



The Docket

SARASOTA COUNTY
BAR ASSOCIATION
FEBRUARY 2019
VOL. 36, NO. 2

12TH JUDICIAL CIRCUIT

Interview with new County Court Judge Dana Moss



Alix St. Paul, MCBA President, Nancy Cason, SCBA President, and Susan Hines, SCD President, paid tribute to the Honorable Dana Moss at her Investiture Ceremony on January 11, 2019.

Editor’s Note: An interview with Judge Ruhl will be published in a future issue.

Patrick McArdle, Docket Editor

As we enter the New Year, we welcome two new judges to the bench, Judge Moss and Judge Ruhl. This month, The Docket features the following interview with Judge Moss.

Q: So other than being stuck in the parking garage coming here, how has judicial life been thus far?

A: It’s been great. I started on Thursday [January 3, 2019], and in the last few days I’ve had a couple civil trials and criminal. So on the county bench, we’re doing both county criminal and county civil court. So, it’s a nice blend, and most of my experience is in criminal, so it’s been fun adjusting to something

new, the civil.

Q: With a few trials under your belt, what have you seen on the bench that you like so far?

A: So far, I love the lawyers that have come before me. They’ve all been well prepared, and it’s just been pleasant. They’ve been welcoming, and my colleagues have certainly been welcoming in the courthouse and that’s been great. Today we had a large docket, and we had a lot of folks that are scheduled to come in at one time. Sometimes fifty, sixty people come in at 1:30 for their case to be heard. So, my goal is to improve on being efficient, being quick, and get them in and out as quickly as possible, because I know a lot of them are working. They’re parents, they have jobs, they need to pick up children from school, and

See JUDGE MOSS, Page 18

YOUNG LAWYERS DIVISION

12th Circuit Mock Trial Competition set for Feb. 16

By **SARA CASTRO**
Farr Law Firm

The 12th Circuit High School Mock Trial Competition will be held this year at the Judge Lynn N. Silvertooth Judicial Center on Saturday, February 16, 2019. The competition grew in 2018, with six Sarasota and Manatee county schools participating. This year eight high schools will be participating: Manatee High School, Saint Stephen’s Episcopal School, River-view High School, Booker High School, Southeast High School, Manatee School for the Arts, and two new competitors, Pine View School and Invictus Home School Group.

This competition allows high school students to have an unparalleled experience interacting with real judges and attorneys in a courtroom setting that will shape their



Sara Castro
Farr Law Firm

future career path, as well as provide them with valuable skills and public speaking experience. Student teams are already hard at work training for the competition. The students will compete in multiple rounds throughout the day, representing both the state and the defendant in a criminal vehicular homicide case involving high school students and a DUI. The winning team for the 12th Circuit will compete in the statewide competition in Orlando in March.

The Sarasota County Bar Association Young Lawyers Division organizes and oversees the local competition with guidance and resources from the Florida Law Related Education Association Inc., a non-profit, non-partisan organization that develops and implements legal and civic education programs and materials for students K-12 and adults. FLREA Program

See MOCK, Page 17

BAR EVENTS

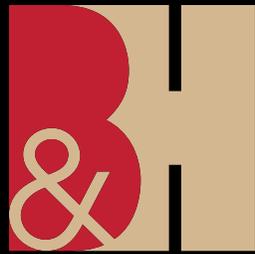
Bagels with the Bench

Looking for a chance to mingle with the 12th Circuit Judges, Judicial Assistants, and other local attorneys? If so, please join us for “Bagels with the Bench” on Wednesday, February 13, from 7:45—8:45 a.m. at the Judge Lynn Silvertooth Judicial Center, 2002 Ringling Blvd., 9th Floor. A light breakfast and coffee will be provided. This event is offered at no cost, however reservations are required. Kindly RSVP to scba@sarasotabar.com.

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/rezəlōōSH(ə)n/ noun. 1. The action of solving a problem, dispute, or contentious matter.
2. Detail you can see. 3. Determination.

**What resolutions can our eleven appellate attorneys
help you reach in the New Year?**

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Your SCBA is back in full swing for 2019!

January was quite a busy month for the SCBA. Last month, our SCBA had the distinct pleasure of hosting over a dozen fun and informative meetings, social activities, and special events, including two heartwarming judicial investitures and a special appearance by a Justice of the Florida Supreme Court!

