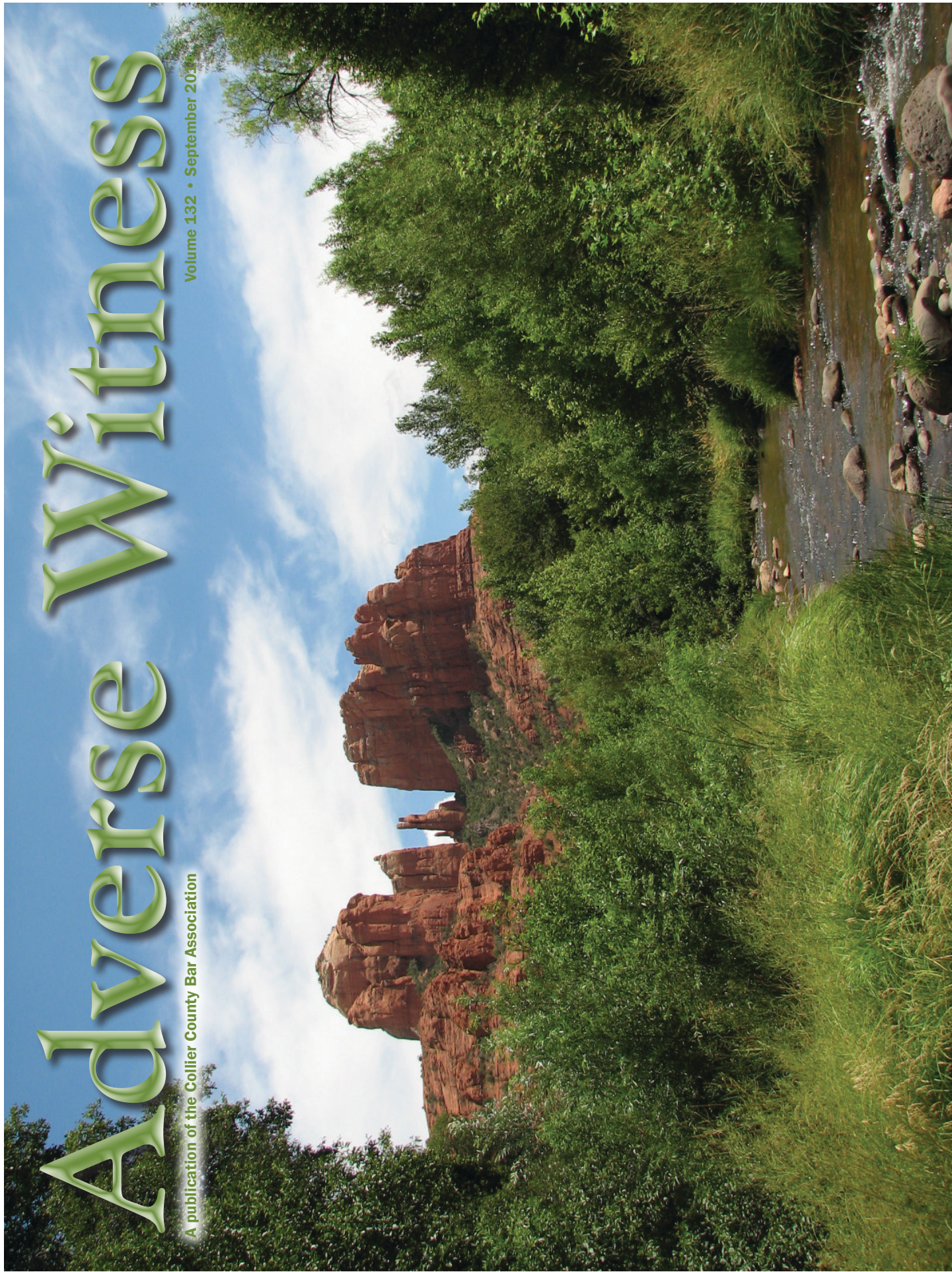


Adverse Witness

A publication of the Collier County Bar Association

Volume 132 • September 2014





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BAR ASSOCIATION

Adverse Witness

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The Adverse Witness is pleased to feature articles submitted by Collier County Bar Association members, affiliates and the general public that may be of interest to Collier County Bar Association's membership. The Collier County Bar Association does not verify the accuracy of the information contained in the articles published in the Adverse Witness, nor are the articles published in the Adverse Witness intended to express the views of the Collier County Bar Association. If you have any questions or concerns about information contained in articles published in the Adverse Witness, please contact the author of the article directly.

Adverse Witness

September 2014

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On the cover:

**An original photo
submitted by
Beverly Brennan**

Cover photo

This month's photo is "**Sedona, Arizona**" taken by Beverly Brennan.

If you have a picture (old or new) that you'd like to submit for consideration as cover art for the next issue of the Adverse Witness, please forward a JPG image to Lisa Mead lmead@colliercountybar.org along with a brief description of the place depicted in your photo. If your photo is selected, you'll receive a shout out in the Adverse Witness.

PRESIDENT'S MESSAGE

By Sonia Diaz, Esq.



***“Every time
the law or the
practice of law
changes, there
is something
new to learn.”***

Some changes are for the best

Aside from death and taxes, one of life's other certainties is change. And that's certainly evident in our profession. The law, and the way we practice law is continuously evolving. I remember the first time that I used books in a library to conduct legal research - it was in my Legal Research & Writing Class at UF in 1999. That was probably also the last time I used books to conduct legal research. And even the most newly-minted attorneys - who probably never used books to conduct legal research - can recall the days when we filed paper documents with the clerk at the courthouse instead of uploading documents to the e-filing portal. I know it's only a matter of time before I'll be saying "remember when we used to get in our cars and drive to the courthouse for hearings and trial?"

While some of us may miss those exhilarating eleventh-hour dashes to the courthouse to file documents before the end of the business day, so many of the changes in our profession have been for the best. Electronic legal research and court dockets have expanded access to the legal system, allowing attorneys to obtain the same information regardless of whether they are practicing law in Washington, D.C. or Washington, Iowa. And while the cost of subscribing to legal research databases is considerable, thanks to law libraries like our Collier County Law Library, members of the public have access to the same or similar databases for free.

Of course, every time the law, or the practice of law changes, there is something new to learn. Which is why, in addition to offering live CLE programs, the CCBA also maintains an expansive CLE library available to CCBA members for free. Our list of available CLEs is maintained on our (new!) website at www.colliercountybar.org. Since the courses in our library are popular, we suggest that you call Julianne Gilmore at 252-8138 to confirm that the CLE you want is available when you need it. You can then come to the CCBA offices and pick up the CDs or send a courier. If the CLEs that you are interested in aren't on our list, please let us know. If the topic is likely to be of benefit to our membership, we'll consider adding it to the library.

