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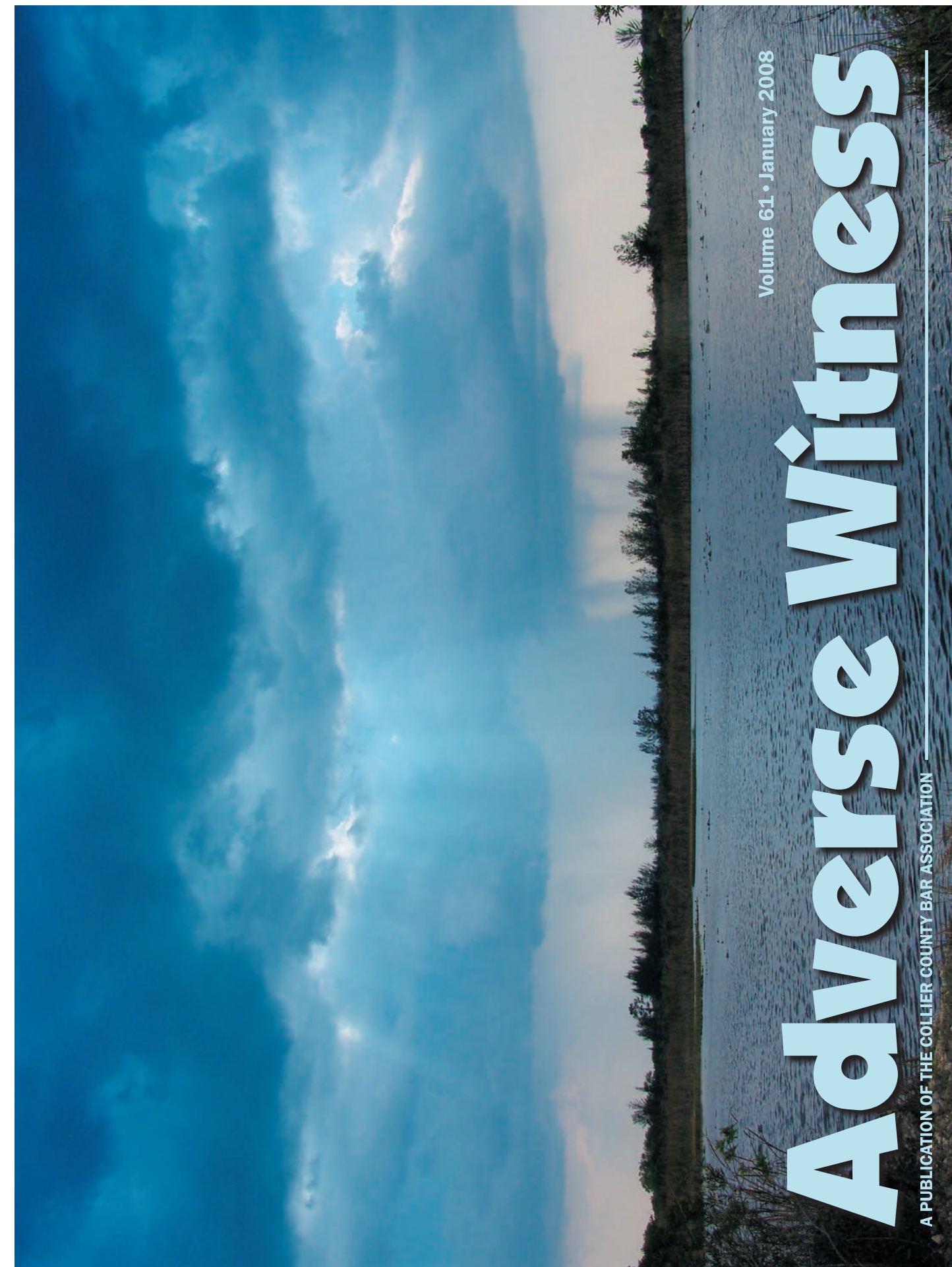
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Adverse Witness

January 2008

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## PRESIDENT'S MESSAGE

By Kathleen Passidomo



### Happy New Year!

It feels like we blinked and 2007 instantly became 2008. January is often bittersweet with remembrances of months past as well as bright hopes for the months to come. Well there is nothing bitter about my memories of 2007. CCBA has had a wonderful year – and 2008 promises to be even sweeter.

When I became President of the CCBA last July, I made two early resolutions. The first was to keep our members informed, which I think most of you will agree that we have been doing. The second resolution was to keep our members involved. The fact that so many of our recent events have sold out is proof that we are doing so.

In order to build upon these wonderful developments we will soon be converting to a new website and database system hosted by Affiniscape, a leader in information technology. We are very excited about the potential of this new system. Besides a cleaner and more modern look, the new site will have a simplified navigation menu for easier searches. Look for announcements about the new website launch very soon.

We have included new features that will give you more information and user-friendly access to everything that the CCBA has to offer. For example, you will be able to read current and back issues of the Adverse Witness with the click of a mouse. Our new job bank will give you the ability to post your own resumes or help wanted ads directly on the site. And our lawyer referral service will feature a link on the site that the public can access. We believe that this will generate more referrals for our members.

While all of this is great, what we are most thrilled about are our new member features. Members will be able to go on the site and update their addresses and other contact information. You will also be able to renew your memberships directly on the site. The new calendar feature will allow you to register for events just by choosing them. And perhaps best of all, you will be able to pay for your memberships and events right there on our secure site. Additionally, members will have the ability to track their payments as well as the listing of events that they have attended at any time.

In order to make this conversion run more smoothly, please make sure that the CCBA offices have your most recent information on hand. The new site will require that we all have new user names and passwords, which will be based upon the information in our current system. Lisa will be sending out information about these new access codes very soon.

As with any new system there will be a period of adjustment, please bear with us as we learn the ropes together. I promise that the results will be well worth it.

I wish you all a healthy and happy 2008.

**CCBA  
has had a  
wonderful  
year –  
and 2008  
promises to be  
even sweeter.**





## Should a small percentage of voters decide the future of your community?

On Tuesday, January 29, 2008 the voters of the State of Florida will be making some important decisions. Members of the various political parties will be determining their nominee for President of the United States. Taxpayers in the State of Florida will be deciding on fundamental changes in the homestead exemption and other property tax issues and residents of the cities of Naples and Marco Island will be electing a mayor and members of city council.