On behalf of the SCBA, I would like to extend a very warm welcome to our two newest 12th Judicial Circuit Judges: The Honorable Circuit Court Judge **Maria Ruhl** and the Honorable County Court Judge **Dana Moss**, as well as a big Thank You to Florida Supreme Court Justice **Alan Lawson** for making a special trip to Sarasota to speak at January's General Membership Meeting. The theme underlying his presentation, "United We Stand, Divided We Fall," was especially meaningful and timely. As lawyers, now more than ever, we must stand together to preserve the integrity of our beloved profession and find

SCBA PRESIDENT'S COLUMN



Nancy Cason, Esq.
Syprett Meshad Law Firm

new and innovative ways to deliver services to our clients and to our community, while still maintaining a healthy work-life balance. I want this message of "togetherness" to be a theme that permeates all we do, both at work and at home, throughout the year.

This month will mark our very first "Bagels with the Bench" event, which will take place February 13 in the 9th Floor Atrium Room at the Courthouse, from 7:45 to 8:45 a.m. This new event is free of charge to SCBA Members and will be an excellent opportunity for our membership to meet and mingle with our Judiciary before they hit the Bench for the day. Let's show our Judges some love this month by fully supporting this inaugural event with your attendance bright and early in the morning. Yes, I do realize that 7:45 a.m. is a bit early for some, but don't worry, I will be sure that we have plenty of coffee and bagels for all.

On February 5, the SCBA Diversity and Inclusion Council, in collaboration with Embracing our Differences, the Jewish Federation of Sarasota-Manatee County, and the Boxer Diversity Initiative, is hosting "Letters from Anne and Martin," a production written, produced, and directed by the Anne Frank Center for Mutual Respect. Although Anne Frank and Dr. Martin Luther King Jr. lived very different lives, in very different places, in very different times, their iconic messages are strikingly similar, universal, and evoke the timeless message of hope for peace and a more united world. The performance will take place at Temple Beth Shalom starting at 5:30 p.m. We are honored to also have our very own Chief Judge **Charles Williams** lead the audience in a thought provoking discussion after the performance. I strongly encourage all of you to attend this very special night. I look forward to seeing there!

LABOR LAW

Mandatory arbitration: Help or hindrance in seeking fair pay?

By **MARIA D. KORN, Esq.**
*Office of the County Attorney,
Sarasota County*

Mandatory arbitration clauses in employment agreements pertaining to Fair Labor Standards Act (FLSA) wage and hour pay disputes have risen over the last several years. Approximately 23% of non-unionized private sector employees are now subject to express class action or collective action waivers. Employees typically enter into such agreements as a condition of employment or continued employment. Alternatives to individually arbitrating these disputes include enforcement by the U.S. Department of Labor or collective class-based actions, generally in federal court. Low-wage workers in large cities such as Chicago, Los Angeles, and New York are estimated to lose nearly



Maria D. Korn, Esq.
*Office of the County Attorney,
Sarasota County*

three billion dollars in legally-owed wages each year. Some of that amount is due to employees being improperly classified as exempt under white-collar exemptions or working "off the clock," a common but prohibited practice.

The U.S. Department of Labor, state labor departments, and state attorneys general can uncover and obtain recoveries for some violations, but limited government resources hinder those efforts on behalf of employees. According to a recent study, the U.S. Department of Labor investigates fewer than 1% of FLSA covered employers each year and often targets certain industries with frequent violations. Private litigation of the FLSA has become a significant deterrent to bridging the enforcement gap and making employees whole. Employers and some practitioners

See **ARBITRATION**, Page 15

MEMBERSHIP

Welcome, new members!

The following represents each new member's name, law school, year of admission to The Florida Bar, and law firm association.

- **Camile Campagna:** Hofstra University School of Law; 2015; *Dickinson & Gibbons, P.A.*
- **Michael J. Cowgill:** Lewis & Clark Law School; 2018; *Maglio Christopher & Toale, P.A.*
- **Julie Liang:** Stetson University; 2012; *Sarasota County Sheriff's Office*
- **Bill Sterbinsky:** Florida Coastal School of Law; 2015; *Perakis & Sterbinsky, P.A.*



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Introducing Your YLD Board of Governors candidates

At the stroke of midnight on December 15, the application period closed and the slate was set for those who were bold enough to put their name in for consideration for the 12th Judicial Circuit's new Seat 2 for the Florida Board of Governors. On December 31 it was determined who, of those applicants, was eligible to run for the position and in the first few days of January, the candidate's names were released. I am privileged to announce the four candidates that are running for the seat (*in alphabetical order by last name*): **Melissa Casanueva, Warren Chin, Jodi Ruberg, and Tyler Stall**. First, I will give you a brief introduction to each candidate. Then, I will share with you my interview of each candidate. When I interviewed each candidate, I asked them all the same exact questions, so that you, the readers, can compare apples-to-apples.