While we hope that you will take advantage of the many other benefits of CCBA membership, given that the average CLE program costs more than the price of annual membership in the CCBA, if you use our CLE library once a year, that alone would be worth the cost of membership. And did you know that the Florida Bar is considering making CLEs available in live streaming format? If that happens, you will be able to access our CLE library from the comfort of your own office or home, without getting into your car to drive to the CCBA offices. Unless, of course, you want to do it the old-fashioned way, and come in for a visit with our friendly staff and enjoy a cup of freshly-brewed coffee, courtesy of the Law Offices of Mike McDonnell.



Legal Aid Service of Collier County is committed to working alongside the private bar and membership of CCBA to make the Collier Lawyers Care pro bono attorney program the best of its kind in the State of Florida. Two immediate goals they want to achieve are increasing the number of pro bono volunteer attorneys in the CLC program, and expanding public awareness about CLC and the impact Legal Aid Service of Collier County has on the community by offering free civil legal services to the underserved population of Collier County. To learn more about LASCC and Collier Lawyers Care, contact Mr. Jeffrey A. Ahren or Ms. Karenin Hache at (239) 298-8143; email khache@legalaid.org.

Pro bono clinic set for October 9

Celebrate National Pro Bono Week by Volunteering for Legal Aid's Pro Bono Clinic on October 9, 2014

"We make a living by what we do, but we make a life by what we give." – Winston Churchill.

Pro bono legal service to the poor is an integral and particular part of a lawyer's pro bono public service responsibility. According to a study by the American Bar Association, more than 40% of low and moderate-income households experience a significant civil legal problem each year. However, studies show that local legal aid organizations are only capable of meeting about 20% of the legal needs of low-income people.

Although it is easy to think that Southwest Florida is somehow immune to this problem, the truth is that every year, thousands of citizens in Collier County face daunting legal challenges with virtually no access to legal help. As an attorney, it is also easy to believe that by virtue of your profession you implicitly support the concept of equal justice and equal access to the legal system. It is easy to profess support for equal justice; it is quite another thing to actually show support by volunteering time and expertise. As members of the Florida Bar, attorneys are truly the "first line of defense" in addressing the legal needs of the poor; as officers of the court, each member of the Florida Bar in good standing has a professional responsibility to provide pro bono legal service to the poor.

Our local Bar in Collier County has always answered the call for pro bono service – and we need your help once again this year!

Several years ago, the ABA Standing Committee on Pro Bono and Public Service launched an initiative to help alleviate the country's growing need for pro bono service during difficult economic times. For the past three years, Legal Aid Service of Collier County has joined in this effort by holding its annual Pro Bono Clinic – an opportunity for Collier County attorneys to lend just two hours of their time to provide advice and counsel for a wide variety of legal problems. All cases are pre-screened by Legal Aid in advance of the clinic, ensuring that clients are within our financial guidelines and eligible for services.

Please show your commitment to equal justice by volunteering to serve as a pro bono attorney at Legal Aid's 4th Annual Pro Bono Clinic on October 9, 2014 from 5:30 pm – 7:30 pm. All participating pro bono attorneys are covered under Legal Aid's professional liability insurance coverage. The Clinic will be held at Legal Aid's Naples Office at 4125 East Tamiami Trail, Naples, FL 34112. Food and drink will be provided to all volunteers. Volunteers can contact Legal Aid's Director of Development and Pro Bono Coordinator, Jeff Ahren, at jahren@legalaid.org or by calling (239) 298-8130. Sign up today!

Thank You to Legal Aid's Attorney of the Month Greg Champeau

Legal Aid Service of Collier County is pleased to announce that it has named attorney Gregory Champeau as the attorney of the month for August 2014. Legal Aid wishes to thank Mr. Champeau for his hard work and dedication to Legal Aid's mission of helping our community's most vulnerable citizens. Mr. Champeau has been a friend and advocate of Legal Aid for several years and has helped numerous people regain control over their finances through the bankruptcy process. Legal Aid is grateful and proud to have the support of an advocate like Greg.

Last month, Mr. Champeau, along with attorneys Stephany Carr, Enita Kushi, and Jonathan Tolentino, generously donated their time, energy, and expertise to make Legal

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MARK YOUR CALENDAR

**Register for any event
through Lisa Mead.**

Phone: 239-252-8711

lmead@colliercountybar.org

www.colliercountybar.org



Event Policy

It is the policy of the Collier County Bar Association to request that all reservations for our events are placed at least two days prior to the event.

We are always willing to accommodate our members; however, event sites must order food two days prior to an event.

*Also, it is the policy of the Collier County Bar Association to issue refunds **ONLY** if a member cancels a reservation two days prior to an event. If a member cancels the day before, or the day of an event, a refund will not be issued.*

We appreciate your consideration of this policy.

SEPTEMBER

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|---|--|
| <p>2 CCBA Board Meeting
CCBA Offices, 7:30 a.m.</p> <p>CCB Foundation Board Meeting
CCBA Offices, 8:30 a.m.</p> <p>Trial Law Section Luncheon
Bonefish Grill, 12:00 p.m.
<i>TL Members - \$25; Non-members - \$30</i></p> <p>4 Trusts & Estates Section Luncheon
Northern Trust, 12:00 p.m.
<i>This is a free event
Please bring your own lunch</i></p> <p>9 Young Lawyers Board Meeting
Mr. Tequila's, 12:00 p.m.</p> <p>10 Trial Lawyers Board Meeting
Sushi Thai, 12:00 p.m.</p> | <p>11 Real Estate Section Luncheon
Shula's at Hilton Naples, 12:00 p.m.
<i>RE Members - \$25; Non-members - \$30</i></p> <p>12 CCBA Membership Luncheon
Shula's at the Hilton Naples, 12:00 p.m.
<i>Members - \$20; Non-members - \$30</i></p> <p>17 Family Law Section Luncheon
The Club at Naples Bay Resort, 12:00 p.m.
<i>FL Members - \$25; Non-members - \$30</i></p> <p>18 CCACDL Luncheon
Eurasia, 11:45 a.m.</p> <p>24 CCWBA Luncheon
Northern Trust, 12:00 p.m.</p> <p>26 Young Lawyers Luncheon
Shula's at Hilton Naples, 12:00 pm
<i>YL Members \$25; non-members \$30</i></p> |
|---|--|

