

12TH JUDICIAL CIRCUIT NEWS

A few words with newly elected Chief Judge Charles E. Williams

By **CHRISTINA UNKEL**
Maglio, Christopher & Toale, P.A.

It comes as no surprise to the Sarasota legal community to see the Honorable Charles E. Williams elected by his peers to succeed past Chief Judge Andrew Owens as the new Chief Judge of the Twelfth Judicial Circuit.

A familiar and active trailblazer in the Sarasota County Bar Association, Chief Judge Williams has served the



Chief Judge
Charles E. Williams

legal and public community for over 16 years as a judge with remarkable accomplishments and generous dedication of his service and time to local organizations — to name a few: the SCBA Diversity Committee, Booker High School Law Academy, Booker High School Film Academy, and the Florida Studio Theatre. Chief Judge Williams was recently honored as the first recipient of the Poitier Family Award, created to honor those who promote cross-cultural

understanding through film. The award is named for Sidney Poitier, who in 1964 became the first African-American to win an Academy Award.

With his newly elected role as the voice of the Twelfth Judicial Circuit Court, it was due time to have a one-on-one interview with the new Chief Judge and truly get to know the man behind the robe.

Christina Unkel (CU): I would first like to ask you some personal questions that people may not know about you, so to

start out, here is a curve ball. What is your favorite movie?

Chief Judge Williams (CJW): That is a difficult one. I would say *Godfather 2* is probably my favorite movie, as I watch it whenever it is on, although, there is a movie called *Cool Hand Luke* — that Paul Newman was in — that has my favorite character. Paul Newman played Luke, the main character, who was sentenced to a prison in Florida for cutting off tops

See **CHIEF JUDGE**, Page 5

SCBA INSTALLATION DINNER & AWARDS



PHOTO 1: Attorney Todd Kaplan (seated left) received the Distinguished Community Service Award recognizing his legal assistance to the Miracle League of Manasota, which empowers children with disabilities to enjoy “America’s pastime.” Emeritus Attorney David E. Morrill (seated, right) was presented with the Distinguished Service Award for providing nearly 10,000 pro bono service hours through Legal Aid of Manasota. Standing, left to right: Linda Harradine, Legal Aid of Sarasota, Stefan Bunecky,

Awards Committee Chair, Hunter Carroll, President, SCBA, Chief Judge Charles Williams, Christina Unkel, Awards Committee, Doug Cherry, Immediate Past President, SCBA, Cyndi Riddell, Awards Committee (not pictured, Magistrate Deborah Bailey).

PHOTO 2: Diversity Chair Rudy Vazmina (far right) welcomed Richard R. Garland Diversity Scholarship recipients Tamara Williams (seated, left) and Starcee Brown (seated, right) to the Installation Dinner. Standing, left to right: Hunter Carroll, 12th



Circuit BOG Scott Westheimer, Judge Williams, Past President Doug Cherry, Rudy Vazmina.

PHOTO 3: Immediate Past President Doug Cherry presented his President’s Awards to Jennifer Grosso (seated, left) for her leadership and dedication to the success of the YLD and Hagen Brody (seated, right) for chairing Law Week and coaching the Booker High Mock Trial Team. Standing, left to right: Hunter Carroll, Judge Williams and Doug Cherry.

EMPLOYMENT LAW

Utilizing ‘best practices’ in hiring can benefit the firm

By **JOHN M. HAMENT, ESQ.**
Kunkel Miller & Hament

Optimal hiring practices will help ensure that your firm employs the most qualified attorneys, paralegals, administrator, and support staff, including marketing and IT specialists. An especially effective hiring process can provide an advantage to a law firm in this increasingly competitive industry. Discussed below are several hiring best practices that your law firm may want to consider to enhance your hiring process.

Recruiting/Advertising

Careful attention should be paid in determining what means your law firm uses to recruit personnel, so as to conserve resources and maximize results. In addition to traditional means of recruitment, such as

headhunters, employee referrals, newspaper advertisements and job fairs, the Internet now allows employers to easily reach hundreds if not thousands of potential applicants by posting job vacancies on various websites (e.g., careerbuilder), job boards and the like. However, to avoid being inundated with unqualified applicants, ensure that you draft a sufficiently specific and focused job posting, clearly setting forth the minimum requirements for the job. To



John M. Hament, Esq.
Kunkel Miller & Hament

maximize the firm’s ability to attract qualified candidates, it should consider posting job openings on smaller, specialized websites, such as industry-specific sites.

Defining “Applicant”

Formulate an internal law firm policy on what will be considered an “application” by your firm, and thus who will be considered an “applicant.” This will help create an effi-

See **HIRING**, Page 3

FLORIDA SUPREME COURT

Court clarifies apportionment rule in joint proposals for settlement

By **JAIDE BEVERLY, ESQ.**
Williams Parker

The Florida Supreme Court recently decided two cases clarifying the application of section 768.79, Florida Statutes and Florida Rule of Civil Procedure 1.442 to joint proposals for settlement. In both cases, the Court has made clear that apportionment of the settlement amount attributable to each party is required when attempting to resolve the claims of multiple parties.

Section 768.79 governs offers of judgment, and Rule 1.442 provides the procedural mechanism to implement offers of judgment. These rules require settlement proposals to state, among



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Williams Parker

other things: the names of the parties; the total amount of the offer; any relevant conditions; and, in the case of a joint proposal, the amount and terms attributable to each party.

In essence, the way the rule operates is that a party making a good faith, unambiguous offer can recover its costs and attorney’s fees if that party ends up beating its offer by at least 25 percent. While the logic of the rule is to encourage settlement and reduce crowded court dockets, it instead has triggered additional litigation, particularly concerning joint proposals for settlement.