Melissa Casanueva was licensed to practice in the State of Florida in 2013, and she is an associate attorney at Porges, Hamlin, Knowles & Hawk, P.A., where she practices in the areas of estate planning, wills, trusts and estates, probate law, and elder law. She graduated cum laude from Stetson University College of Law in 2013 with a



Melissa Casanueva

Certificate of Concentration in Elder Law. Melissa has been a member of the Manatee County Board of Directors YLD since 2016, and she is currently YLD President-Elect for the organization. Melissa has chaired or co-chaired the Manatee County YLD's grant submissions and presentations at the Florida Bar YLD Affiliate Outreach Conference in the years 2017, 2018, and 2019. Her presentation in 2017 won the AOC Public Service Project of the Year.

Warren Chin is an associate attorney at Matthews Eastmoore where he practices in the areas of personal injury, wrongful death, legal malpractice, business and commercial litigation, and appellate practice. Warren graduated cum laude from the University of Florida Levin

YLD PRESIDENT'S COLUMN



Erin Itts, Esq.
Itts Law, LLC

College of Law and he was admitted to practice law in the State of Florida in October 2016. During law school Warren was a member of the Florida Moot Court Team, Editor at Large for the Florida Journal of International Law, President of the Association



Warren Chin

for Law and Business, and a teaching assistant for Legal Writing and Appellate Advocacy. He was also a research assistant for UF's Constitutional Law Professor, Darren Hutchinson, and actively participated in drafting "Undignified: The Supreme Court Racial Justice, and Dignity Claims." Since relocating to Sarasota after working in Miami, Warren has become involved with the Sarasota County Bar Association. He is a Board Member for the SCBA's Diversity and Inclusion Council, he participates in the SCBA's Diversity Scholarship Program, and he Co-Chaired the YLD's 2018 Quick Chat committee. On a community level, Warren is actively involved in The Sarasota County Gator Club.

Jodi Ruberg is a 2012 graduate of Florida State University College of Law, and she was admitted to practice in the State of Florida in September 2012. Jodi practices in the areas of complex commercial litigation, Florida Sunshine Law, and probate litigation as an associate attorney at Kirk Pinkerton, PA. After moving back to her hometown area (she is from Englewood) from Orlando, Jodi immersed herself in the community; Jodi is currently a Director of the Sarasota County Bar Association YLD and she serves as Co-Chair of the Social Committee, she is a member of the 12th Judicial Circuit Mock Trial Competition Committee, a member of the SCBA Member Benefits Committee, she is a member of the Sarasota County Chamber's



Jodi Ruberg

Leadership Sarasota and is an associate member of the Judge John M. Scheb American Inn of Court. Before joining Kirk Pinkerton, Jodi was Associate General Counsel for SeaWorld Parks and Entertainment where she managed the litigation of thirteen parks throughout five states.

Tyler Stall is a 2014 graduate of Emory Law School where he also earned a Dean's award in Constitutional Litigation. Tyler is a Sarasota native, so it was a natural move for him to return to the Sarasota area to practice law after he was admitted to practice in April 2015. Tyler is an associate



Tyler Stall

attorney at Hutton & Dominko, PLLC where he practices in the areas of complex commercial and business litigation, trial practice, securities litigation and appellate practice. Tyler is a member of the Sarasota County Bar Association YLD and a member of the Civil Trial Practice Section, and Tyler has been recognized for his outstanding pro bono service to his community for his legal contributions.

Now for the interviews of the candidates...

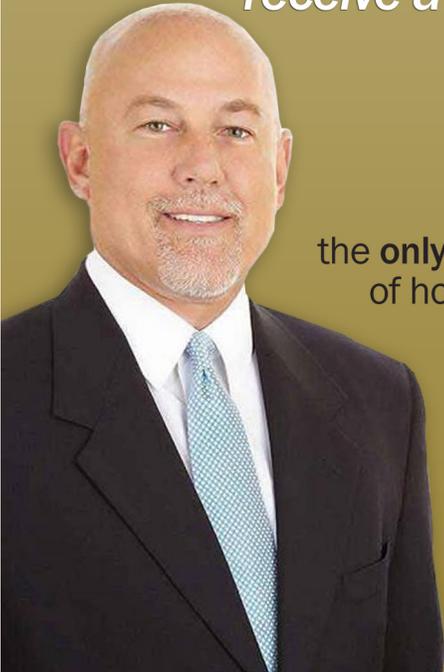
EAI: Congratulations on your decision to run for the new YLD Board of Governors seat for the 12th Judicial Circuit, what made you decide to run?

Melissa: "I have made the Manatee County Bar YLD a priority, and I thoroughly enjoy my involvement and the benefits that come from that involvement. But at this point, I want to bring information and ideas from the state level back to the 12th Judicial Circuit, so that we can grow as a circuit. Further, I believe communication is so important, and if the projects and benefits that are available to the young lawyers of the circuit are communicated to them, we will become stronger as a circuit."