OCTOBER

- | | |
|---|---|
| <p>2 Trusts and Estates Section Luncheon
Northern Trust, 12:00 p.m.
<i>This is a free event
Please bring your own lunch</i></p> <p>7 CCBA Board Meeting
CCBA Offices, 7:30 a.m.</p> <p>CCB Foundation Board Meeting
CCBA Offices, 8:30 a.m.</p> <p>8 Trial Lawyers Board Meeting
Sushi Thai, 12:00 p.m.</p> <p>9 Real Estate Section Luncheon
Kensington Country Club, 12:00 p.m.
<i>RE Members - \$25; Non-members - \$30</i></p> <p>10 E-Discovery Seminar
Co-hosted by ABOTA and
the Trial Law Section
The Club at Naples Bay Resort
7:30 a.m. - 12:00 p.m.
<i>Members of ABOTA or TL - \$35;
Non-members - \$50</i></p> | <p>11 Foundation Fishing Tournament
Hamilton Harbor Yacht Club
1:00 lunch - fish on your own before that
<i>\$35 - fishing, lunch and t-shirt
\$25 - lunch only - Children are free</i></p> <p>14 Young Lawyers Board Meeting
Mr. Tequila's, 12:00 p.m.</p> <p>16 CCACDL Luncheon
Eurasia, 11:45 a.m.</p> <p>Appellate Seminar
Inn on Fifth, 1:00 - 5:00 p.m.
<i>TL Members - \$30; Non-members - \$40</i></p> <p>DCA Dinner
Port Royal Club, 5:30 p.m.
<i>\$100 per person</i></p> <p>22 CCWBA Luncheon
Northern Trust, 12:00 p.m.</p> <p>24 Family Law Forum
Club at the Strand, 7:30 a.m. - 4:30 p.m.
<i>FL Members - \$125; Non-members - \$150</i></p> |
|---|---|

Collier County Bar Association • Section Updates



Family Law Section **By Sarah Martin Oquendo**

I am looking forward to the upcoming year with the Family Law Section. My goal for this year is to continue the remarkable work of the past Section Chairs and provide relevant speakers and topics for our bi-monthly luncheons. In addition, I am very pleased to announce that the Family Law Section is hosting a Family Law Symposium on October 24, 2014 at the Strand. The Symposium is open to attorneys, paralegals, and other family law professionals in both Lee and Collier Counties. The Symposium will highlight emerging topics in family law and will provide meaningful instruction for the family law practitioner. Thank you for allowing me to serve as Section Chair of our Family Law Section.



Trial Law Section **By Rachael Loukonen, Esq.**

The Trial Law Section serves to encourage and promote the administration of justice, the professional relationships between attorneys and judges, and the observance of legal ethics. To do this, the Section provides continuing legal education events and works to promote high standards of integrity, honor, and courtesy among trial lawyers in Collier County. Many thanks go to Andrew Reiss for his excellent leadership as Chair of the Section in 2013-2014.

This year kicks off on August 28th with the 4th Annual Triar's Club Roast featuring this year's victim, Tara Miller Dane. Andy Solis will once again spearhead and emcee this much-anticipated annual tradition. This October, the Section will join with the American Board of Trial Advocates (ABOTA) to host an e-Discovery Seminar. Also in October, the Section will host the Annual 2nd DCA Dinner and corresponding appellate seminar, featuring a panel of 2nd DCA judges. Thanks to Chris Donovan for leading the charge on this event.

The Section's monthly lunches resume in September with a presentation by Kathleen Passidomo on "The Do's and Don'ts of Lobbying from an Elected Official's Point of View." From there, Jon Scuderi will provide an update on probate and trust litigation, and we will hear from Mike Corso on avoiding legal malpractice and grievance claims. The Section's luncheon series will continue from there with presentations on vital trial law-related topics.

If you have any questions about the Section or any suggestions for topics that the Section should consider presenting, please contact me at 239-444-1824 or rloukonen@cohenlaw.com. We look forward to seeing you at this year's Section events!



Trusts & Estates Section **By Patrick F. Mize, Esq.**

After being gently guided by our Immediate Past-Chair, Rob Lancaster, and his "Lancaster Doctrine," the Trusts & Estates Section returns for another bar year. The Section's monthly luncheons will return in September with **Kathleen Passidomo** speaking about legislation she sponsored which addresses abuses against vulnerable persons. That legislation was passed during the 2014 legislative session and will become effective October 1, 2014. In November, **Lester Law** will be speaking on current developments in portability planning and **Daniel Capes** will present his Heckerling Highlights at the January luncheon. The annual Trusts & Estate Symposium will take place on February 27, 2015, at the Naples Hilton. Jacqueline Denton will be serving as the Vice-Chair and I look forward to working with her to make it another excellent year for the

Section.



Real Estate Section **By Sarah Grieb**

Sarah Grieb (Roetzel & Andress) and Charles Whittington (Grant Fridkin Pearson) are co-chairing the real estate section of the Collier County Bar this year. We will have a variety of topics for our lunch time speakers and have decided upon topics and speakers that we think everyone will find to be interesting, current, and useful. We have planned the topics for our lunches based on feedback we received from other real estate attorneys, topics we have come across in practice, and topics that we feel are important to the Collier County real estate attorney. We welcome feedback on speakers and any suggestions for future speakers will be passed onto future Chairs if we cannot accommodate the suggestion this year. We look forward to seeing everyone on September 11th at our first lunch.



Young Lawyers Section **By Travis Hayes, Esq.**

The Young Lawyers Section is looking forward to another exciting and productive Bar year. The Section continues to be capably led by an active Board of Directors (Chris Donovan, Vice-President; Erica Conklin, Treasurer; Patrick Mize, Secretary; Rachel Kerlek, Past President; Eric Olson, Director; Christen Spake, Director; and Christyna Torrez, Director), as well as its Committee Chairs (Kevyn Noonan, Jessica Palombi and Charles Whittington).

The Section is already off to a fast start to the year. Last month, the Section participated in the back-to-school drive for the Friends of Foster Children of Southwest Florida. In support of this event, members of the Section purchased supplies and packed new bookbags for over 150 children in the foster care system. The Section will continue its charitable endeavors throughout the year, which will include the annual Holidays in March event, where Section members join the Children's Network at the Naples Zoo to provide gifts to underprivileged children in our community, and the Third Annual Young Lawyers Bowling Tournament, which benefits the Legal Aid Service of Collier County.