Over the last few years, the rules regarding joint proposals for

See **SETTLEMENTS**, Page 4

SCBA NEWS

Bar Holiday Party to benefit children

The Young Lawyers Division cordially invites all members of the SCBA to attend the SCBA Annual Holiday Party on Dec. 10 at Libby’s L-Bar. The festivities begin at 6 p.m. and last through 8 p.m., and members are encouraged to wear their

best winter white or holiday attire. Please join us for delicious hors d’oeuvres, music, and cocktails!

This year, we will be taking donations for a local charity here in our community, Children First. Children



First serves nearly 600 children, from birth through age 5, at thirteen locations throughout Sarasota County. The children served by Children First come from primarily at-risk, low-income homes. Children First’s mission is to provide these children nutrition services, early education, and healthy nurturing environments. Children First also aims to help parents by encouraging them to set goals and secure a better life for themselves and their families, and Children First helps them achieve these goals through many avenues.

Guests are encouraged to bring a new, unwrapped toy, book, pajamas (size 3 months up to size 6), shoes (sizes 5–10), or blankets to donate to Children First.

So save the date and join us for the festivities! Hope to see you there!

SCBA NEWS

Judge James Parker retirement celebration

Join us as we celebrate the retirement of Judge James Parker on Friday, November 6, 6:00–11:00 pm, at the Turner Arena, 2250 NE Roan Street, Arcadia, FL. A BBQ dinner, live music and heartfelt tributes will complete the evening as we honor a judicial legend. Email scba@sarasotabar.com

BAR ASSOCIATION NEWS

Planning for a smooth transition

For the first time since 1989, the SCBA will have a new Executive Director. This past month, the Board of Directors named **Holly Lipps** as our next Executive Director. Holly is going to be a great leader of the SCBA, and we could not be more proud to have her at the helm. Her first official day will be Jan. 1, but she will be transitioning with **Jan Jung** prior to that time. I would ask that each of you give Holly all of your support and encouragement as the baton is passed into her capable hands.

I again thank **Kevin Bruning** and his Transition Committee, who put much work into organizing our search and then narrowing the field for the Board. Thanks also go to former SCBA presidents **Kate Halvorsen**, **Art Hardy**, and **Sherri Johnson**, and SCBA members **Hunter Carroll**, **Robert Cemovich**, **Chip Gaylor**, and **Jennifer Grosso**, who served on the Committee.

Depending on when this issue of the Docket was mailed, the President-elect of the Florida Bar will either have just visited with us or will be visiting with us soon as you read this. On Oct. 29, **Bill Schifino Jr.** will speak to us about Vision 2016 and some of its components. Additionally, he will talk to us about the upcoming Constitution Revision Commission (CRC). The importance of the CRC cannot be stressed enough — meeting every 20 years, it has the ability to put proposed constitutional amendments directly onto a statewide ballot, bypassing the normal initiative process. Schifino's talk certainly will be enlightening!

Speaking of events, our organization continues to amaze me at the sheer number of events that we put on to help our members. Take the upcoming week of Nov. 2 as an example. On Tuesday, Nov. 3, our Real Property Section is presenting a talk by **David**

SCBA PRESIDENT'S COLUMN



HUNTER W. CARROLL, Esq.
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This is my last opportunity to wish each of you a joyous, safe, and restful holiday season.

Levin on issues that need to be investigated by buyers of waterfront property and that will also touch on topics such as FEMA, compliance, docks, submerged lands, coastal construction, setbacks, and riparian rights. On Wednesday, Nov. 4, the ADR Section will present **Gary Larsen's** talk regarding mediation strategies, managing litigation barriers, and apparently, the tantalizing topic of "Let me just call my boyfriend." Friday, Nov. 6, we are all traveling to Arcadia as the South County Division honors **Judge James Parker** in style at his Rockin' Retirement celebration. With so many events occurring, I urge you to frequent our website (www.sarasotabar.com) to stay updated with all of our latest events.

As a reminder, The Docket is not published in December, so this is my last opportunity to wish each of you a joyous, safe, and restful holiday season. Incredibly, as I sit here in early October, I realize this will also be my final President's Column in 2015.

But what is much more noteworthy than my musings du jour is the fact that this is Jan's last publication. That fact made me wonder how many publications Jan has produced (hundreds). That made me think of how many events she has organized (thousands, if not tens of thousands). And that made me think of how many of our members she has helped (while maybe not infinity, pretty darn close). All of it she has done well and with class.

Thank you, Jan, thank you.

SCBA fielding runners for half-marathon

Over the coming SCBA year, we are going to focus on health and wellness, including physical and mental health, stress relief, work-life balance, and nutrition. We have some great programs planned for the year, starting with a physical health challenge.

The SCBA has organized a group to participate in the **Sarasota Music Half Marathon** on Feb. 7. The Sarasota Music Half Marathon is a 13.1 mile course that winds through Sarasota with live music and entertainment stations along the way. The course has more bands per mile than any half marathon in the country, and the entertainment varies from rock and blues to gospel and jazz, and even a marching band!

The SCBA challenges you to participate in the Sarasota Music

Half Marathon. Our SCBA President, **Hunter Carroll**, has committed, along with members of our SCBA Board of Directors, YLD Board of Directors, and the judiciary. You don't have to run. The course is walker friendly, and allows for a pace of 18 minutes per mile. You can do this. Challenge yourself.