But if recent history is any indication, only a small percentage of those who can vote, will. In the last election held in Collier County, the special election to replace State Representative Mike Davis held in early November, only 8% of the registered voters in Collier and Broward Counties actually voted. That means that 92% of those who could vote, chose not to. In effect, the majority of our population is allowing a small minority of the registered voters to determine the outcome of the elections.

Unfortunately, this is not a unique election for us. Over the past several election cycles, the greater majority of the registered voters in this county have been choosing not to vote and our representatives are being selected by a small minority of those who could. Low voter turnout has become so common place that we seem to be excited when 20% of the electorate actually bothers to vote. This means that 80% of us are regularly choosing not to exercise our right to vote and have our voices heard. Granted, the percentages of voters seem to rise when the election is for Governor or President of the United States, but in the grand scheme of things your local representatives have a much more direct and daily effect on your lives, than the Governor or the President.

You may be asking yourselves, that's nice, but why should I care? The simple fact is that our country was founded as a representative democracy. We the people elect individuals to serve in our government to represent us and our interests. We as individuals do not have the right or the opportunity to vote on every single issue affecting us, so we must choose others to represent our interests. By ignoring our right to choose our elected representatives, we allow small groups with very narrow interests to decide and consequently the interest those officials focus on can be very narrow and not as representative of the interests of the whole community as we would like.

Aside from choosing your representatives, there is another equally important reason that you should care, the opportunity to have your voice heard on important issues. For example, on January 29, 2008, you, the taxpayers of the State of Florida, will vote on an amendment to the Florida Constitution regarding your property taxes. The Florida Legislature has put forth a proposal that will double the homestead exemption and make it portable so that when you move your homestead exemption travels with you to the new property. Currently the homestead exemption is \$25,000 and it is linked to a specific piece of land. These proposed changes can, and will, have a dramatic impact on your property and the means of funding your local governments for years to come. As such it is important that each of us who can vote, educate ourselves on the issue and exercise our fundamental right.

As Attorneys we protect and uphold the laws of the State of Florida and we have a duty and obligation to be informed and be involved in our communities. Moreover, we have an obligation to help educate others and encourage them to exercise and protect their fundamental rights. I urge you to get informed, get involved and most importantly to get out and vote on this, and every, election day.

*By ignoring our right to choose our elected representatives, we allow small groups with very narrow interests to decide.*

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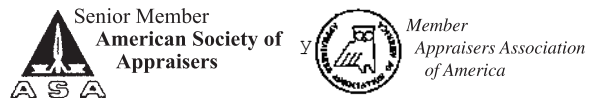
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## FOUNDATION NOTES



By Janeice T. Martin  
Berry, Day, McFee & Martin, P.A.  
Criminal Defense Attorneys

### All are cordially invited ...

It is my great pleasure to submit this article to kick off the publicity for this year's Collier County Bar Foundation Annual BBQ Bash, to be held from 6 p.m. to 10 p.m. on March 8, 2008.

Joe and Lou Stewart have once again graciously agreed to let us use their home as the venue. If you haven't been to the Stewart Compound, let me tell you: it is the perfect setting for a laid-back, all-around great time.

We're going to change a few things from last year. First, we're going to shift from an afternoon to an evening time slot. It is our hope that this will assist those of you who have had conflicts with your kids' schedules in the past. We're also going to slash the ticket price to \$35 per ticket, or \$50 for a pair of tickets. In addition, we're going to take the entertainment up a notch this year. The details are still being worked out, but I can offer this guarantee: you will NOT hear another tired rendition of "Mustang Sally" at this party!

We realize that this event rests smack in the middle of the fundraising gala season. Our intention is to let this be your weekend "off." This is the anti-gala. Trade in that tux for your flowered shirts and flip-flops, and come enjoy food from Fernandez de Bull and great entertainment with (and possibly by ...) your friends and colleagues.

Our primary beneficiary this year will be Legal Aid's Children's Education Rights Project. Many of you may not know that in the past year Legal Aid of Collier County has expanded to include a full-time attorney who helps low-income families with special needs children enforce their rights to a free and equal education.

Each year, the Collier County Bar Foundation works to support local events and charities, such as the High School Mock Trial Competition, where children, education and the law come together. Legal Aid's Children's Education Rights Project is an obvious fit with our mission.

Keep an eye out for more information, save the date, and spread the word to anyone and everyone who might enjoy this wonderful event - everyone is welcome!





## Where is my pretrial order?

Do you find yourself asking yourself, 'Where is my pretrial order?' Habits are hard to break, but Judge Hayes and I have been attempting to break some old habits and set up new procedures that will hopefully lead to more meaningful pretrial conferences and firm trial dates.

Historical references can be helpful, but also unremarkable. Suffice it to say, I found that once I received a Notice for Trial, the parties were still far from being ready for trial. Because of this, I routinely had monthly trial dockets of over thirty-five cases, which led to case management in a very inefficient and time-consuming manner for all involved. The main culprits were the failure of the parties to have completed mediation or arbitration prior to submitting the Notice for Trial. Mass, optional pretrial conferences proved to be a very ineffective use of time for Counsel and the Court to actually put the pedal to the metal and establish some meaningful deadlines and decisions.

I cannot speak for Judge Hayes, other than to say that we routinely speak in an effort to coordinate our systems to provide more uniformity to the civil bar. Each office will still have nuances that apply, so please take your marching orders from Judge Hayes on his cases. We do plan to speak at the Trial Lawyers Luncheon in February, so please plan to attend to share your thoughts and ideas.