As in prior years, the Section will host luncheons throughout the year for our members. Our first luncheon will be held on September 26th and will feature some of our local judges as presenters. The Section will also be hosting our annual Ethics Seminar in January. I would encourage all CCBA members to attend the Seminar in order to support the Young Lawyers Section and get those much needed ethics credits!

The Section will also continue to organize numerous social and networking events for our members. These events, such as our bi-monthly happy hours and the annual trolley pub crawl, are a great way to meet and reconnect with other young practitioners in our community. In addition, the Young Lawyers Section will be hosting the Third Annual Season Kick-Off Event at the Von Liebig Center for the Arts on Friday, October 17. We will again join with the Young Professionals of Naples, the David Lawrence Young Executives and the Naples Junior Women's Club to host this exciting networking event for local young professionals. Tickets will be available soon, and all proceeds will benefit the ABLE Academy.

If you have any questions about the Young Lawyers Section, including ways to be become more involved with the Section, or regarding any of our Section events, please do not hesitate to contact me at thayes@cl-law.com or (239) 649-3118.



George Orwell's classic *Essay on Writing*: the best "style handbook" for lawyers and judges

Part 1 of 2

Like other Americans, lawyers and judges most remember British novelist and essayist George Orwell (1903-1950) for his two signature books, *Animal Farm* and *1984*. Somewhat less known is his abiding passion about the craft of writing. It was a lifelong passion,¹ fueled (as Christopher Hitchens recently described) by Orwell's "near visceral feeling for the English language."²

Orwell's most exhaustive commentary about writing was his 1946 essay, *Politics and the English Language*,³ which minced no words. "[T]he English language is in a bad way," he warned. "Debased"⁵ contemporary prose was marked by "abuse,"⁶ "slovenliness,"⁷ and a "lifeless, imitative style"⁸ that was nearly devoid of "a fresh, vivid, homemade turn of speech."⁹ A "tendency . . . away from concreteness"¹⁰ had left writing "dreary, . . . ugly and inaccurate."¹¹ "[V]agueness and sheer incompetence," he said, "is the most marked characteristic of modern English prose."¹²

Orwell's 12-page essay catalogued specific maladies that characterized the "decay of language" and offered six curative rules.¹³ The catalog and rules still reverberate among professional writers. Judge Richard A. Posner calls the essay "[t]he best style 'handbook'."¹⁴ Nobel Prize-winning economist Paul Krugman recently went a step further, calling the essay a resource that "anyone who cares at all about either politics or writing should know by heart."¹⁵ If I were a law partner employing young lawyers or a judge employing law clerks, I would add Orwell's essay to a list of reading recommended on the way in. If I were a young lawyer not required to read the essay, I would read it anyway. The entire essay is available for downloading at <http://orwell.ru/library/essays/politics/english/e.polit>.

Orwell stressed that he was dissecting, not "the literary use of language, but merely language as an instrument for expressing and not for concealing or preventing thought."¹⁶ The narrower scope does not deprive legal writers because Justice Felix Frankfurter was right that "[l]iterature is not the goal of lawyers, though they occasionally attain it."¹⁷ Orwell's essay approached language as a tool for clear communication, the goal that defines what lawyers and judges do. "The power of clear statement," said Daniel Webster, "is the great power at the bar."¹⁸

As its title intimates, the essay included criticism of political writing done by government officials and private observers. The essay's staying power, however, transcends the political arena. By calling on writers of all persuasions to "simplify your English," Orwell helped trigger the plain English movement, which still exerts influence in legislative halls, courts, administrative agencies, and law school legal writing classes.

This is a two-part article. Here I describe how judges, when they challenge colleagues or advocates in particular cases, sometimes quote from Orwell's essay as a touchstone for clear expression and careful reasoning. Part II will present Orwell's description of maladies that plagued contemporary prose. Part II will close with discussion of Orwell's six curative rules and their continuing relevance for today's lawyers and judges.

"TAKE THE NECESSARY TROUBLE"

"[W]ritten English," said Orwell in his essay, "is full of bad habits which spread by imitation and which can be avoided if one is willing to take the necessary trouble."²⁰ In 2012, the United States Court of Appeals for the District of Columbia Circuit quoted this passage in *National Association of Regulatory Utility Commissioners v. United States Department of Energy*.²¹

See "Orwell" page 12

Got news?
Contact Lisa Mead by
calling 252-8711 or
drop an email
line to lmead@
colliercountybar.org

CLASSIFIED

OFFICE FOR RENT: Attorneys (5) and other professional (1) with one corner executive office to rent. Attractive building/offices in great location at Pine Ridge and Airport Rd., Naples, FL. Space for an assistant, shared conference room with law library, reception area and kitchen is included for \$875 per month. Call 239-593-1444.

ANNOUNCEMENTS

Inclusion Policy

If you are a CCBA member in good standing and you've moved, been promoted, hired an associate, taken on a partner, or received an award, we'd like to hear from you. Talks, speeches (unless they are of national stature), CLE presentations and political announcements are not accepted. In addition, we will not print notices of honors determined by other publications (e.g., Super Lawyers, Best Lawyers, etc.).

Notices must be submitted in writing and limited to 100 words; they are printed at no cost to members and are subject to editing. E-mail your notice to lmead@colliercountybar.org.

POSITION AVAILABLE for Staff Attorney/PAI Coordinator - Fort Myers, Florida, who will promote Private Bar Involvement Project in the work of FRLS and to participate in recruitment of private attorneys willing to assist with low income families throughout our service area. This is a full-time staff attorney position with Florida Rural Legal Services as a member of the bargaining unit, covered by the union contract. Attorney will provide civil legal assistance to indigent persons on such matters as housing, public benefits and employment law. A portion of Attorney's time will involve pro-bono activities. Demonstrated commitment to advocacy on behalf of people in poverty. Excellent oral and written communication skills. Salary depending on experience. Generous leave time and benefits also offered. FRLS pays bar admission fees. Paid bar study leave. Relocation costs and loan repayment assistance also offered as part of the employment package. Send resumé to Beverly McCoy, Recruitment Coordinator, Florida Rural Legal Services, Inc., PO Box 219, Fort Myers, Florida 33902-0219. Email: beverly.mccoy@frls.org; fax (239)936-7038. Deadline: Vacant until filled.