For those with a bit of anxiety about tackling a half marathon, the SCBA has partnered with Fleet Feet and New Balance to develop a training program for our members. Join your fellow SCBA members on Tuesday evenings and Saturday mornings as coaches lead you through the training at whatever level is comfortable for you. This is a great opportunity to get outside, do some physical activity,

See **HALF-MARATHON**, Page 3



JUDGE DEES INVESTITURE

Gathering at the investiture of 12th Circuit Judge Teri Kaklis Dees were, left to right: Ronald E. Witt, Esq.; Sierra Pino, President, Manatee County Bar Association YLD; Andrea M. Johnson, President-elect, Manatee County Bar Association; Judge Dees; Connie Mederos-Jacobs, Florida Association for Criminal Defense Lawyers, Sarasota Chapter; Hunter Carroll, SCBA President; Todd Miller, American Board of Trial Advocates, Sarasota Bradenton Chapter; E. Jon Weiffenbach, Jr., Esq.; and Kerry Mack, President, SCBA South County Division.



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HIRING

Continued from Page 1
cient, manageable process, and may be important in defending against discrimination-in-hiring claims and responding to subpoenas for “employment applications.” Such policies should include: what method(s) of transmission or delivery of the application is acceptable (e.g., online, hand-delivery, faxing, U.S. mail, etc.); whether a resume in lieu of an application is acceptable; deadlines for applications to be received for open positions; whether an application will be considered if there is no opening posted; and how long applications will be held and considered. The employer may also want to include in its policy the various possible communication protocols to be followed when dealing with candidates at different junctures, such as advising when the candidate is no longer under consideration. You may want to integrate some of the elements of your policy into the application form.

Job Descriptions

While not legally required, written job descriptions have proven to be useful tools in the hiring process. To be effective, however, job descriptions must be comprehensive, accurate, and continually updated whenever functions and duties of the job are added, deleted or modified. By using job descriptions in the recruiting/advertising phase of the hiring process, unqualified applicants often winnow themselves out of the process, thereby saving the employer and the potential applicant time and resources. Well-drafted job descriptions not only serve as vehicles for informing an applicant, as well as an employee, of the duties, responsibilities and functions of the job, but can also assist the employer as evidence in supporting an exemption (e.g., administrative) argument in an FLSA action.

The job description can also serve as evidence regarding “essential functions” in support of the employer’s position in an ADA reasonable accommodation lawsuit. It is highly recommended that you have the employees sign and date their job descriptions and retain them in their respective personnel files.

Employment Application/Resume

Customize your law firm’s application form so that it elicits exclusively job-related information that hopefully leads to the selection of the most qualified candidate for the open position. Employers should avoid all inquiries that are not job related, that are illegal (e.g., asking about disabilities), or are otherwise problematic and may lead to discrimination claims. While resumes may be desired and accepted, candidates should still be required to complete an application form — there is a great deal of important information elicited on well-drafted application forms that will most assuredly not appear on a resume. The application form should contain inquiries regarding criminal history, civil history, driving record (if applicable), references, and previous employment. If a job description is used at this stage, consider having the applicant certify (on the application form) whether he/she can perform the essential functions of the job with or without reasonable accommodation. This procedure often causes unqualified applicants to deselect themselves out of the process. A recent court decision also permits the employer to integrate a jury trial waiver into the candidate’s statement section of the application.

Interviews

Productive interviews require diligent preparation by the interviewers. Preparing for the interview of a candidate should entail: review of the candidate’s application form and resume;

Optimal hiring practices will help ensure that your firm employs the most qualified attorneys, paralegals, administrator, and support staff, including marketing and IT specialists. An especially effective hiring process can provide an advantage to a law firm in this increasingly competitive industry.

review of the job description (if any); familiarity with the candidate’s writing sample(s) (if provided); and a customized set of questions that should be posed to all candidates seeking the same position. When conducting an interview, limit the interview questions and discussion to topics and information necessary to evaluate the qualifications of the candidate, and avoid non-job-related and obviously illegal inquiries.

Background Checks/Inquiries

A careful check of an applicant’s background will go a long way to ensure that your law firm hires a qualified candidate, and avoids negligent hiring liability, should the individual go “postal” during his/her employ. You may want to vary the types and extent of background checks depending on the position at issue (e.g., attorney, administrator, legal assistant, etc.) Consider checking: criminal history, civil history, credit history, educational credentials, personal references, prior employers and driving records (if applicable to the position). If outside or third party resources are utilized for any aspect of your background check, ensure compliance with the Fair Credit Reporting Act (FCRA). Employers should also be mindful of recent heightened scrutiny by the EEOC regarding pre-employment background checks. Finally, whenever possible, your law firm should wait until you have received and evaluated all of the background information elicited by your checks before you allow the candidate to start work. Being confronted by a failure to hire legal claim is usually preferred over a wrongful termination claim!

“Conditional” Offer Letters

It is highly recommended that virtually all new hires be provided a “conditional” offer letter. This is a useful, pragmatic tool that sets

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forth the key terms and conditions (e.g., wage rate; start date; position; etc.) of the job offer while at the same time it explicitly “conditions” the offer on several items, such as: positive background check (e.g., criminal history; references; etc.); drug test (if required); and the like. The offer letter should also include a statement reflecting the employment relationship is “at-will” (unless you intend to provide the employee with an enforceable employment contract, i.e., one with a definite term). Such an offer letter should specify a deadline for the return of a signed copy.

SCBA NEWS

HALF-MARATHON

Continued from Page 2
build relationships with fellow SCBA members, and improve your overall health.

For information on the Sarasota Music Half Marathon, go to www.sarasotahalf.com. For information on the training program, visit www.fleetfeetsarasota.com/training/marathon-training. If you have any questions or would like to get involved with the Health and Wellness Initiative, contact Jennifer Grosso at jgrosso@williamsparker.com.

WE VALUE

the power of teams.