With that disclaimer in mind, these are the general procedures that will apply to civil trials:

- Upon receipt of a Notice for Trial, we will send either an Order of Referral to Mediation or Order For Non Binding Arbitration. We will generally select an Arbitrator or Mediator, keeping in mind the nature of the case and locale of the litigants. We also find that it expedites movement on the case to insert the name of an Arbitrator or Mediator. *You are always at liberty to choose your own Mediator or Arbitrator pursuant to the terms of the Order.*
- We generally do not see the case files again unless the parties ask for trial de novo or impasse at mediation.
- At that point I work with Magistrate Studybaker to set an individual pretrial conference wherein definite cut offs can be established and pending motions and a trial date set. If you will note, we have changed some of the language in both the Pre Trial Conference Order as well as the Pre Trial Statement form. The magistrates' office will attempt to

coordinate these conferences with Counsel. The conferences will no longer be optional, but I will allow telephonic appearances, provided that counsel schedules them timely and appropriately. (Not by a frantic call to the Judicial Assistant thirty minutes before the scheduled hearing.)

- Due to the limitation on senior judge days, Judge Hayes and I find ourselves engaged in trial on longer cases. Counsel may have noticed that motion time is scarce. Keep in mind that I do have motion days, but also have trial days. However, when a trial does cancel, I attempt to open up additional motion days, which often leads Counsel to suggest that somehow the court is playing favorites when opposing counsel can obtain earlier hearing time. I can assure you that it is simply a matter of timing and what is available at the time you call, sort of like the lotto. Keep in mind that your efforts to work cordially and cooperatively between yourselves in agreeing to hearing time will make all of our lives simpler. Often times earlier hearing time is available, but not convenient to the litigants.
  - I no longer have the structured trial dockets. Generally speaking I have one long medical malpractice case set each month, with backup trials. So when you appear for your Pre Trial Conference, you will work among yourselves to pick the month most convenient for all. As we all know, cases do settle and we still move through the dockets. However, I now have approximately ten cases set each month as opposed to thirty-five, and the ten are "ready to go". I still try to give day certain trial dates on the shorter trials, time permitting. So please be patient and work with the Court and the Magistrates.
  - Lastly, I still have case management available on the newer cases. Again, I have worked closely with Magistrate Studybaker to work on forms and scheduling. Counsel can request case management in writing or in Court and we will work diligently to provide the Court time necessary to keep your case on track.
- It has been a pleasure to work with members of the civil bar. I find the level of professionalism to be outstanding and that Counsel is very effective and prepared in presenting very technical intellectual arguments to the Court. The notebooks and legal memoranda are very helpful to the Court and I would encourage the continued use of such, as well as the presentation of proposed Orders for the Court's consideration.

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| <b>1 CCBA Offices closed for New Year's</b>   | <b>16 Family Law Section Luncheon</b><br>Ridgway's, 12 noon<br>\$25 members; \$30 non-members |
| <b>4 Trust and Estates Section Luncheon CANCELLED</b>   | <b>25 Compliance CLE Seminar</b><br>The Club at The Strand<br>Details to follow               |
| <b>10 Real Estate Section Luncheon</b><br>Carrabba's, 12 noon<br>\$20 members; \$25 non-members |   |
| <b>11 CCBA Membership Luncheon</b><br>Carrabba's, 12 noon<br>\$20 members; \$25 non-members     |   |

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.

FEBRUARY

- |  |  |
|--|--|
| <b>1 Trust and Estates Section Luncheon</b><br>Northern Trust<br>12:00 p.m.<br>Free to members<br>Bring your own lunch | <b>14 Real Estate Section Luncheon</b><br>Carrabba's<br>12:00 p.m.<br>\$20 members, \$25 non-members |
| <b>5 Trial Lawyers Section Luncheon</b><br>Ridgway's<br>12:00 p.m.<br>\$25 members, \$30 non-members                   | <b>20 Family Law Section Luncheon</b><br>Ridgway's<br>12:00 p.m.<br>\$25 members, \$30 non-members   |
| <b>8 CCBA Membership Luncheon</b><br>Carrabba's<br>12:00 p.m.<br>\$20 members, \$25 non-members                        |  |



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## ANNOUNCEMENTS

The law firm of **Henderson, Franklin, Starnes & Holt, P.A.**, is pleased to announce that **J. Terrence Porter** has joined The Florida Circuit-Civil Mediator Society, a statewide association whose membership consists of Supreme Court certified circuit-civil mediators who have proven experience in the resolution of civil & commercial disputes.

Porter is a state-certified Circuit Court Mediator and a qualified arbitrator. His law practice concentrates in product liability, wrongful death, personal injury and construction litigation. He is also a frequent lecturer at seminars on trial practice and mediation topics.

Porter has been active in community affairs, serving as a member of the school board of Bishop Verot Catholic High School, a member of the Speakers Bureau for Habitat for Humanity and on the advisory council for the Bishop Verot Foundation. He is also a former member and chairman of the Twentieth Judicial Circuit Grievance Committee for The Florida Bar and past president of the Collier County Claims Association.

The law firm of **Henderson, Franklin, Starnes & Holt, P.A.**, is pleased to announce that stockholder **Alane C. Laboda** has recently been named Florida Marketing Chair for the Defense Research Institute ("DRI") Annual Meeting, to be held October 22 through October 26, 2008 in New Orleans, Louisiana.

DRI is the national organization of defense trial lawyers and corporate counsel which provides numerous educational and informational resources to DRI members, and offers many opportunities for liaison among defense trial lawyers, Corporate America, and state and local defense organizations. DRI has an international presence, seeking to enhance understanding of the law among members of the defense community who have reason to be concerned with the expanding globalization of litigation defense.

Laboda focuses her litigation practice in the areas of auto, premises and professional liability, defense of medical and legal malpractice actions, general federal and state criminal defense and civil, white collar and fraud litigation. She is currently a member of the Federal Bar Association, Florida Prosecuting Attorney's Association, Renew's National Council of Women Advisors to Congress, Florida Association for Women Lawyers, Florida Defense Lawyers Association, The Defense Research Institute, and the Judicial Administration and Evaluation Committee for The Florida Bar.

She also presently serves on the Board of Directors for the Lee County Alliance for the Arts and serves on the parent Advisory Board for Lee Memorial Health Systems. Laboda received her undergraduate degree from George Washington University in 1989 and law degree from the University of Miami in 1992.

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**TYLER B. KORN, ESQ.**, Managing Member, is formerly of the international law firm of Paul, Weiss, Rifkind, Wharton & Garrison in New York and is now based in Naples.