Rebecca M. Vaccariello, Esq., litigation attorney at *Salvatori, Wood, Buckel, Carmichael & Lottes*, was inducted as a member of the Board of Directors of the Collier County Women's Bar Association on June 25, 2014 for a two year term which starts in July. Ms. Vaccariello was also asked to be the Collier County Women's

Bar Association representative for the statewide Florida Association of Women Lawyers group.

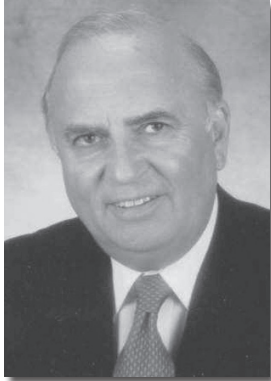
Adria Lynn Silva of *The Law Office of Adria Lynn Silva, LLC* was appointed for a two year term to the Board of Florida Legal Service, Inc. (FLS). The term begins July 1, 2014.

Quarles & Brady LLP has announced that **Kimberley A. Dillon, Kelly Lyon Davis** and **Christen Spake** have been installed as Officers and Directors of the Collier County Women's Bar Association for the 2014-2015 term. Kimberley A. Dillon serves as the president of CCWBA; Kelly Lyon Davis is serving as the vice president; and Christen Spake will continue to serve as a director on the board of CCWBA.

Hahn Loeser & Parks LLP has moved its Naples office to the HMA Building at 5811 Pelican Bay Boulevard in Naples, Florida, as part of an expansion of its presence in Southwest Florida. The new office space provides significant room for growth and will include a state-of-the-art conferencing center.

Bryan L. Loeffler of *The Livingston Firm* has been certified by The Florida Bar as a specialist and expert in intellectual property law. Bryan is a U.S. Registered Patent Attorney and focuses his practice in all areas of intellectual property law including obtaining and enforcing patents, copyrights, trademarks and trade secrets as well as franchising.

continued on page 11



Caramba, Carrabba's! Good-bye.

For many years we lawyers have eaten at Carrabba's once a month at the Collier County Bar meetings and we probably paid little attention to its origin. Now that it is over because they are open for lunch, we asked "Who are these guys?" We wonder who Mamma Rosa is when we get the chicken dish or what the Picchi Pacchiu pasta is, and was all this stuff made up by some advertising gurus in a tower office on Madison Avenue a la Olive Garden or are they legitimate Carrabba family recipes.

Well, if you have not wondered about this, I have - because I dwell on the important things. My colleagues at CKB ponder case results and other minuscule issues. Where did Carrabba's get that funny name? Is it from Disney and the Caribbean? And is it really from Texas? And what is its relation with Outback?

The Carrabba's on the North Trail is located in a building that has housed at least three or four prior restaurants - all failures - when Carrabba's renovated it and defied the odds of nearly 100% of repeat failures of structures previously housing restaurants. In fact, this Carrabba's is one of, if not the, most profitable Carrabba's in the group now owned by OSI - Outback Steak Intl.

Carrabba's was developed in Houston, Texas, by Damian Mendola and Johnny Carrabba III, and since I had to spend some time in Houston I decided to search out its origins.

Damian Mendola, the uncle of Johnny Carrabba III, started a restaurant called Damian's, with two other relatives, in Huntsville, Texas. However, Huntsville is where they execute people at a pretty rapid pace and probably they were getting nervous. They moved Damian's to Houston in the early 1980s where he ran it for several years. It did well as a high-end restaurant and is still going strong. In fact, I enjoyed a memorable meal there. In 1986 Damian and his nephew Johnny Carrabba III started Carrabba's and the original two restaurants still exist: Carrabba's on Kirby (pictured in its original form) and Rosie's Carrabba. Now the Kirby location is bigger, in a brand new building, and higher priced than those that become part of the OSI chain. It has a larger menu and is still independently owned.

However, the recipes and dishes Carrabba's offers are the same ones developed by the Carrabba family over the past century and much is homemade, such as the sausage, the mozzarella and the pasta. The family came from Sicily and settled in Louisiana and different parts of Texas, including Bryan (where Texas A&M is located). They started various restaurants and finally Damian Mendola and Johnny Carrabba developed the Carrabba's of 1986. After a few years of success, OSI became interested, partnered with Carrabba's, developed their chain of restaurants, and finally took over all but two Carrabba's, using the original Carrabba family recipes to become the #1 Zagat-rated Italian chain in the country.

That leaves Damian running his own restaurant and market - Mendola's - in Austin, and Johnny Carrabba IV running the original Carrabba's on Kirby.

As much as my family has their own recipes - predominantly from my Sicilian grandparents - and we all know nobody cooks better than Grandma, I like going to Carrabba's because the recipes are familiar - the Spiedini al Mare and the Picchi Pacchiu pasta have a familiar taste. They are reliable without the advertising pretense and fanfare you see with Olive Garden. And, besides, Carrabba's, having originated in Texas, is surprisingly legitimate as one would have expected tacos al mare, chimichangas with clam sauce, etc.

I got so in to Carrabba's that years ago I bought all four of their cookbooks, gave them to my four children, and watched Damian and Johnny on their PBS cooking show. I thought they were funny, silly and probably haphazard but the recipes were legitimate. I guess if these fellows came from the East (NYC) it would be no big deal - just another couple of heavy-set boys from Brooklyn - but coming from Texas? I was hooked. But now they are open to the public for lunch and we are out, and the public is lucky and we are the worse for it.

So good-bye to Carrabba's from the Bar Association but remember that the Vega family that originally operated it here in Naples and made it the #1 franchise was always supportive of our schools and it was always a good place for your high school children to work and, hopefully, it will continue to be so. Thanks, Vega family. Thanks, Damian and Johnny.

Your comments or contributions to this column are welcome; you can email johnpcardillo@ckblaw.com, write to Cardillo, Keith & Bonaquist, P.A., 3550 Tamiami Trail East, Naples, Florida 34112, or fax to (239) 774-2494.



Effectively manage work and family

My favorite current television show is 'Comedy Bang, Bang' and its a scripted talk show in which the host often asks the celebrity guest, "So, how do you balance work and family?"

This is a question we all need to answer, especially as young professionals trying to make names for ourselves, prove our worth, learn, make a difference, and oh yeah, pay our bills.

I want this list of five things to be viewed as a very simple, easy to implement list of actions the reader can put in place starting today. These five tips will give you more time with your friends and your family because you will be a productivity juggernaut.