For Richard and Jennifer Gans, the Community Foundation of Sarasota County’s value is in bringing like-minded donors, volunteers and causes together. As an estate-planning attorney whose clients need ideas about how and where to give, Richard sees the Foundation as the perfect resource. It is **“right at the heart”** of the community, with deep insight into local issues and challenges. Jennifer values the fact that the Foundation provides information and then anyone can participate. **“It’s up to you how much you give. I like that.”**

Richard and Jennifer Gans



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YOUNG LAWYERS DIVISION

Fond farewell to our leader and friend

I have been saying this all year: **Jan Jung** is impossible to replace, but with **Holly Lipps** selected as our new executive director, we are going to be just fine. Don't panic. This is the last issue of The Docket under Jan's directorship. All members of our bar, and I think especially the YLD members, are grateful to Jan. When I first showed up in Sarasota out of law school, she greeted me at a general membership luncheon with that big smile, and I knew then that I picked the right place to live and work. Whether she realizes it or not, she has impacted all of our lives, and I am deeply grateful that I have been able to work with her over the past few years. Now, this is it. She's leaving. A long overdue and well-deserved retirement. Congratulations, Jan, good luck, you are awesome, we love you, thank you for being you, and thank you for putting up with us. *Zayt gezunt.* Goodbye and be well.

The YLD marches on. Last month, the YLD held a Quick Chat networking event, which was free for our members to attend. Thank you to **Christine Conradis** and the committee for planning this event. It has always been one of my favorites. On Oct. 30, we held our Morning at the Courthouse, which included a professionalism roundtable luncheon at Mediterraneo following a courthouse tour. The Florida Bar YLD awarded our chapter with a grant to hold this event. Thank you to **Robert Young** and the Education Committee for all of your hard work making this come together, as well as **Walt Smith** and Court Administration for their help in organizing this event. I also want to thank all of the judges who were able to participate. Having the opportunity to interact with judges outside the courtroom is invaluable

YLD
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to young attorneys, and your presence and participation are always appreciated.

This month, the YLD has a Second Thursday social event scheduled on Nov. 12 at 5:30 p.m. Check your email for an announcement regarding the location. There are no reservations required for Second Thursdays, and they are open to all members of the bar.

The YLD has been planning an excellent All-Bar Holiday Party, which is scheduled for Thursday, Dec. 10, at Libby's. (To paraphrase Yogi Berra, "No one goes downtown anymore. It's too crowded.") Please check your emails for more details, including the event's important charitable component. Also make your reservations early. In fact, stop reading this and get your reservation right now.

Finally, this is the Holiday Season and the TV tells us everything is supposed to be cheery. I hope that my fellow attorneys will take a moment this season to pause, and read or re-read the local Standards of Professionalism and the Florida Bar Rules of Professional Conduct for inspiration. We should reflect on how we can be more courteous and professional and civil to one other, despite the high-conflict nature of some of our practices. This sometimes may include doing the right thing instead of something else that may make you more money. Remember, you can't take it with you.

If you would like to participate in any YLD programs or be on a program committee, please contact me at adam@portnowlaw.com, or by finding me in line at the new Star Wars movie premiere at the AMC.

FLORIDA SUPREME COURT

SETTLEMENTS

Continued from Page 1

settlement have been confusing, thereby making the proper method for drafting a joint proposal for settlement quite difficult. Examples of proposals that have been invalidated over the years include where: (1) two plaintiffs presented an unapportioned proposal to one defendant (*Willis Shaw Express, Inc. v. Hilyer Sod, Inc.*, 849 So. 2d 276, 279 (Fla. 2003)); (2) one plaintiff presented an unapportioned proposal for settlement to multiple defendants, even though the plaintiff alleged a defendant as vicariously liable (*Lamb v. Matetzschk*, 906 So. 2d 1037 (Fla. 2005)); and (3) one defendant submitted a proposal to two plaintiffs conditioned upon the acceptance of both plaintiffs (*Attorneys' Title Ins. Fund, Inc. v. Gorka*, 36 So. 3d 646 (Fla. 2010)). These decisions demonstrate the lack of clarity that existed as to what was and was not permissible when drafting proposals for settlement. The Court's recent decisions clarify what was previously a confusing area of Florida law.

Audiffred v. Arnold, 161 So. 3d 1274 (Fla. 2015)

In *Audiffred*, a wife brought a negligence action against a driver, and her husband asserted a claim for loss of consortium. In an attempt to avoid the apportionment requirement, the wife alone served a proposal for settlement to the driver, offering to resolve all pending claims brought by the wife and the husband. This tactic is found in cases like *Alioto-Alexander v. Toll Bros., Inc.*, 12 So. 3d 915, 917 (Fla. 4th DCA 2009), where "dismissal of the entire suit" could be made "a condition of the proposal" without "transform[ing] the proposal for settlement into one made by multiple offerors." The Florida Supreme Court, however, disapproved of the

rationale in *Alioto-Alexander* and concluded that although the proposal for settlement was made by a single offeror, it had the effect of a joint proposal. Therefore, the proposal was invalid because it did not apportion the total amount between the two offerors.

Pratt v. Weiss, 161 So. 3d 1268 (Fla. 2015)

Pratt involved a medical malpractice action brought against two hospital companies, which were in form two distinct legal entities but in substance a single hospital entity. The hospital companies served a proposal for settlement on the plaintiff without apportioning the amount between each hospital company. When the hospital companies won at trial and later sought to collect their attorney's fees and costs, both the trial court and the appellate court ruled that apportionment was not required because the proposal was made on behalf of a single hospital entity. The Florida Supreme Court reversed, holding that even though there may have been no "logical apportionment," the proposal was presented by both hospital companies, and therefore it was a joint proposal for settlement. As a result, the proposal was invalid because it failed to apportion the amount offered as required by the statute and the rule.