Warren: "I want to give back to the state and give back to our local lawyers, as well as share with others how wonderful our circuit is so that we can bring other young lawyers

See YLD, Page 11

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Wine Social and Sporting Clays events coming soon!

Greetings from South County! We are off to a great New Year here in South County. Although we took a short break from our local bar association activities in January, we are looking forward to two fun, annual events coming up that will allow us to socialize in a casual atmosphere and enjoy time together. We hope you can join us!

On Thursday, February 7, at 5:30 p.m., we invite everyone to our SCD Wine Social hosted at Venice Wine and Coffee. They are located on the Venice Island at 201 W. Venice Avenue. This year's event is graciously sponsored by The Community Foundation of Sarasota County. Thanks to their generosity, all food and drinks will be free for bar members. Please RSVP to the SCBA and plan to come enjoy us for an evening filled with camaraderie, wine, and appetizers.

On Friday, March 1, beginning at 11:30 a.m. we will host one of our most popular and unique bar events, the SCD Sporting Clay Shoot. This year's event will be held again

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Susan H. Hines, Esq.
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Due to the popularity of this event,

Skip has worked with the gun club

to open a fourth course to us this

year — great news as last year

we were bursting at the seams on

three courses.

at the Sarasota Gun Club (Knights Trail Park) and is being sponsored by Englewood Bank and Trust and The Community Foundation of Sarasota County. I would be remiss not to thank **Skip Berg, Esq.**, and **Brian Kessler, Esq.**, (Berg & Kessler) for all of their behind the scenes work to make this event so successful. Due to the popularity of this event, Skip has

worked with the gun club to open a fourth course to us this year – great news as last year we were bursting at the seams on three courses. We also have a new caterer onboard and are looking forward to a wonderful pre-shoot barbeque luncheon of brisket and delicious side dishes!

For those of you have never participated in a Clay Shoot event, I would strongly encourage you to give it a try this year! It really is a lot of fun, and you do not have to be an expert marksman. There are experts on site who will help guide you through the round. Charles and I have taken our family there many times for a fun afternoon together. It has become a bit of a family tradition for us over the kid's winter breaks from school. Whether you are coming on your own, or getting a foursome together for the day, we look forward to seeing you there!

That's all for February. We have more fun events lined up in the months ahead, with details to follow in the upcoming editions of The Docket. Have a great month!

Attorney, get your gun! Sporting Clays Event is about to launch again



The 9th Annual Sporting Clays Event will be held on Friday, March 1, 2019, at the Sarasota Gun Club. Lunch and

registration begins at 11:30 am, and instruction and shooting starts at 1:00 pm. Your registration includes a BBQ lunch, shotgun rental, 50 clay targets, two boxes of ammunition and safety



orientation. If you are a beginner, instruction will be available.

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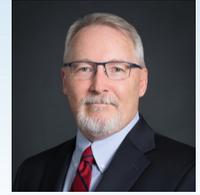
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Best (and worst) moments of 2018 – Part II

By **DOUG CHERRY**
Shumaker, Loop & Kendrick, LLP

In part I of this article (see August edition of *The Docket*), we looked at a few of the best and worst moments/performances in the first half of 2018. Here are a few more to round out the year. **Beware of spoilers!**

THE BEST

■ **Helicopter chase in *Mission Impossible: Fallout*:** Tom Cruise wants to make sure that one thing is crystal clear...he is a bad ass. When the final action sequence converts to IMAX format (watch at home as the screen's aspect ratio expands as he drives up to the helicopter), there is no doubt that Mr. Cruise, not a stunt person, is climbing the rope and piloting the helicopter.

■ **Beach confession in *Roma*:** Director Alfonso Cuarón's (*Gravity*, *Children of Men*) Golden Globe winning masterpiece was so easily accessible on Netflix that there is no excuse to miss it. Mostly personal but occasionally epic (in a manner reminiscent of *Godfather II*), the penultimate scene on the beach is Cuarón at his best...both technically stunning and emotionally gripping.

■ **The floating tall man in *The Haunting of Hill House*:** Episode 4 had the creepiest moment in this (mostly) terrific horror/dramedy, when the youngest son gets out of bed in the middle of the night to see what is knocking around in the hallway. The best jump scare comes later in the series in a scene involving three sisters in a car (and one of the sisters happens to be dead).

■ **Hailee Steinfeld and ILM in *Bumblebee*:** It took several hyper-violent and sometimes perversely psychotic films before the producers figured out that the Transformers movies should be kid-friendly. Using the *Iron Giant* formula, the newest iteration actually has heart (and lots of 80s nostalgia). Most impressive is young actress Steinfeld and George Lucas' visual effect company Industrial Light and Magic's ability to create character interactions that you actually care about.