His clients include individuals, companies and investors throughout the U.S., Asia and the Caribbean. Mr. Korn has extensive experience in complex tax structuring and reorganizations. He has particular experience in structuring real estate projects for tax efficiency and tax savings. Mr. Korn also actively represents corporate and individual taxpayers before the Internal Revenue Service, Florida Department of Revenue and U.S. Tax Court.

Mr. Korn received his Juris Doctorate from the University of Pennsylvania Law School. He is admitted to practice in Florida, New York, the U.S. Tax Court, and the U.S. Court of Federal Claims.

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## MEET YOUR FELLOWS



### Toni Butler

I am the oldest of 7 children, and grew up in Dayton, Ohio. I moved to Bradenton in 1974 and to Naples in 1995. I started my solo practice in 1996. Law is a second career for me, having graduated from Stetson when I was 38 years old. Before that, I was in sales and marketing for ten years, and my husband and I ran our own window treatment company for 5 years. I concentrate primarily in the area of domestic relations. Legal Aid recognized me as their attorney of the month in December's *Adverse Witness*. I am the Chair of the Family Law Section, and we recently had our annual Family Law Forum at The Club at The Strand. There was a great turnout from both Collier and Lee Counties. I try to bring informative and interesting speakers to our monthly luncheon at Ridgway Bar & Grill, which is held the 3rd Wednesday of every month. We welcome anyone who would like to attend.

Most of my colleagues have known me as Toni Horne for many years. They stood by me and supported me when my husband passed away in 2000. And they stood by me and celebrated with me when I remarried in June 2005. I am eternally grateful for the friends I have in the Collier County Bar, especially the Family Law Section.

Now I have four step-children who range in age from 9 - 23. The youngest ones are easy. The oldest one is very easy. The 17-year-old has me terrified and asking my friends who've been there and done that to assure me that we'll get through it. Also, having step-children makes me "practice what I preach" to my family law clients on a daily basis, and I've learned that it is much easier said than done!

I am a football fanatic. My favorite teams are the Bucs and the Gators - Hurray, Tim Tebow!!! When football season is over, my husband (who tolerates football) and I like to fish and work on one of the many projects we have started around our house.





## Play ball!

The weekend before Thanksgiving, the lawyers and judges played their first (and maybe the last) softball challenge. The idea was Judge Hayes'. Why shouldn't the local judiciary and the CCBA Board of Directors engage in a sports challenge? We played on a Sunday afternoon on the little league diamond at Cambier Park. It was a beautiful day and the Naples Girls' Little League Softball Team was gracious enough to open and man the concession stand for us. The turnout was fantastic. Ten out of fifteen judges showed up, about twenty lawyers and maybe about twenty to thirty spectators including spouses and children.

The judiciary showed up ready to play in their specially made "Hammer Time" T-shirts. They had the tunes flowing, including "Who Let the Dogs Out", courtesy of Judge Murphy's ipod. The judges played hard and well, but they were severely outmatched, even with Judge Hardt belting a home run over the right field fence.

The lawyer team, coached by Bill Hazzard (who also played shortstop), was stacked with talent. Any lawyer who happened to show up with a glove or a bat was allowed to play, including seven directors. At one point we had a batting lineup with at least eighteen players on it, plus Derek Jeter (see below).

I don't think anyone knows what the final score was. We lost count. The lawyers, led by Kathleen Passidomo's power hitting (who knew?), blew the game open pretty early. In fact, the lawyers were so surprised by Kathleen's hitting that we neglected to ask why it is that she has a life-sized cardboard cut-out of Derek Jeter, what was it doing coaching third, and is it true that she keeps it in her bedroom?

Everyone had a great time, even though there were a few pulled hamstrings and at least a few judges who would have preferred that I title this article "Lawyers' Cheat". (I think Kathleen would have preferred, "They May be Judges, but We Rule." At least that is what I heard her shouting during the game.)

After the game, many of us wandered over to McCabe's for refreshments. Thanks to everyone who organized and played! It was a fun afternoon. The word is that the next challenge may involve bowling. The Board, with its secret weapon Ed "Kingpin" Koester, will be ready.



*Kathleen Passidomo and Janeice Martin admire Derek Jeter's form.*



*The line-up, including Jeter.*



*Judge Hayes beats the throw to first.*



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## GUEST EDITORIAL

**By Su Parker, M.D., OB/GYN**  
*A Woman's Place*



## What women need to know

Many women are surprised to find out how prevalent HPV (human papillomavirus) is in the United States. It is the most common sexually transmitted disease in the country and often causes transient infections. For some women the infection can persist and be a factor for the future development of cervical cancer. It is often asymptomatic in males and females but overt lesions such as genital "warts" can occur in some people. This is why it's important to get annual pap smears for women. The screening pap smear has greatly decreased the death rate for cervical cancer in this country. We are able to catch abnormalities before they become cancerous and treat these women. In contrast, cervical cancer is the number-one killer of women in third-world countries.

To date about 100 different strains of HPV have been discovered. They are lumped into low risk strains (types 6 and 11) which are associated with genital "warts," and low grade lesions. The high risk strains (16, 18, 31, 33, 35, 39) can cause low grade to high grade lesions (precursors to cancers), cervical cancer and other genital cancers (vulvar, vaginal, and anal cancers). Low grade lesions and genital "warts" are much less likely to progress onto cancer than the high grade lesions that are more likely to progress onto cancer if not treated. Genital "warts" or condyloma are often described as cauliflower like growths on the anogenital area and are spread by direct contact usually with sexual activity. Although they are cosmetically distressing they rarely are precursors to cancer and can be treated with topical medications, freezing, laser or immune response modifiers (aldara). High grade lesions which are more likely to be precursors to cancer are often treated by excision to obtain a pathology report on the specimen instead of freezing, laser or immune response modifiers.

In June 2006 the quadrivalent HPV vaccine was approved for use in women age 9-26 years old to prevent the development of genital "warts" and HPV related cancer precursors and cervical and genital (vulvar and vaginal) cancers. It is preferable to obtain the vaccine prior to sexual activity but this is not a requirement. It helps prevent HPV infection from types 6,11,16,18. These types are the cause of 70% of cervical cancer worldwide and 90% of genital condyloma. It is given as a series of 3 shots with the second and third dose 2 and 6 months after the first dose respectively. It may not eradicate this cancer but hopefully will put a significant dent in its ability to infect young women around the world.