Conclusion

The big lesson we can draw from these cases is that the Florida Supreme Court strongly abides by the apportionment requirement set out in the rules with respect to proposals for settlement which attempt to resolve the claims of multiple parties. Litigation practitioners would be wise to review outstanding and future proposals to ensure proposals are properly drafted and in strict compliance with the rules' requirements.

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12TH JUDICIAL CIRCUIT NEWS

CHIEF JUDGE

Continued from Page 1
of parking meters. His character becomes the prisoners’ hero and he is my favorite character of all time. I highly suggest people see the movie.
CU: A prisoners’ hero, a bit ironic, I like it. OK, here’s another hard one, favorite food and music?
CJW: Food, easy, anything Thai, as long as it is not too “Thai hot,” meaning no ten chili pepper spicy level, please. Music . . . It is easier to say what I don’t like: Polka music.
CU: What are your personal interests/passions? Apparently not Polka dancing.
CJW: Film and film-making has been my number one enjoyment lately due to my love of film and cinema. I have been fortunate to be a part of some recent films. Education is my passion as well. I do a lot of things with Booker High School in getting them involved in film, theatre and the law. I am also involved with Florida Studio Theatre and their conversation series concerning diversity and race issues. Golf is another, but I don’t play as much as I used to, although I do enjoy playing in scrambles. I am also a history buff and enjoy travelling.
CU: What is your favorite place to travel to?
CJW: My favorite place is Washington, D.C., where I went to college. I love the city, the museums and the history that surrounds it.
CU: You are taking over the role of Chief Judge from past Chief Judge Owens. What was a hallmark of Judge Owens’s time as Chief Judge, in your opinion?
CJW: Judge Owens was a big consensus builder among the judges; he was good at getting all 32 judges on the same page and building uniformity for the same goal.
CU: How is a chief judge selected? How long is the term?
CJW: A chief judge is elected by

one’s peers, the other judges. It can be a run-off election and then the candidates “campaign” to their peers for support in the election. Any circuit judge is eligible to be elected. There is no requirement as to number of years served as a circuit court judge or having served on all divisions. Terms are two years, beginning July 1 of the term, and the chief judge is eligible for re-election for another two-year term. It’s more of a local tradition that after two terms one doesn’t run again for a third term and allows another to serve for a while. However, a past chief judge can still run again in the future if he/she would like to.
CU: What are some responsibilities and duties of the chief judge?
CJW: There are constitutional duties such as reporting to the Florida Supreme Court on the overall status of the circuit, overseeing the judicial budget, assignment of judges and ensuring that the courts are running smoothly. All 32 judges are equal, including the chief judge; it is just that the chief judge has more administrative, day-to-day responsibilities. Outside of constitutional duties, I believe it is incumbent to act as “the face of the franchise” and attend events to give the public a face to the judiciary.
CU: During your term as chief judge, what are some initiatives you will be focusing on?
CJW: We will be emphasizing more alternative dispute resolutions, and ensuring that they are moving forward the way they should be. A focus on some more reforms in the juvenile justice system such as diversion programs. The idea is to help keep juveniles out of the system — yet still keep them accountable for their actions — but avoid the stigma of their juvenile records from enabling them to progress and move forward as adults. Another focus is on a possible veterans’ court. There are

already dedicated veteran initiatives in place, but we are looking to improve the process and services of those initiatives and explore the idea of a veterans’ court. We are also working on a pilot program for homeless people in the system. Judge Quartermaine is spearheading the initiative to create a court that will allow homeless people that are intertwined with the criminal justice system to work their way out of their bad economic circumstances. We hope to have this up and running rather soon.
CU: Are there any ADR services offered by the court that the legal community could or should take advantage of?
CJW: We still have the foreclosure court in effect and are working with USF to make sure this stays on track. There are also “collaborative divorce mediation” services in family law, and we encourage more and more people to use this mediation service. Mediation will also be implemented more in guardianship matters. I see people taking more advantage of these ADR options in the near future.
CU: Anything else you would like the SCBA membership to know?
CJW: I plan on taking advantage of my role as an advocate for the justice system. I would like the members to know my door is open, and always has been open. If anyone who can see some support for the justice system that I should be aware of, or needs assistance with any project from the judges, such as a request from someone in the judiciary to speak at an event, I would like to hear those ideas and requests.
■■■
On behalf of the Sarasota legal community, I would like to thank Judge Owens for his service and dedication as the past Chief Judge of the Twelfth Judicial Circuit. It was and is greatly appreciated. Thank you.

SCBA NEWS

SCF makes it easier to hire paralegal interns

By SUZANNE BECHTOL, State College of Florida, Manatee-Sarasota, and SHERRY EDWARDS, The Edwards Law Firm
Over the last several months, the SCBA Board of Directors has been working with the SCF Paralegal Internship Coordinator to provide a better way for our members to connect with paralegal students interested in serving as an intern (either paid or unpaid) with an area law firm. SCF has updated its web page devoted to the Paralegal Internship program, putting all the information that you need to hire an intern in one place.
Students in the paralegal program at State College of Florida, Manatee-Sarasota, have the opportunity to gain valuable experience by completing an internship with a private law firm or legal services organization. SCF paralegal students complete courses in criminal law, contract law, tort law, civil and criminal procedure, family law, computer skills, and legal research and writing. The internship requires students to work in a legal setting for 150 hours during the semester. They also complete assignments for their supervising instructors. Students locate internship employers just as they would apply for a job. During the internship, the employer completes an evaluation form at the 75-hour and 150-hour point. The terms of employment, including pay, are determined by the employer and intern.
Law firms interested in hiring an intern should contact SCF to be added to the list of potential employers that is provided to paralegal students. To hire an intern, visit scf.edu/Academics/SocialBehavioralSciences/paralegallegalassisting/paralegalinternships.asp to obtain the employer forms necessary to begin the process. Step 1 as an employer is to fill out the Contract/Employer Indemnity Agreement and submit it with the appropriate certificate of insurance. Step 2 is for the intern and employer to work together to develop a Student Learning Plan to set out the learning objectives of the internship. Step 3 is to bring the intern into your office and provide the intern with actual and direct experience. Step 4 is for the employer to complete a Performance Evaluation of the intern. All forms necessary to hire a paralegal intern are available on the website.
Firms interested in learning more about the paralegal intern program may contact the SCF Paralegal Internship Coordinator, Whitney C. Glaser, at glaserw@scf.edu or 345-3776. For more information about the Paralegal Program, visit scf.edu/ParalegalLegalAssisting.