5. Productivity in eleven words: One thing at a time, most important thing first, start now. This statement came to me from some online site years ago and it has stuck with me. Staying focused on one task at a time is critically important to time management. How many times have you spent time checking emails, while working on a file, fielded a phone call while researching an issue and altogether felt like nothing was being accomplished? That's because you're entirely right. Nothing was being done. Focus on these eleven words and you will be more productive today.

This could easily be the number one most important tip on this list, however it is number five for a specific reason. After you have mastered the concept "uni-tasking", you need to maximize your efficiency with better planning. Inset tip number four.

4. Spend more time planning and reviewing and you will spend less time doing. Abraham Lincoln said, "If I had six hours to chop down a tree, I'd spend the first four hours sharpening the axe." Effectively planning what needs to be done will save you time on the actual work. A simple, uninterrupted pen and paper planning session can provide clarity of thought and a sense of calm to an otherwise frantic situation. You can identify what needs to be done and in what order of importance, create a list and stop chopping away.

3. Review the 'Why's' at least as often as the 'what's'. In order to accomplish significant things we need to spend time analyzing why are we doing what it is we are doing. We can spend an overwhelming amount of time on a task, researching, writing, calling, but if we don't know why we're doing it, we are constantly reacting rather than building. Ask yourself, "why am I doing this?" before you engage in any task. If you commit to asking yourself these five words you will see the finish line in your mind's eye and head right for it.

2. Read more. I get the sense that some of you are going to throw something at your computer screen and say, yeah right!!! With what time? Make time. Read. Read things for pleasure, read motivational books, read about the most successful lawyers in your field, read books written by judges. Read whatever you want to. Reading will make you a more complete person and will give you ideas about how to fix problems in all areas of your life.

1. Be Selfish. This is far and away the most important item in this list. You absolutely have to foster your selfishness. No one is going to do this for you, because no one can decide for you what is important to YOU!

Ask yourself, what good am I ...

- to my family if I am distracted with work problems?
- to my clients when I am distracted by family problems?
- to anyone when I have nagging health problems that I haven't given enough time to fix?
- if I feel self-conscious about my body or my appearance because I haven't given myself enough time to exercise or relax?

Young parents, especially mothers, my wife included, as well as many of the clients that

continued on page 13

ANNOUNCEMENTS

Quarles & Brady LLP has announced that **Kimberley A. Dillon**, a partner in the firm's Naples office, has earned Board Certification in Wills, Trusts and Estates from The Florida Bar. Dillon is a member of the firm's Trusts and Estates Practice Group, and focuses on the areas of estate planning, estate and trust administration, general business law, corporate services, tax controversy and tax planning. She advises individuals and businesses on tax matters, including individual income, gift and estate tax consequences; corporate and partnership tax consequences; and international tax consequences.

Robins, Kaplan, Miller & Ciresi L.L.P. is pleased to announce that **Michael R. Whitt** has joined the firm in the Naples office as a partner where he will establish the firm's new Eminent Domain practice. He has extensive trial experience in the areas of business litigation, commercial mortgage foreclosures, zoning and land use, boundary and title disputes, eminent domain, housing discrimination, defense of ADA claims, community association litigation and contract disputes. He serves on the Eminent Domain Committee for The Florida Bar and is a member of the Trial Lawyers Section of The Florida Bar.

John Thomas Cardillo, of *Cardillo, Keith & Bonaquist, P.A.*, was recently selected as the president-elect of the Collier County Bar Association (CCBA). As president-elect, Cardillo will be responsible for serving the community, CCBA members and enhancing the legal profession. In June 2015, Cardillo will be the first president of the CCBA whose father, John P. Cardillo, also served as president. Last year, Cardillo became a circuit representative for the Real Property, Probate & Trust Law (RPPTL) section of The Florida Bar.

Marshall Law Office is pleased to welcome **Kevyn Ashley Noonan** as an associate attorney handling marital and family law matters.

Cheffy Passidomo, P.A. is pleased to announce that **Tamela K. Eady** has joined the Firm's Real Estate Department. Ms. Eady is board certified as a specialist in real estate law by The Florida Bar Board of Legal Specialization and Education. Her experience includes residential and commercial real estate closings and the representation of lenders and developers of planned communities and commercial projects.

Nicole L. Goetz P.L. is pleased to announce that **Nicole L. Goetz** has been elected Secretary of the Family Law Section of The Florida Bar. Ms. Goetz has also been appointed as Vice-Chair of the Ad Hoc Bylaws Committee and a member of the Long Range Planning and Finance Committees of the Section. Ms. Goetz practices exclusively in Marital and Family Law at the trial and appellate level.

Nicole L. Goetz, P.L., is pleased to announce that **Sarah Martin Oquendo** has been appointed for 2014-2015 as Chair of the Family Law Section of the Collier County Bar. Ms. Oquendo previously worked with the Guardian ad Litem Program and at Lee County Legal Aid. Ms. Oquendo is now an associate attorney with Nicole L. Goetz, P.L. where she practices exclusively in the area of family law.

Laird A. Lile, Laird A. Lile, P.A., presented on "Business Development for Professionals" to the statewide Attorney/Trust Officer Liaison Conference for the Real Property, Probate and Trust Law Section of The Florida Bar, held in Naples June 12-14. Lile was a co-presenter on the important, often overlooked topic of establishing and maintaining professional relationships for both making and receiving referrals of client matters. Laird A. Lile, P.A., offers legal counsel on estate- and trust-related matters, including estate planning, estate and trust administration, probate-related litigation and tax matters.

Cohen & Grigsby is pleased to announce that **Kelley Geraghty Price** was named Woman Lawyer of the Year by the Collier County Women's Bar Association. The award is presented annually to a female lawyer who has excelled in her career, overcome stereotypes and promoted the status of women in the legal profession in the state of Florida. Price focuses her practice in the areas of complex business and commercial litigation, construction and real estate litigation, business torts and contractual disputes, employment litigation with an emphasis on representing employers, and probate and trust litigation.

Hahn Loeser & Parks LLP announces that **Michael R. Dal Lago** has been selected to participate in the Leadership Collier™ Class of 2015. Mr. Dal Lago is a Bankruptcy/Restructuring attorney who practiced law in New York for many years before relocating with his family to Naples in 2012. He is admitted to practice law in Florida, New York, and New Jersey.

The United Arts Council of Collier County has announced that **Felix Mehler**, an attorney with *Cohen & Grigsby*, will serve as president of the group for 2014-2015. The United Arts Council is designated by the state of Florida as the official local arts agency for Collier County. collierarts.com.

