 YLS Backpacks Service Project**
9:00 a.m. • TBA

August

- 2 Elder Law Committee Seminar**
*How to Conduct an Administrative
Medical Fair Hearing*
12:00 p.m. • Bar Center
- 3 Diversity Committee**
8:00 a.m. • Bar Center
- CFAWL Bar Luncheon**
11:30 a.m. • Citrus Club



Is this your reaction when your financial advisor calls?

It's not surprising. Too many advisors are out there to sell you something. The majority of them work for sales organizations that push commission products instead of sound advice. They may tell you they're focused on relationships, but, truth is, it's transactions that catch their eye.

Upgrade to an independent, fee-only financial planner who has your best interest at heart. We may be in the minority, but you'll be happy to take our calls.



Andrew C. Orr, CFP®, CLU, ChFC, AIF®
President



"If you are worried about potential conflicts of interest, consider using a fee-only adviser."

—Jonathan Clements
The Wall Street Journal
July 19, 2006



Mistakes happen.

When a manufacturing mistake results in a defective car or tire there are often catastrophic consequences. At the Newsome Law Firm we represent consumers injured by defective products. Call us for more information.



NEWSOME
LAW FIRM

RESOURCES. KNOWLEDGE. EXPERIENCE.

For help evaluating potential products liability claims call **888.808.5977**

www.ProductsLiability.net



The Briefs

880 North Orange Avenue
Orlando, Florida 32801

PRSRT STD
U.S. POSTAGE
PAID
ORLANDO FL
PERMIT 2530