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SOUTH COUNTY DIVISION

In remembrance of our colleagues

James Michael “Mike” Douglass was a Florida cracker born in Tallahassee on June 3, 1947. Mike served his country in Vietnam during 1968 to 1969, and again during 1971 to 1972 as an accomplished helicopter pilot and Army captain. During his service in Vietnam, he was awarded the Vietnam Service Medal, the Army Commendation Medal and the Air Medal (for flying more than 25 aerial missions over hostile territory to extract his Army brothers from enemy fire). Mike was also awarded a Bronze Star with the “V” cluster for heroism and a Silver Star for his bravery in the Vietnam “conflict.” Mike never talked about his service, and he carried a smoldering anger over the treatment of returning soldiers by their countrymen. After his service, Mike entered Stetson College of Law, graduating in 1977. He worked for a firm in Sarasota, where he met his future law partner, **Don O’Connell**. They left that firm in 1978 and came to Venice, forming O’Connell & Douglass, and later joining forces with **Skip Berg** to become O’Connell, Berg and Douglass. Mike was an avid sailor, golfer, and reader. Upon his retirement in September 2010, Mike pursued his dream of having every child be able to read. He was “Mr. Mike” to the students at Englewood Elementary School. When one of his students told him, “Mr. Mike, thank you for teaching me that I can travel anywhere in the world,” tears flowed freely down his cheeks. A literary fund in memory of Mike Douglass, who passed away last August, has been established at Englewood Elementary School. On this Veterans Day, you should remember our very humble local hero, Mike Douglass, and perhaps make a donation to his literacy fund so that his dream of having every child read can

SOUTH COUNTY PRESIDENT’S COLUMN



KERRY MACK, Esq.
The Mack Law Firm

On this Veterans Day, you should remember our very humble local hero, Mike Douglass

become a reality. It is Americans like Mike Douglass who have preserved our freedom, and he is in every way a hero to be especially remembered on Veterans Day and every day. He is buried at Sarasota National Cemetery, where he was interred with the highest military honors.

On Friday, Nov. 6, we will celebrate the career of **the Honorable James S. Parker**, upon his retirement from the judiciary, at the Turner Arena in Arcadia. Please join us for a BBQ dinner and dessert with live music by J.R. Davis and the Highway 41 Bluegrass Band. Reservations are required. Please see the event calendar at www.sarasotabar.com or call me at (941) 475-7966. The cost is \$40 per person, and beer and wine will be available at \$4 each (please bring cash).

And lastly, I absolutely must recognize **Jan Jung**, the Executive Director of the Sarasota County Bar Association for the past 26 years. Although the formal retirement celebration will have already occurred by the time this column is published, Jan will be with SCBA until Dec. 31. What will SCBA do without Jan? Fortunately, there is her daughter, **Holly Lipps**, who has been selected to become Jan’s successor. So before the end of the year, stop by the SCBA office to say goodbye to Jan and welcome Holly as the new Executive Director. This organization has grown and prospered because of the dedication of Jan Jung. Although Holly will have big shoes to step into, she is singularly well qualified to do so. Congratulations, Holly!

Annual Holiday Party at the Courthouse

It’s a tradition to thank the personnel who serve our South County legal community at our Holiday Party at the Courthouse. Invite your staff, and join us at the R.L. Anderson Building, Courtroom J, on Thursday, Nov. 10, from 11:45 a.m. to 1:30 p.m. Enjoy a delicious lunch, while acknowledging your appreciation to court, clerk, and security employees who are always available to help facilitate your legal matters. Reservations are a must, and can be made by completing the attached registration form.

There is no charge to attend. The party is underwritten by lawyers and firms. We thank them for their very generous support.

SCBA NEWS

Community Video Archives recognizes Kimbrough

By **KRAIG KOACH**
Bowman, George, Scheb, Kimbrough & Koach, P.A.

Sarasota County Bar member Robert A. Kimbrough, of counsel to Bowman, George, Scheb, Kimbrough, Koach, & Chapman, P.A., was recently inducted into the Sarasota Community Video Archives (CVA) Hall of Fame.

CVA is a 25-year-old nonprofit with a mission to create a historical legacy by producing, recording, and preserving “living histories” of outstanding Sarasotans who helped shape our community. Through the creation of their video biographies, CVA preserves the history, philosophy, and persona of the special individuals inducted into the CVA Hall of Fame and highlights their varied contributions to making Sarasota the extraordinary place it is today.

Kimbrough was born in Sarasota in November 1933 and has been a lifelong resident of Sarasota. After receiving

his degree from Davidson College, he joined the Army and served as a tank platoon leader in South Korea during 1956 and part of 1957 — he has tried ever since to avoid tents and cold weather. After his military service, Kimbrough returned to Florida, where he married his college roommate’s sister, Emilie, and together they moved to Gainesville, where she taught elementary school and he attended the University of Florida College of Law, receiving his L.L.B. in 1960. Together they have two sons, James and Robert.

When Kimbrough became an attorney, he was the sixtieth member of the Sarasota County Bar. At that time, he describes the local Bar as a close-knit group: “We had Bar meetings which were dinner meetings. They were social occasions as well as business meetings. It was great. There was a camaraderie among the Bar.”