■ ***Daredevil Season 3*'s prison escape:** I am a sucker for one shot, hard-hitting action sequences. When



Doug Cherry
Shumaker, Loop & Kendrick, LLP

Fisk traps Matt Murdoch in the middle of a prison full of his goons, he has to fight for his life to get out.

■ **A Cover is Not the Book in *Mary Poppins Returns*:** Capturing the magic of a classic like *Mary Poppins* is a monumental task. It was truly delightful to see Walt Disney's spirit channeled, leaving out any hint of irony or parody, in this optimistic sequel. The sequence where the characters enter the magical tureen to fix a carriage and make their way to a stage performance is a superb mix of music, choreography, costumes, and 2D animation, with an added twist of Lin-Manuel Miranda's style to the number.

■ **Sharp Objects mid and post credits:** Those who changed channels before the credits rolled on this excellent Gillian Flynn thriller starring Amy Adams and Patricia Clarkson missed two essential and spine-tingling scenes. Runner-up for most disturbing scenes of the year: *Hereditary*. That just ain't right man.

■ **Miles Morales in *Spider-man: Into the Spiderverse*:** In the same year of *Black Panther*, it was nice to see a biracial character take the spotlight in this stylistically animated superhero blockbuster! A genuinely terrific example of a hero's journey.

■ **"It's all good, man" in *Better Call Saul*:** A central theme of *Breaking Bad* and its spin-off is, despite whatever hope that the audience might have, people do not change. A potentially redemptive moment for Jimmy during the final episode of the season opens a door to a bright

new path for his life. His final line, however, indicates that Jimmy will not change course.

■ ***Isle of Dogs* montages:** Director Wes Anderson's quirky style is at its best in this hysterical and mesmerizing animated tale of a Japanese boy's odyssey to find his lost dog.

■ **The father/son relationship in *God of War*:** Most of you probably won't believe this (and I didn't until this game), but we are now in an era where a video game can create a dramatic narrative that is as emotionally compelling as film.

THE WORST

■ **The pacing of *Bad Times at the El Royale*:** My god was this film boring! A disappointing follow-up film from the director of *Cabin in the Woods*.

■ **Rick Grimes spin-offs after *The Walking Dead*:** Didn't the makers of this show learn their lesson after the backlash from Glenn's fake death?

■ ***Holmes & Watson*:** After *Step Brothers*, it is elementary that another Ferrell and Reilly team up should yield hysterical results. Apparently not the case.

■ **The final episodes of *Jack Ryan* and *The Haunting of Hill House*:** The mostly enjoyable Amazon series *Jack Ryan* set up what could have been a thrilling conclusion, but didn't deliver. Meanwhile on *Hill House*, the show decided to stop being scary in Episode 8 and its feel good conclusion seemed forced and out of place.



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YLD

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to the 12th Judicial Circuit. Also, I have support from my firm, and that is huge. Lamar and Ted, as well as Martin, Judge Carroll, and Margaret were all governors in the past, and they know the time commitment required for mandatory attendance at the in-state meetings and an out-of-state retreat, yet they are still providing their full support. I am grateful.”

Jodi: “I am used to being an advocate; I was on high-school student government, University of Central Florida student government, and I am on the SCBA Young Lawyers Division Board of Directors. I enjoy working for my peers and enjoy being a part of a constant goal towards improvement. I am from Englewood and love Sarasota; I am settled here now and now is the right time for me to work for you.”

Tyler: “Well, the basics, a new seat opened. I decided to run because I want to advocate for our young lawyers on the state level. I look forward to the opportunity to work with The Florida Bar on the state level and get more involved with the leaders and programs on the local level.”

EAI: What would you like the readership to know about you (on a more personal note)?

Melissa: “Outside of law, I love to spend time with my family. I am a very family-oriented person and thoroughly enjoy my 4 year old daughter and 1 year old son.”

Warren: “I am laid back, I like to golf, and I am a big Gators fan, but my whole world is my law school sweetheart and fiancée, Natasha Selvaraj, whom I get to marry on April 27th.”

Jodi: “Like I said, I am from Englewood. I returned to the area from Orlando approximately one and half years ago, which was the best decision that I have made and I absolutely LOVE living in this area. This is home. I love being around my family and friends. I am an outgoing and motivated person, and I like working with people and being a part of the community.”

Tyler: “I am originally from Sarasota. Following law school, I returned to the area and have been working as a litigator, which I love. I was married in February 2018 and

Four candidates are in the running for the 12th Judicial Circuit's new Seat 2 for the Florida Board of Governors. They are Melissa Casanueva, Warren Chin, Jodi Ruberg, and Tyler Stall.

enjoy spending time with my wife. In my spare time, I love tennis and listening to music.”