Henderson, Franklin, Starnes & Holt, P.A., is pleased to announce that **G. Donald Thomson** has been elected to the Centers for the Arts Bonita Springs Board of Directors. Thomson is the managing attorney of the firm's Bonita Springs' office, and concentrates his practice in the areas of civil, commercial and construction litigation. Thomson is also a Certified Circuit Civil Mediator by the Supreme Court of Florida.

The D.C. Circuit held that the challenged agency determination violated the Nuclear Waste Policy Act of 1982. Without conducting a valid cost evaluation required by the Act, the agency had refused to adjust or suspend annual fees collected from owners and operators of nuclear power plants to cover costs of the government's long term disposal of civilian nuclear waste.

The parties hotly contested the case with hefty servings of alphabet soup. On page 48 of its 58-page brief, for example, the National Association argued that, "Although DOE has not disclaimed its obligation to dispose of SNF, it is undisputed that DOE currently has no active waste disposal program The BRC is undertaking none of the waste disposal program activities identified in NWP § 302(d). Its existence therefore cannot justify continued NWF fee collection."²²

On page 24 of its 60-page brief, the agency countered that "[t]he plain language of the NWP . . . provides the Secretary [of Energy] with broad discretion in determining whether to recommend a change to the statutory NWF fee ... In section 302(a)(2) of the NWP, Congress set the amount of the NWF fee -- which is paid only by utilities that enter into contracts with DOE for the disposal of their SNF and HLW ..."²³

Writing for the unanimous panel in *National Association of Regulatory Utility Commissioners*, Judge Laurence H. Silberman quoted Orwell and admonished the parties for "abandon[ing] any attempt to write in plain English, instead abbreviating every conceivable agency and statute involved, familiar or not, and littering their briefs with" acronyms.²⁴

Other decisions have also quoted Orwell's call to "take the necessary trouble" to achieve maximum clarity.²⁵ In *Sure Fill & Seal, Inc. v. GFF, Inc.*,²⁶ for example, the federal district court awarded attorneys' fees to the defendant on its motion to enforce the parties' settlement agreement. The court criticized both parties' submissions. "Imprecision and lack of attention to detail," wrote Judge Elizabeth A. Kovachevich, "severely dampen the efficacy of Plaintiff's written submission to this Court. Equally unhelpful is Defendant's one sentence, conclusory response that is completely devoid of any substance. Advocates, to be effective, must take the 'necessary trouble' to present the Court with coherent, well-reasoned and articulable points for consideration."²⁷

"At times," Judge Kovachevich specified, "the Court was forced to divine some meaning from the incomprehensible prose that plagued Plaintiffs' written objections. Lest there be any confusion, the Court graciously did so even though it could have simply refused to give the faulty objections any consideration at all. The Court would have been equally obliged to treat Defendant's failure to provide meaningful response as a concession of Plaintiffs' objections."²⁸

"LIKE SOFT SNOW"

George Orwell held keen interest in politics, and his 1946 essay attributed "the decadence of our language" partly to political motivation.²⁹ "[P]olitical language," he wrote, "has to consist largely of euphemism, question-begging and sheer cloudy vagueness ... [W]ords fall[] upon the facts like soft snow, blurring the outlines and covering up all the details."³⁰

This passage appeared in *Stupak-Thrall v. United States*,³¹ an en banc decision of the U.S. Court of Appeals for the Sixth Circuit that carried no political overtones. The full court remained evenly divided on the question of whether the plaintiffs' riparian rights may count as "valid existing rights" to which U.S. Forest Service regulations are subject under the federal Michigan Wilderness Act (MWA). Dissenting judge Danny J. Boggs criticized his colleagues who favored affirmance of the decision below. "The interpretation of the 'valid existing rights' language in Section 5 of the MWA to mean that [plaintiff] has no rights that the Forest Service is bound to respect is a good example of the distortion of language decried by" Orwell in his essay.³²

PART TWO UPCOMING: ORWELL'S SIX RULES

In the next issue, Part II will present Orwell's catalog of the maladies that plagued contemporary prose, together his six curative rules. To provide a flavor for what will come, here are the rules:

continued

Legal Aid *continued from page 4*

Aid's bankruptcy clinic a success once again this year!

The bankruptcy clinic is an annual event, and is sponsored by the American College of Bankruptcy. During the event, our volunteer attorneys conducted an extensive informational seminar, discussing the intricacies of the bankruptcy process. After the presentation, clients were given the opportunity to meet privately with the attorneys to discuss their specific case and whether bankruptcy was appropriate. As in years past, the clinic was a tremendous success, with all of our clients receiving extensive consultations and, in some cases, full representation in a Chapter 7 bankruptcy filing. Thank you to all who participated in our clinic, and especially the attorneys and volunteers who made it a success!

United Way of Collier County Awards Legal Aid \$100,000

Everyone at Legal Aid Service of Collier County wishes to express their sincere thanks to the United Way of Collier County for graciously awarding a \$100,000 grant for 2014 - 2015. The generous support of United Way of Collier County is critical to sustaining many of the programs and services provided by Legal Aid - services that are relied upon by the poorest, most vulnerable members of our community.

United Way of Collier County works to advance the common good by focusing on the building blocks for a good quality of life - education, income, health, and safety net services. As a United Way partner agency, Legal Aid Service of Collier County works hard every day to advance the common good in our community, ensuring that every dollar from our donors and grantors addresses the immediate needs of our community and delivers measurable results. We are proud of our continuing partnership with United Way and look forward to great success in the coming years!

Orwell *continued from preceding page*

1. Never use a metaphor, simile, or other figure of speech which you are used to seeing in print.
2. Never use a long word where a short one will do.
3. If it is possible to cut a word out, always cut it out.
4. Never use the passive where you can use the active.
5. Never use a foreign phrase, a scientific word, or a jargon word if you can think of an everyday English equivalent.
6. Break any of these rules sooner than say anything outright barbarous.”³³

More about each of the six next time.

* Douglas E. Abrams, a University of Missouri law professor, has written or co-authored five books. Four U.S. Supreme Court decisions have cited his law review articles.

This article was previously published by the Missouri Bar and is featured here with permission by both the publisher and author.

ENDNOTES

¹ George Orwell, *Why I Write* (1946) (“From a very early age, perhaps the age of five or six, I knew that when I grew up I should be a writer.”).

² Christopher Hitchens, *The Importance of Being Orwell*, *Vanity Fair*, Aug. 2012, at 66, 66.

³ George Orwell, *Politics and the English Language*, in *Essays On Language And Usage* (Leonard F. Dean & Kenneth G. Wilson eds., 2d ed. 1963).