Kimbrough reflected on the way the legal practice in Sarasota has evolved since he began practicing: “There have

See KIMBROUGH, Page 8

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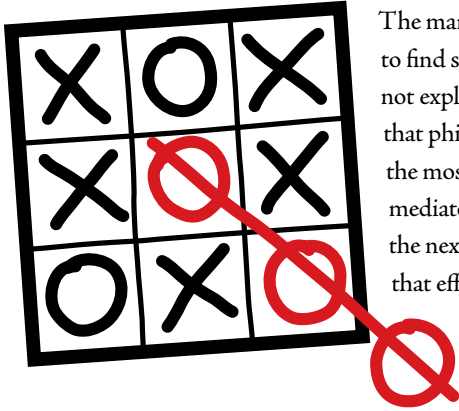
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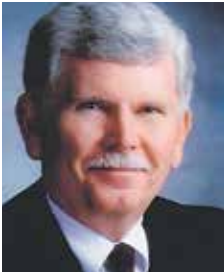
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SECTION NEWS

LABOR AND EMPLOYMENT LAW

CHAIR: **Gail Farb, Kunkel, Miller & Hament**

Employment law guidance workshop for law firms

Hiring the Right Way, Dealing with Employee Attire and Appearance, Employee Social Media Use and Employer Liability, Optimal Way to Discipline and Discharge Employees, Winning Unemployment Claims. If you need an update on these very important issues, plan to attend the Labor & Employment Law Section’s Workshop on Thursday, Nov. 12. Guest speakers include Attorneys **John Hament, Gail Farb, Jennifer Fowler-Hermes, and Kimberly Walker**; 8.5 hours of CLE have been applied for.

ESTATE PLANNING & PROBATE

CHAIR: **Aaron S. Thiel, Esq., PNC Wealth Management**

Disinheritance issues

Note new date, November 10, and new location, The Francis Estate Planning & Probate Section members are in for a real treat on Tuesday, Nov. 10, as distinguished panelists **Beth G. Waskom, Esq., and Richard R. Gans, Esq.,** address disinheritance issues. Moderated by Attorney **W. Russell Snyder**, the panel will explore the history of disinheritance, use of in terrorem clauses, and the standard of care for estate planning lawyers when clients want to disinherit family members. Panelists will site suggested approaches and examples of successful documentation of testator/settlor decision to disinherit, and the session will conclude with an open discussion from attendees concerning their ideas and input.

FAMILY LAW

CHAIR: **Dana B. Keane, Esq., Keane & Keane**

Intersection of bankruptcy, divorce

The Family Law section invites you to join us for “The Intersection of Bankruptcy and Divorce” on Tuesday, Nov. 17, in the Jury Room at the Judge Lynn N. Silvertooth Judicial Center. Attorney Cynthia A. Riddell of the Riddell Law Group will speak about the automatic stay and its impact on dissolution, timesharing, and equitable distribution, the bankruptcy discharge and the exception thereto for debts “that are in the nature of alimony, maintenance, or support,” and attorney’s fees awards and objecting to discharge. With the continuing financial problems many clients today are facing, this is information all family law practitioners need to know. The cost of the seminar is \$25 and includes a box lunch. CLE applied for.

SOLO AND SMALL FIRM

CHAIR: **Patricia C. Meringer, Esq., The Meringer Law Firm, P.L.**

Fall Networking Event

Come join the Solo and Small Firm Section on Thursday, Nov. 19, for our fall networking event. Members will be introduced and practice area information exchanged to develop effective referral relationships. Be sure to bring plenty of business cards.

The evening will include appetizers and complimentary drinks. The event is for solo and small firm attorneys, defined as a true solo or attorney in a law firm with no more than three attorneys. Don’t miss this opportunity to socialize with your fellow bar members.

Solo practitioner **Kate Halvorsen** has graciously offered her building’s foyer for the event and it will be held at Center Pointe, 2033 Main Street. The party begins at 5:30 p.m. Space is limited. Please RSVP early by returning the reservation flyer.

CLERK OF THE CIRCUIT COURT


Confusion arising over fee refunds on vacated property auctions

As the allure of a foreclosure sale continues to entice potential buyers, and the housing market in the area continues to improve, a large number of third-party bidders are bidding on foreclosed properties. Although many of these bidders have purchased properties before, there appears to be a recent influx of first-time buyers who are interested in purchasing a home in the area via a foreclosure auction. This can be a daunting process for someone who has never navigated the route of the online judicial sale.

This scenario has led to an increase in the number of winning bidders who have decided not to complete their purchases, thereby not making the final payment. Although reasons may vary for not completing the sale, some desire to have the bid deposit returned. Since the deposits are nonrefundable, these bidders seek legal counsel in an effort to regain their funds.

The Clerk’s office has processed a variety of Motions and Orders for refunds, and there appear to be inconsistencies regarding what bidders are asking to be refunded. In addition

CLERK’S CORNER



Karen E. Rushing
Clerk of Court and County Comptroller

to the bid deposit for the purchase price of the property, there are requests for fees. In addition to the bid deposit required to participate in an online foreclosure auction, there are three fees: Judicial Sale Fee, Registry Fee, and Doc Stamps.

The Judicial Sale Fee is earned by the Clerk for conducting an electronic sale. This service charge is paid by the winning bidder at the conclusion of the sale, regardless of whether the sale is vacated in the future.

Deposits for participating in a sale are held in trust. However, upon acceptance of the winning bid, the deposit is transferred to the Registry immediately, and accordingly is subject to the Registry Fee.