EAI: What is your platform and/or the issues that you intend to concentrate on during your campaign?

Melissa: “My concentration is on work-life balance and helping young lawyers to realize that there are support systems in place that should be utilized. There are programs and initiatives through The Florida Bar such as Lawyers Helping Lawyers and mentorship opportunities that will help with work-life balance, and I will help educate our young lawyers about the available programs and help them to understand that it is okay to ask for help so that they are more comfortable with the ask. Basically, I want to show how The Florida Bar can help and support the young lawyers of Manatee, Sarasota and DeSoto Counties. The other thing I would like to see is more group involvement, meaning young lawyers getting involved and socializing with other organizations and programs; to learn from each other how we can better our careers and deal with stress in our professions.”

Warren: “I am focusing on diversity and inclusion and cross-organizational support and communication. With regard to diversity and inclusion, I will not only focus on race and gender, but also family inclusion so that we can figure out ways to involve our families in our lives and careers as young lawyers. With the cross-organizational support and communication, this is still another branch to inclusion, and what I mean is that I think it would be helpful to us as young lawyers and young professionals to involve ourselves with other groups and organizations so that we can build cross-referrals and determine a collaborative way to meet our common needs.”

Jodi: “I am focusing on three areas. The first is professionalism. We are young lawyers in a relatively small town, we will likely be working together for years, and we owe it to one another and to our clients to work professionally and well with one another. The second area is community outreach. We as lawyers are in a unique position to help others, and I would like to increase the amount of work we are able to do with local non-profit organiza-

tions. Finally, I will focus on mental health for attorneys. The Florida Bar and the local bar associations have done a great job of making mental health a priority in recent years, and I want to build on this so that we can recognize a potential problem and reach out to offer support. I see us helping in the area of mental health by conducting proper surveys, doing research, offering seminars and CLE's and re-teaching what should be the practice of law.”

Tyler: “I am focusing on open communication among attorneys, as well as health and wellness, both physical and mental. This past year I have spent time working on my physical well being and am feeling so much better that I want other young lawyers to feel better about themselves too if they get physical. Also, I like that The Florida Bar and the local bars are focusing on mental health and we need to build upon this. We need to strive for sound mind, sound body. Next, I would like to work on access to the judiciary for young lawyers. We no longer have the days of building relationships with judges in their chambers, but it would be beneficial to young lawyers and to the practice of law as a whole if we can find better ways for judges and attorneys to be able to get together without the appearance of impropriety. Last, I would like to work on the perception that the community has of attorneys. I would like to do community outreach so that the layperson can have a better understanding about the law and the role that we as attorneys play in the law, and finally attempt to dispel the negative connotation that laypeople often have of attorneys.”

EAI: Why do you feel that those issues are important to the YLD members of the 12th Judicial Circuit?

Melissa: “I think these issues are important because the more support you have, the better lawyer you can be. Beginning as a young lawyer there is definitely a learning curve, but there is no reason to reinvent the wheel. If the support that we as young lawyers have makes us more productive and more efficient, it is a better way to serve our clients and still allow time for the important work-life balance.”

Warren: “Without family, I am nothing and I think that other young
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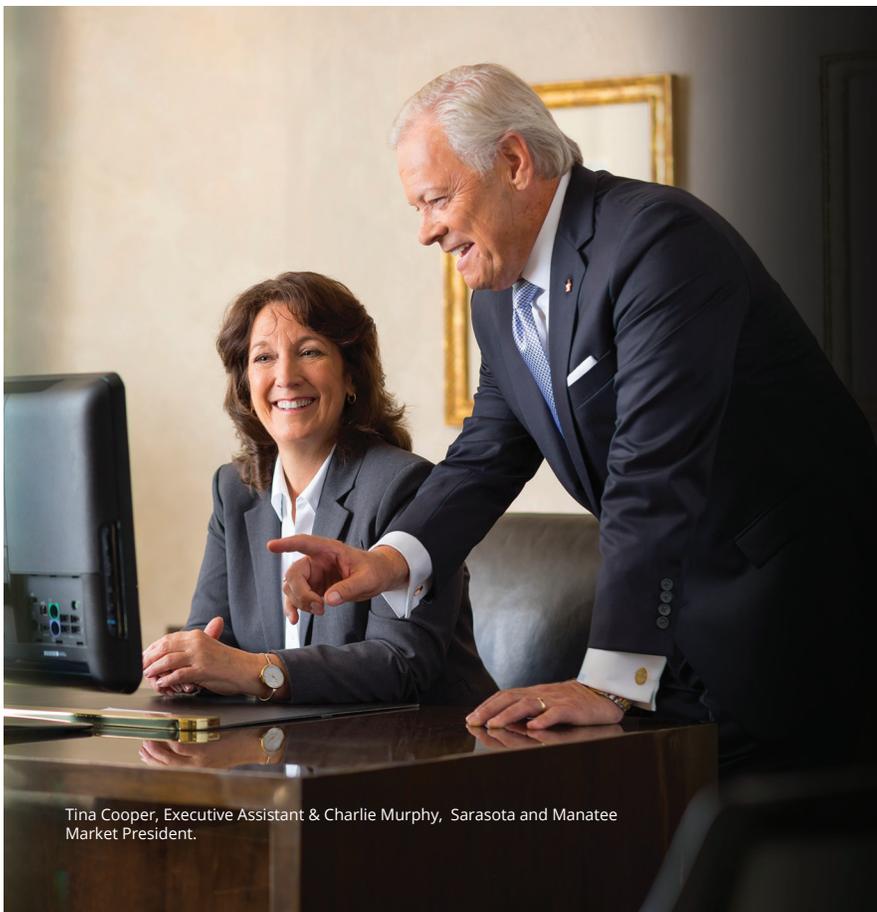
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YLD