⁴ *Id.* at 325.

⁵ *Id.* at 333.

⁶ *Id.* at 325.

⁷ *Id.*

⁸ *Id.* at 332.

⁹ *Id.*

¹⁰ *Id.* at 330.

¹¹ *Id.* at 325, 334.

¹² *Id.* at 327.

¹³ *Id.* at 336.

¹⁴ Richard A. Posner, *Judges’ Writing Styles (and Do They Matter?)*, 62 *U. Chi. L. Rev.* 1421, 1423 n.8 (1995).

¹⁵ Paul Krugman, *Orwell, China, and Me*, *N.Y. Times Blogs* (July 20, 2013).

¹⁶ Orwell, *supra* note 3, at 335.

¹⁷ Felix Frankfurter, *When Judge Cardozo Writes*, *The New Republic*, Apr. 8, 1931.

¹⁸ Letter from Daniel Webster to R.M. Blatchford (1849), in *Peter Harvey, Reminiscences And Anecdotes Of Daniel Webster* 118 (1877).

¹⁹ Orwell, *supra* note 3, at 336.

²⁰ *Id.* at 325.

²¹ 680 F.3d 819 (D.C. Cir. 2012); see Douglas E. Abrams, *Acronyms*, 6 *Precedent* 44 (Fall 2012).

²² *Nat’l Ass’n of Regulatory Utility Comm’rs, Final Brief of Consolidated Petitioners* 48, 2011 WL 5479247 (2012).

²³ *Nat’l Ass’n of Regulatory Utility Comm’rs, Final Brief for Respondent* 24-25, 2011 WL 5479246 (2012).

²⁴ *Nat’l Ass’n*, 680 F.3d at 820 n.1.

²⁵ See, e.g., *Delgadillo v. Astrue*, 601 F. Supp.2d 1241 (D. Colo. 2007) (discussing confusion caused by confusing “attorney fees” and “attorney’s fees” under the Equal Access to Justice Act); Anthony A

Gagliano & Co. v. Openfirst, LLC, 828 N.W. 2d 268, 271 n.2 (Wis. Ct. App. 2013) (“acronyms and initials make comprehension more, not less, difficult”).

²⁶ 2012 WL 5199670, No. 8:08-CV-882-T-17-TGW (M.D. Fla. Oct. 22, 2012).

²⁷ *Id.* * 3.

²⁸ *Id.*

²⁹ Orwell, *supra* note 3, at 334.

³⁰ *Id.* at 333.

³¹ 89 F.3d 1269 (6th Cir. 1996) (en banc).

³² *Id.* at 1292 (Boggs, J., dissenting); see also, e.g., *Grutter v. Bollinger*, 288 F.3d 732 (6th Cir. 2002) (en banc) (Boggs, J., dissenting), *aff’d*, 539 U.S. 306 (2003) (“[W]hatever else Michigan’s policy may be, it is not ‘affirmative action,’” quoting Orwell’s “soft snow” metaphor); *Palm Beach County Sheriff v. State*, 854 So.2d 278 (Fla. Dist. Ct. App. 2003) (quoting Orwell’s “soft snow” metaphor and holding that in applying sovereign immunity, there is no distinction between the “reimbursement” and “recovery” to which the plaintiff sheriff said his office was clearly entitled, and the right to “damages” which sovereign immunity precedent rejected); cf. *Quartman v. Martin*, 2001 WL 929949, No. 18702 (Ohio Ct. App. Aug 17, 2001) (in discussion of probable cause, quoting Orwell essay that “[p]olitical language . . . is designed to make lies sound truthful and murder respectable, and to give an appearance of solidity to pure wind”).

³² Orwell, *supra* note 3, at 335.

Managing work and family

continued from page 10

come through my office door, have a subconscious guilt that hangs with them when they are doing anything.

If they are working, they feel guilty for not being with their kids. When they are with their kids they feel guilty that they aren’t devoting enough attention to their work. When they are eating they are guilty they haven’t put enough time and energy into their fitness. THIS IS MADNESS! You must allow yourself to enjoy what you’re doing at any given time. You must put yourself first and do what you love!

ONLY when you put yourself first, are you really putting your family, friends and colleagues first, because when they interact with you, they are always getting you at your best. You leave a permanent positive mark on them that they carry on with them throughout the day or for the rest of their lives in the case of our children. Fifteen hours of devoted, loving and attentive time with your children per week will make them infinitely better people than 40 hours of distracted, half-present guilt time.

Before you do anything else, put something on your calendar right now that you have been wanting to do. I don’t care what it is, but put it on your calendar, and do not let anything get in the way of you doing it. The whole world will be better because of it.

Alex is the principal attorney at Peterson Family Law focusing on family disputes involving minor children. He is a Baltimore, Maryland transplant and now lives with his wife and boy-girl twins, to whom he affectionately refers, the millionaire’s dream, in Naples.

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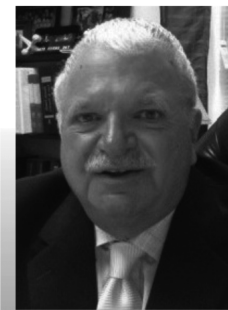
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A graduate of the Syracuse University College of Law, with more than 45 years of experience, Herman Tarnow limits his practice to family and matrimonial law.

He is a Fellow of both the American Academy of Matrimonial Lawyers and the International Academy of Matrimonial Lawyers.

Mr. Tarnow has written articles on divorce tax law and personal property appraisal which have been published in The National Law Journal.



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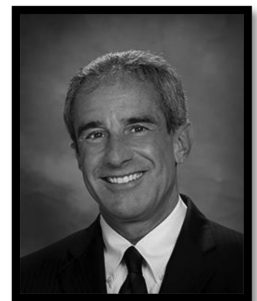
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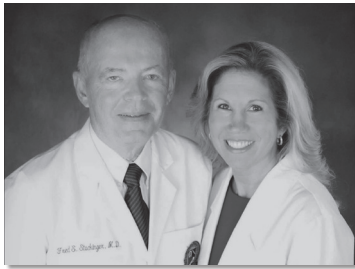


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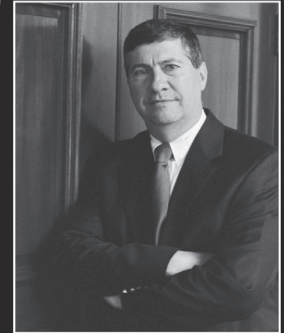
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