*Many women  
are surprised  
to find out how  
prevalent HPV  
is in the United  
States.*



**January is Cervical Cancer Awareness month.  
Once a year .... for peace of mind.**





## 2nd DCA celebrates 50th

It began with three judges in Lakeland and a room filled with boxes. Thirty thousand cases and forty-six judges later, the Second District Court of Appeal celebrates its 50th anniversary this year. On October 25, 2007, more than 460 people gathered at the Hyatt Regency Tampa for a banquet commemorating the court's anniversary. Lawyers, judges, and court staff shared stories of the court's history while watching a photo montage of many moments at the court, from the investiture of the first three judges to candid shots of barbeques and holiday parties.

"It was wonderful to see just how proud our legal community is of its appellate court," said Celene Humpries, co-chair of the Anniversary Celebration Committee.

The Honorable Chief Judge Stevan T. Northcutt gave opening remarks followed by the Honorable Judge Chris W. Altenbernd's introduction of the commemorative speaker, retired Florida Supreme Court Justice Stephen H. Grimes. Former law clerk Brandon S. Vesely presented two original paintings of the Lakeland and Tampa branches to the court, which will be displayed in both locations.

The court appreciated the warm outpouring of support from the legal community, which included generous sponsorships from fifty law firms and legal associations.

"It was a very enjoyable evening," said the Honorable Judge Patricia Kelly, who has presided at the Second District since 2001. "Everyone who worked with the Historical Society to put it together should be pleased with themselves. I also have to say that I was surprised by the large number of people who attended the event and am very happy to know our court enjoys that kind of support in our community."

The Honorable Judge E.J. Salcines collected the history of the District Courts of Appeal for a commemorative book presented to all attendees of the banquet. The book tells the story of the creation of the First, Second, and Third District Courts of Appeal, which was in response to an increasing case load at the Florida Supreme Court in the 1950s. As the only court handling appeals from the trial courts, the Florida Supreme Court was forced to schedule oral arguments up to a year in advance to meet its heavy case load. In 1953, the legislature created the Florida Judicial Council to formulate a plan to help the

supreme court. The Honorable Justice Elwyn Thomas, the father of the District Courts of Appeal, chaired the committee that proposed an amendment to the Florida Constitution creating three district courts to assume a portion of the State's appellate jurisdiction.

On July 1, 1957, the district courts began the business of reviewing appeals. The first opinion issued by the Second District, *Andrews v. Cardosa*, 97 So. 2d 43 (Fla. 2d DCA 1957), involved an automobile accident in Tampa.

Including Collier County, the Second District has jurisdiction over fourteen counties near Florida's Gulf Coast. The court holds oral arguments in Collier County every few years. The judges enjoy the opportunity to meet with members of its district outside the Lakeland and Tampa branches. Generally on these visits, the court invites local students to observe oral arguments and answers questions after the conclusion of the docket.

The court calls two locations home - one at Lawton M. Chiles, Jr., Courthouse in Lakeland and the other at the Stetson University Law School Building in downtown Tampa, which is the first and only law school and courthouse to share quarters.

The Second District Court of Appeal Historical Society hosted the banquet. President Henry Gyden said the society was created with the intention to continue collecting the historical legacy of the court in the hopes that it will provide another fifty years of stories at the next anniversary celebration. As the Honorable Judge Chris Altenbernd said at the banquet,

"But this institution is far more than the sum of these funny stories about good people. The Second District, as an institution, has made each of us who has served this court - as judge, staff attorney, employee or lawyer arguing on behalf of a client as an officer of the court -has made each of us strive to be better than the limitations of our human existence. The institution has caused us to obey the rule of law, when we, as humans, wanted to be vindictive or arbitrary or even capricious."

The Second District Court of Appeal sends a special thank you to the following sponsors: Carlton Fields, P.A.; Fowler, White, Boggs, Banker, P.A.; Greenberg Traurig, P.A.; Kynes, Markman & Felman, P.A.

## Fantasy camp

Continued

slowly as Gibson stared at him. Slowing to a walk for the last several steps home, he pointed at Gibson and had a few choice words for him. Once again, the team veterans were horrified because they knew Gibson would get even.

Winfield's third at bat that day lasted all of two pitches. The first fastball whistled toward the ear hole of his helmet as he dove for cover. The second was a knee-high fastball that he jumped over and fell to the ground. The umpire then threw Gibson out of the game. Winfield told us he later learned not to take it all so personally.

### Thursday, November 16, 2006 - Day 4

Disappointment was in the air on day 4 as overnight rain caused both of Thursday's games to be canceled. Instead of playing, half the teams headed to the batting cages while half remained behind in the locker room as the Legends took up positions around the room and told stories from their playing days. I made the rounds and was able to spend a little time with each of the players. When I got the chance, I asked each what their proudest moment was in baseball. My favorite answer to that question came from Johnny Blanchard, one of three hard hitting catchers on the Yankees in the early '60s along with Yogi Berra and Elston Howard. Johnny went straight out of high school into the major leagues and once hit four home runs in four consecutive at bats, two of which were pinch hits.

Johnny did not hesitate when I asked him his proudest moment. He played on the 1961 Yankees team that featured Roger Maris and Mickey Mantle. Maris broke Babe Ruth's single season home run record that season by hitting 61, although the commissioner of baseball decreed that his new record should be marked with an asterisk\* because it was accomplished in the 162-game expanded season whereas Ruth hit his 60 in 154 games. Mantle had 54 home runs that year, making the M&M boys a formidable combination in the heart of the Yankees lineup. Johnny Blanchard told me that he was proud to say, with those two in the lineup, manager Ralph Houk wrote Blanchard's name in the cleanup spot during that 1961 series. He hit two home

runs during that series.