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lawyers feel the same way. Also, I am of a diverse background and I would like to see more diversity in the law and within our community, and I would hope that if I am working on the state level while also continuing my work with SCBA's Diversity Scholarship Program and The Sarasota County Gator Club, which provides scholarships to University of Florida students, that perhaps we can use those scholarship opportunities to bring those with a diverse background back to the circuit."

Jodi: "For professionalism, it should be noted that our members are generally great to one another, but as more people come to the circuit and there is less personal contact or knowledge about the attorney across on a case, I don't want professionalism to decrease, so I think the best thing we can do is keep reinforcing it. As for community outreach, I think as young lawyers, those of us that practice in law and not with non-profits, have an intrinsic need to help others, and I want to help provide opportunities to the membership to achieve that intrinsic reward. Finally, with mental health, as a young lawyer, work-life balance is so very important and we need to make sure to stay away from that tipping point."

Tyler: "This Judicial Circuit is still small, but it is growing. At this point, many young lawyers know each other and can still speak candidly and sing from the same song sheet and the better we communicate and the better we get to know one another the easier it will be to work together."

EAI: What, if anything, do you plan to introduce to the YLD Board of Governors?

Melissa: "I really liked the idea of the Technology Roadshow where the Florida Bar put together a program and made it available to affiliates around the state. I would like to take that idea and run with it. For example, I would like to present the idea of creating programs in different practice areas, or that cover topics of interest to young lawyers, and travel around the state to make that program available to young lawyers to help add to their substantive knowledge."

Warren: "I am not planning to

introduce anything right away. I recognize that I will be new there and will need to sit back and learn for awhile and join committees that are of interest to me and of interest to or help the members of our circuit. Then, once I am able to do that and facilitate taking ideas from the state level and bringing them to the local level, then I will perhaps start working to gain recognition for and establishment of additional scholarship programs."

Jodi: "At this point I am thinking more about what I would bring back from the state level to us. I of course will convey on the state level the great attorneys that we have, the professionalism that we share and the fine things that we are accomplishing, but at first, I feel that it is my job to listen and learn then build from there."

Tyler: "I look forward to learning from other circuits and programs on the state level then bringing anything learned back to the circuit so that the 12th Judicial Circuit can benefit."

EAI: What is your goal if you receive a seat on the YLD Board of Governors?

Melissa: "To determine what the needs of our legal community and our young lawyers in our circuit entail then meet those needs by bringing awareness to what is available through the Florida Bar, as well as taking what is available and finding a way to make it even better with the ultimate goal of meeting those determined legal community and young lawyer needs."

Warren: "To try to help people in the 12th Judicial Circuit come together. We all need to realize that we are all in this together, trying to make it to Friday, and knowing this, we should figure out a way to try to help and support one another."

Jodi: "I want to continue to communicate with the leaders of Sarasota, Manatee and DeSoto Counties to learn of their needs and help them to meet those needs and their goals. I will build strong relationships with attorneys on a state level and bring interesting and helpful programs back to our community and the people of our community while at the same time sharing with them programs that we offer that may benefit other circuits around the state."

Tyler: "I will take the wisdom from our circuit and share it with

We are very lucky to have such talented and qualified candidates for the new Board of Governors seat for the 12th Judicial Circuit.

others on the state level, while at the same time learning from other circuits and bringing that information back to our circuit so that we as a circuit can learn and grow. I also want to bridge the gap between law and community and determine a program, or programs, that will take legal skills or involvement and better the community."

EAI: Is there anything else that you would like to share with the readership?