The Documentary Stamp Taxes are paid on all recordable instruments that transfer real property prior to recordation. If the winning bid is not fully paid, the sale is not completed and a Certificate of Title is not recorded, and thus is not due.

To avoid delay in processing an order to refund on a vacated sale, please do not include the Judicial Sale and Registry Fees.

SUMMARY OF FORECLOSURE AUCTION FEES

FEE	AMOUNT	FLORIDA STATUTE	PURPOSE
Judicial Sale Fee	\$70.00	45.035(3)	For services in conducting the electronic sale
Registry Fee	3% of the first \$500 and 1.5% for each subsequent \$100	28.24(10) 45.035(3)	For receiving money into the Registry of the Court. Upon acceptance of the winning bid
Doc Stamps	70 cents for each \$100 or fractional part thereof	201.02(1)(a)	For the transfer of real property



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NEWS OF NOTE

■ **All Faiths Food Bank** welcomed staff and attorneys from **Boyer & Boyer, P.A.**, who spent an afternoon inspecting and sorting donated food, and then packing it in boxes for distribution to families in need. This was after delivering food they collected at their food drive, and making a donation with funds they raised. September is national Hunger Action Month, when food banks across the country ask supporters to “take action against hunger” and help raise awareness of the issues of hunger locally.

■ **Dunlap & Moran, P.A.**, an AV-rated, multi-practice law firm with offices in downtown Sarasota and Lakewood Ranch, is pleased to announce that **Jessica R. Wright** has joined the Firm as an associate. Wright graduated from Stetson University College of Law in 2010. Her areas of practice at the firm will be Probate, Estate and Trust Administration, Civil Litigation and Business Law. Prior to joining Dunlap & Moran, P.A., Wright was a trial attorney for The Criminal Conflict & Civil Regional Counsel for five years.

■ **Christine Sensenig**, a partner with Hultman Sensenig + Joshi, P.A., spoke in Des Moines at the Insurance Risk Management Institute’s Agribusiness and Farm Insurance Specialist (AFIS) Conference for the sixth year in a row. Christine spoke on the maze of wage payments and minimum wage build-up, the Form I 9, and Guest Worker/H2A compliance issues impacting agricultural employers. AFIS is the foremost professional certification for specialists in agricultural, farm insurance and risk management.

■ **Kelly M. Fernandez** of Persson & Cohen, P.A., has become Board Certified in City, County and Local Government Law. Persson & Cohen represents counties, municipalities, special districts, community associations and private citizens throughout Southwest Florida.

■ Berlin Patten Ebling PLLC is pleased to announce the addition of **Daniel C. Guarnieri, Esq.**, to its team of experienced lawyers. Guarnieri has broad-ranging civil litigation experience, including complex commercial litigation, real property disputes, contract/lease disputes, landlord/tenant disputes, commercial collections, commercial foreclosures, local government representation, construction litigation, and maritime litigation.

■ **Goodman McGuffey Lindsey & Johnson, LLP** is pleased to announce that **Cathi Carson-Freymann** has joined the firm as a partner in the Sarasota office. Her practice focuses on all aspects of insurance and general liability defense, including personal injury defense, premises liability, automobile liability, and insurance coverage disputes.

■ **James O. Fergeson Jr., J. Ronald Skipper** and **Richard R. Gans**, shareholders in the law firm of Fergeson, Skipper, Shaw, Keyser, Baron & Tirabassi, P.A., have been selected by their peers for inclusion in the 2016 edition of The Best Lawyers in America, the oldest and most respected peer-review publication in the legal profession. Fergeson was recognized in the field of Tax Law, and Skipper and Gans for Trusts and Estates Law. Gans was also recently named the Best Lawyers 2016 “Lawyer of the Year” for Trusts and Estates Law in the Sarasota metro area.

IN MEMORIAM



*James R.
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SCBA NEWS

KIMBROUGH

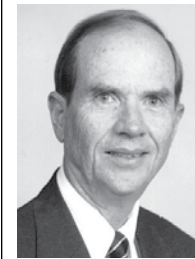
Continued from Page 6

been sea changes in both law and procedure. In the early days, the judge set aside two mornings a week for ex parte probate matters. He was sitting at his desk in his office, not the courtroom, no bailiff, nobody but the probate clerk and the judge. Well, that was wonderful. You learned stuff, sitting there with the other lawyers arguing points of law. It is now all so formal, so distant. You never get closer to the judge than 25 feet away or more. It’s sad in a way but inevitable. Things change in the world and we can’t stop them even though we’d like to.”

Away from his legal practice, Kimbrough has devoted much of his life to civic and community activities, serving such organizations as the Salvation Army, the Kiwanis Club of Sarasota, Plymouth Harbor, Spanish Point, and The Pines of Sarasota.

Kimbrough served on the Sarasota County Bar Association Board for several years in the 1970s and was awarded the Bar Association Distinguished Community Service Award in 2001. However, two organizations have been particularly meaningful to him. First, Kimbrough has been a trustee of the Ringling College of Art and Design for more than 40 years. His father was the first president of the College, and he lived on campus from the ages of 2 to 4 and during World War II, at which time his family rented their home to Army Air Base personnel. The second organization that is near and dear to his heart is what is now known as the Sarasota Orchestra. Kimbrough’s father was a professional musician, his mother was a public school music teacher, and Kimbrough had some early musical training. While in high school, Kimbrough was a clarinetist in the Florida Westcoast Symphony. After he returned from law school, he was invited to become a member of the Orchestra board by David Cohen, who was a founder of the Orchestra, and who served the Orchestra as concertmaster for many years.

Have you or a member of your firm achieved professional recognition? Have you hired a new attorney? Any other news of note? If so, we would like to hear about it. Email your “News of Note” items to scba@sarasotabar.com.



Robert A.
Kimbrough

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The Docket



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