Tommy John told us about managing in the minor leagues after his playing days ended and described the pressure players can find themselves under. He talked about one particular unnamed player he had who went 0 for 15 on his team before being sent down a level. The player complained to Tommy that he didn't feel like he had received a fair chance. Tommy told him that if he had been 3 for 15 he would have gotten 10 more at bats to see if he could play at that level, but the bottom line was that he didn't do his job, and at that level it is a job. Fortunately for that player, he was demoted but performed well enough again to be promoted back up a level and was still playing. Tommy's point was that the minor leagues exist for players to show what they've got, and if you don't do that when the time comes, you might not ever get a second chance.

Mike Pagliarulo played third base for the Yankees in the 1980s, but as he told the story it almost never happened for him. His father was a minor league player and when Mike was selected in the 6th round of the 1981 amateur draft, his father gave him two rules to follow. One was to never start the season in the same place as he began the prior season. In other words, move up every year or get out of the game. The second rule was, never go backwards. If they told you they were sending you back a level, get out. Mike agreed.

After a couple of years in the minors, Mike made it to the Yankees AAA team. The manager, Stump Merrill, called Mike into his office after a game one day and told him that the team was promoting another player to AAA and wanted the guy to get some work in at third base, so they were sending Mike back to the AA team so he would be able to keep playing instead of watching the other guy play each day. Remembering his father's rules, Mike took off his jersey, handed it to his manager and told Stump he was finished playing and heading home. The manager was astounded and told Mike to think about it. That night his phone rang constantly as various people called Mike and urged him to rethink his decision. But, with his father's rules ringing in his ears, Mike stuck to his guns. The Yankees must have decided that he was

serious, because they kept him at AAA while someone else got playing time at third base. A few days later, Mike was called into the manager's office again. This time, the news was better. He was headed to New York and would never return to the minors again. Mike played third base for the Yankees from 1984 through 1989, and later played for the Twins and the Rangers. In all, he logged 1,246 major league games, all the while never going backwards.

Bobby Meacham quickly became one of my favorite players at Fantasy Camp. A soft-spoken guy, Meacham spent six years at shortstop for the Yankees, mostly playing next to Pagliarulo. But it was the stories of the 16 years he spent as a minor league coach, instructor and manager after his playing career ended that I enjoyed hearing about the most. Meacham convinced me that a life in baseball is not necessarily all that glorious. As we talked over lunch on rain-out Thursday, we discovered that we had daughters who were the same age and off enjoying their first years in college. I asked Meacham how it was to have his children growing up while he was off doing his baseball thing, and the answer was, "not easy."

After his playing career ended, the Meacham family moved to Colorado to be near his wife's family. Bobby, however, continued to report to spring training in the beginning of each February and remained on the baseball road throughout the season until the end of September. His visits home during that time were sporadic at best and sometimes his wife and children could meet him in a city on the road. The six years he spent as a roving minor league instructor for the Pirates had him traveling to each of the team's six minor league affiliates on a rotating basis, with a week at home in the middle of each three weeks out on the road. It was the most time he spent at home during a season for 16 years.

**Look for Fantasy Camp to continue in the February issue!**



Fantasy camp

Continued

condition it was that morning. Our chairs were perfectly aligned again as we changed back into our street clothes and discussed the fact that this was just the greatest experience of our lives. We spent the early evening in the hotel bar listening to the Legends tell stories and then headed out to dinner with our coaches to recall the great moments of the day and anticipate what tomorrow might bring.

That night I called home, filled with the excitement of the day. Sara and I had already decided that she and our son Byron would drive to Tampa early Saturday morning to arrive in time for the Legends game, but this week was too good to be true and merited more family participation. Many campers brought their families with them for the whole week. I suggested that missing one day of school wouldn't hurt our boy's chance for a successful life and Sara agreed that they would drive up early Friday morning to be there in time for Friday's camper games. The note to the school would read, "Please excuse Byron. He has an appointment in Tampa."

Wednesday, November 15, 2006  
Day 3

If Tony was expecting me in the batting cage at 7:30, I needed to drive myself to the field ahead of the shuttle bus. Ed, our shortstop, and Butch, our left fielder, were both up for going over early, so we drove together. After I changed into my pinstriped pants and batting practice jersey, I found Tony waiting in the cage as promised. We worked on making solid contact, not rolling over on the ball, and generally using a round bat to hit a round ball squarely. Then, we were off to the morning routine and on to the fields for two more games.

The Bambinos hit their stride that day, winning both games of the doubleheader, beating the Clippers and the Riverdogs to improve to 3-1. The extra work in the batting cage paid off as I went 1 for 3 in the morning and 4 for 5 in the afternoon game. I decided to stretch myself by telling Stan I would catch 3 innings of game one, and was I ever glad I did. In the bottom of the third inning when we took the field, Tommy John popped out of the dugout and said he

would pitch a few innings. So, I took my place behind home plate and actually caught for Tommy John. I told the home plate umpire, a minor league ump making a few extra dollars that week, "I can't believe I'm catching for Tommy John." "It's pretty cool for me too," he allowed. Tommy worked the entire inning after which I shook his hand and thanked him for not making me look bad with breaking balls in the dirt.

I decided to take it easy in the afternoon game and only caught two innings, but what a wild two innings they were. Hits were flying all over the place, a line drive to left with a runner on second among them. Butch grabbed the ball on a hop and fired a strike to Ed at short. Ed turned and fired the relay to home where, inexplicably, I actually found myself with my mask flipped off and digging in to BLOCK THE PLATE! I must have been crazy. Block the plate! What was I thinking? One hundred years worth of knees creaked into position as I crouched to receive the throw. Ed's perfect throw hit my glove with a thud. Every muscle in my body was on high alert for the impact that was sure to follow as I grasped the ball with two hands, lowered my shoulder and shrunk nearer the ground in front of home. Fortunately, the runner rounding third had a lot more good sense than I did. He pulled up about five feet short of home and graciously allowed me to place the tag on him for the out. What a play. Butch to Ed to Bill would remind no one of Matsui to Jeter to Posada, but it was our play at the plate and we would never forget it.

We had our first major injury of the week in the afternoon game that day, but it wasn't a camper who got hurt. Tony was pitching to Big Ed, the Bambinos' slugger, when Ed unleashed a line drive up the middle. It caught Tony on the leg, right below his knee, and he went down like he had been shot. After all those years of pitching batting practice to major leaguers, Tony had been laid out by a camper. Later that evening, we learned that Tony's leg was broken and had been put in a cast.

That afternoon as we cleaned up after the game, the locker room door opened and in walked perhaps the largest man I had ever seen in person. "Hi everybody,

I'm Dave Winfield," the hall of famer announced to the room. "I had some business with the Yankees and they told me you were here so I thought I'd stop by and say hello." Winfield stayed for over an hour, telling stories, posing for pictures and signing autographs. What a treat it was, especially the story of his first encounter with Bob Gibson.

Winfield was a three sport star at the University of Minnesota, drafted in the first round by the San Diego Padres. He reported directly to the Padres after being named the MVP of the College World Series. Soon, the team was in St. Louis and as Winfield was out shopping with his girlfriend, he saw Gibson in a store, reading a magazine. Gibson was the most notorious pitcher of his day, the kind who would not take kindly to rookies or anyone else interrupting him, but Winfield didn't know any better. So, he thought he should introduce himself. Winfield approached Gibson, stuck out his hand and said "Hi, I'm Dave Winfield from the Padres." With that, Gibson lowered his magazine, glowered at Winfield, raised the magazine back up and resumed reading. Winfield was incensed. Gibson didn't pitch against the Padres that series, but Winfield harbored ill feelings and could not wait until St. Louis visited San Diego in a few weeks.

When the Cardinals came to town, Winfield was pumped up but no one knew it. He felt insulted by Gibson, although he later learned that Gibson did not fraternize with anyone, because he might have to throw one into your ribs one day. In his first at bat against Gibson, Winfield quickly fell behind 0-2. Gibson threw a slider over the outside corner and Winfield waved helplessly at it for strike 3. He went into the tunnel beyond the dugout and launched into a tirade, which the veterans on the team could not understand because everyone struck out against Gibson sometime, and none of them knew about the incident in St. Louis. In his second at bat, Gibson again got two strikes on Winfield, but this time Winfield was ready for the slider. When it came, he leaned across the plate and lined it over the wall in right center field. Winfield admits that he rounded the bases rather

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GUEST EDITORIAL



By Norma Henning, Esq.  
Henning Law Firm, P.A.

Invitation to join new section

Dear fellow Collier County lawyers:

Most of us have represented or been opposed to foreign parties – be it in the closing of transactions, litigation or estate planning. In the course of this representation, special issues that affect the outcome of these cases or transactions continually crop up. Foreign clients generally do not know what questions to ask and assume that we understand all the special rules and laws that govern their investments, presence and lives.

Even those of us who have developed a foreign clientele and specialized knowledge in one or two of the areas affecting foreign clients would benefit from the exchange of knowledge and experience – much like the exchanges happening in the various CCBA sections that already exist.

I therefore propose the formation of a new section of the Collier County Bar – a section that will focus on issues relating to the representation of foreign clients. Topics for presentations and discussion could include the following:

- immigration status and visa options;
- taxation;
- international litigation;
- trust and estate issues;
- family (and custody) issues;
- international document traffic;
- domestication of foreign judgments;
- etc... (suggestions are gladly accepted)

Under the CCBA's bylaws, the establishment of a new section requires at least 15 members. I therefore request that anyone interested in becoming a member – either to share expertise or to benefit from the experience of others - please contact me so that I can get an idea of how many of us would be interested in forming this new section.

I hope to hear from many of you.

Norma Henning is the owner of the Henning Law Firm, P.A. in Naples, Florida. She has been representing foreign clients in Collier County for eleven years. She is a graduate of the University of Florida College of Law, Florida Civil Law Notary, Honorary Consul of the Federal Republic of Germany and a member of the American Immigration Lawyers' Association. She can be reached at 239.596.6020.





## Fantasy camp

**Continued from the December issue of Adverse Witness**

The first shuttle bus would be departing for Legends Field at 7:30 Tuesday morning and I had every intention of being on it, even though I drove to camp. I didn't want to miss any of the camp experience. I'm typically an early riser and rarely need to set an alarm, with the lone exception being dark hotel rooms where I tend to sleep like a rock. Not one to take any chances, I developed a fail-safe alarm plan. I called the front desk for a 6:30 a.m. wake-up call, set the hotel room clock radio for 6:30 and set the alarm on my cell phone too, just to be safe.

### Tuesday, November 14, 2006 – Day 2

I woke up at 4:30 ready to play ball, watched Sports Center and read the paper until it was time to go. Quite a collection of campers and players boarded the bus that first morning. Someone stood up and asked how many of us were there for a birthday or anniversary present. Hands flew up all over, including my own. The vast majority of us shared two things in common – wives who knew how to pick an unforgettable gift and a lifelong fanaticism about the Yankees. These were not just your common, every day fans. These were guys who knew who pinch hit for whom in game four of the '78 World Series and other valuable bits of information like that. I was in heaven. The guy next to me on the bus said his wife had only surprised him with the trip the week before, although she had arranged it months in advance. "What about all the mail over the summer?" I asked him. "She hid it and gave it all to me last week," he said. My mind flashed back to the summer spent stretching and I wondered what the week would bring.

The bus pulled unto the players parking lot and let us out beside a tunnel that runs under the stands of Legends Field where the Yankees have constructed the finest Spring Training facility in the world.

The stadium itself, with Legends Field inside (constructed to the exact dimensions of Yankee Stadium in the Bronx) is surrounded by several other picture perfect ball fields, with more down the street at the minor league training center. There were eight teams of campers. Games were played on the surrounding fields and at the minor league complex, with the exception of the Legends Game on Saturday, the grand finale in which each of the camper teams took on the Yankees Legends for a couple of innings inside the main ballpark.

Our group made the walk across the cement floor of the tunnel in silence. It was not lost on any of us that this is the exact route that Jeter and A-Rod, Clemens, Posada, Rivera and the rest must walk each day of Spring Training. For a Yankees fan, this is as great as it gets. The anticipation built as we passed the giant Yankees hat logo banner hanging on the wall and approached a security guard standing in front of the gray double doors that said 'Yankees Only' on them. The guard stood aside to let us through. It was very cool. We made our way down a hallway of painted cinderblock from which are hung a variety of banners containing quotations from famous people. Just before entering the locker room I spotted the banner that reads "I'd like to thank the good Lord for making me a Yankee" – Joe DiMaggio. Me too.

Equipment Manager David Hays greeted us as we made our way into the locker room, a beautiful place unlike any locker room I've ever seen before. Carpeted floors and beautiful stained wood "lockers" awaited, each with a padded Yankees folding chair precisely angled identically throughout the room. "Find your name above your locker," David called out. The teams were grouped together with the Bambinos area in the second row from the door. I spotted my locker with 'Bill Hazzard' printed on a placard bearing the Yankees logo over the top of it. To say that I was in com-

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*Adverse Witness, January 2008*

## Fantasy camp

*Continued*

plete awe of the place is an understatement. Hanging neatly in my locker was my Yankees pinstriped "home" uniform and a solid blue "road" batting practice jersey to wear when the Bambinos were designated as the visiting team, a crisp Yankees hat, blue socks, everything I would need to look the part for the coming week. Then, my eyes fell on the finest baseball bat I had ever seen, its black lacquered finish glistening in the locker room light. Emblazoned on the barrel it said "Bill Hazzard" on the top line and "New York Yankees" right beneath. This bat will never make contact with a baseball. It sits on my Yankees wall at home, up high where no fingerprints can blemish it, covered with autographs from the Legends I encountered that week.

After we became acquainted with the locker room we headed to breakfast under the Adidas tent adjoining the entry tunnel. We would gather there for breakfast and lunch throughout the week. Next for me was a stop in the training room where the professional training staff can stretch, pull and poke every muscle until you feel like you could run a marathon. The trainers' mantra for the week was constant – start out slow and then slow down. Nobody wants to miss the Legends game on Saturday because he went at it too hard on Tuesday. After getting stretched, I headed back into the locker room for the camp tradition called "kangaroo court," a staple of major league locker rooms from time immemorial.

The judges of our court that week were Oscar Gamble, Mickey Rivers and Jim Leyritz. Over the course of the next several days they assessed fines to campers for a variety of infractions that included missing a belt loop, leaving a glove behind, and wearing the wrong color uniform to your game. Almost anything that happened at any time of the day gave rise to a light moment in kangaroo court. The Legends stayed on the lookout for court fodder all week long.

The Bambinos could hardly wait to get started, but there were rules and procedures to review, team pictures to take, and a whole host of preliminaries to get through before we could hit the field. We all agreed that we looked very dapper in our pinstripes, the uniform we wore for our team photos and individual pictures taken that morning. David gave

*Adverse Witness, January 2008*

us the rundown on the laundry procedures, others instructed us on how to get where we needed to be, and finally, after what seemed like an eternity but actually only took until 9:30, it was game time. The Bambinos and three other teams boarded buses to the minor league complex down the street where we would play our first game against the Bats. The training staff beat us there and was out on the field encouraging us to join in the "mandatory" warm up routine. The stretches were very familiar to me and I was feeling as limber as 50 years old would allow. Soon, we paired up to throw the ball for a few minutes before Stan called us over to give us the batting order and our positions.

The games would be played with four outfielders, softball-style, to get us all in the game, and we would bat straight through the batting order of 11 players. Stan said he would switch us around in the field, but if someone was worn out, he should take himself out and send someone else in to take his place. There were other special rules for Fantasy Camp games. Campers could only pitch during the first three innings of a game. After that, someone on the staff took over. Also, if a pitcher walked two batters in an inning, he would be replaced. If a batter walked, someone else took his place on first and he got to bat again. There would be no base stealing and a chalk line beside each base limited the length of the lead you could take should you reach base. Some local college kids were recruited to play catcher for those teams that didn't have one, although they were instructed not to get involved in plays in the field. Stan asked me whether I wanted to take a shot behind the plate and I said I'd like to try a couple innings anyway. With that, the games were ready to begin.

Suddenly, I was twelve years old again, settling in behind the plate. Any apprehension I had about whether I could still catch vanished quickly as balls flew, batters swung, and the umpire called balls and strikes. Over the next four days, I ate, drank and slept baseball with a team of great guys, meeting Legend after Legend, each willing to talk baseball or anything else with us for as long as we wanted to talk. We played a morning game and an afternoon game each

day. I would play two or three innings behind the plate, then take an inning off to rest my legs, followed by outfield duty. Games ran the full nine innings and we got plenty of opportunities to play. The Bambinos took the morning opener, beating the Highlanders 16-5. My pre-camp time in the batting cage paid off as I had 4 hits in 5 at bats.

Unfortunately, lunch slowed the Bambinos down. We got trounced by the Sultans 17-7 and I went 0 for 3, a personal disaster. I did, however, get my first challenging play in the field, a foul pop. Those are always the toughest for a catcher. I jumped up in hot pursuit of the ball toward the first base dugout, settled under it, flipped my mask back toward home plate, and watched the ball cushion gently into my glove. Just like old times. My teammates cheered me on. Life was good and I quietly hoped that the camp photographers, one of whom is assigned to each of the games, got that one. My law practice seemed so far away.

After my third consecutive feeble ground out of the game, Tony, the Yankees ex-batting practice pitcher, was gesturing wildly for me to come over for some personalized instruction. "I can tell you were an athlete, so you are going to understand . . ." he began. But suddenly I was not focusing on what he was saying. Did I hear that right? Did this man, who actually threw batting practice to Reggie Jackson, just say he could tell I was an athlete? Now my mind was racing. Who would I tell this news to first? My wife? My son? My sister? Perhaps I should take an ad in the paper. Then, just as suddenly, it occurred to me that Julie might just be so organized that she has given our coaches a list of catch phrases to use when talking to us. "I can tell you were an athlete" must be right at the top of the page, along with "your swing reminds me of Thurman Munson" and "you run like Mickey Rivers." My mind snapped back to reality in time to hear Tony say "you're rolling your top hand over. You need to keep your right palm up through the hitting zone. Meet me at the cage at 7:30 tomorrow morning and we'll work on it."

After the game the Bambinos returned to the locker room to find it in the pristine

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