Melissa: "I feel we have a great community of young lawyers and I am happy and privileged to practice law in this community. I want to take what we already have and further it to meet the needs of young lawyers in Manatee, Sarasota, and DeSoto Counties."

Warren: "Immediately once I settled in Sarasota I became active. I am active with the local Young Lawyers Division, as well as the SCBA Diversity and Inclusion Council as a Board Member of the Council and actively involved with The Sarasota Gator Club, and I plan to continue my involvement to best serve the circuit."

Jodi: "I am in a unique position, as I am already serving our local young lawyers in my role as a Director of the SCBA YLD Board. My current involvement will enable me to showcase the qualities of our circuit at a state-wide level, while working to fulfill our unique needs. We are all so lucky to live and work in such a special place, and I am passionate about maintaining our Southwest Florida charm as our area continues to grow. I intend to make you proud."

Tyler: "I am a litigator, I am passionate about my job, in fact I am a nerd about my job. I love to learn all of the time and I am always excited to be around other attorneys of a similar age who are learning and growing together. Whether I am elected or not, I look forward to getting more involved with our Young Lawyers Division."

As you can see, we are very lucky to have such talented and qualified candidates for the new Board of Governors seat for the 12th Judicial Circuit. Every Florida Bar YLD member is eligible to vote for the candidate of their choice. Please take advantage of your opportunity

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The Docket



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ARBITRATION

Continued from Page 3

favor arbitration as being a quicker, more informal, and less expensive dispute-resolution technique. Critics of arbitration question the neutrality of the decision maker and related due process issues. Collective or class action litigation, however, is no longer an option for redress on behalf of those employees required to execute arbitration agreements banning collective or class judicial proceedings.

On May 21, 2018, the U.S. Supreme Court issued an opinion in *Epic Systems Corp. v. Lewis*, 138 S.Ct. 1612 (2018) written by Justice Gorsuch and joined by Justices Roberts, Kennedy, Thomas, and Alito. The Court held that Congress has instructed through the 1925 Federal Arbitration Act that arbitration agreements providing for individualized proceedings must be enforced and neither the Federal Arbitration Act's Savings Clause nor the National Labor Relations Act (NLRA) can defeat the Federal Arbitration Act. Justice Ruth Bader Ginsberg wrote a lengthy dissent in the *Epic* decision, joined by Justices Sotomayor, Breyer, and Kagan, wherein she opined that the Arbitration Act was not enforceable due to the Savings Clause and also conflicts with the NLRA Section 7 concerted-activities provision.

The Federal Arbitration Act's "Savings Clause" allows courts to disregard arbitration agreements "upon such grounds as exist in law or in equity for the revocation of any contract," including fraud, duress or unconscionability. The *Epic* case arrived at the Supreme Court based upon a conflict within circuits that occurred in 2012 after the National Labor Relations Board ruled that an employer violated Section 7 of the NLRA by requiring employees to sign the arbitration agreements waiving litigation class and collective claims in all forums.

Writing for the majority of the Court, Justice Gorsuch ruled that employees and employers should be allowed to agree that any disputes between them will be resolved through one-on-one arbitration. While noting that as a matter of policy, this question is certainly subject to debate, the opinion cites the Court's duty whenever possible to view statutes harmoniously as a

whole rather than at war with each other, ultimately concluding no conflict exists between the Federal Arbitration Act and the NLRA. Justice Gorsuch noted that the NLRA secures to employees the right to organize and bargain collectively but does not directly address how judges or arbitrators must try legal disputes that leave the workplace and enter into a courtroom or arbitral forum. The Court concluded that each federal law enjoys separate spheres of influence and are able to coexist at law fully.

In reviewing the facts of the *Ernst & Young* companion case, the Court further observed that the arbitration agreement allowed the employee, a junior accountant, the opportunity to select the arbitrator provider, who also had the authority to grant any relief that could be granted by a court. The claim involved an alleged FLSA misclassification as a professional employee. Although the agreement provided for individualized proceedings, the employee sought to litigate pursuant to a class action, which drew a motion to compel arbitration filed by the employer. The District Court granted the request, but the Ninth Circuit reversed based upon the "Savings Clause," ruling that the employee's actions to seek redress in court were concerted activity protected under the NLRA. The district court dissent, consistent with the Supreme Court decision, viewed the NLRA as merely applying to protecting unionization and collective bargaining in the workplace, rather than other disputes before judges and arbitrators. The Court also rejected the *Chevron* deference argument raised by the plaintiffs and stated that plaintiffs relied heavily on policy arguments rather than the law.

In a blistering dissent, Justice Ginsburg points out that *Epic* and its two companion cases involve wage under payments pursuant to the FLSA that are small, scarcely meriting individual redress, resulting in wage theft. Only by joining together with others similarly situated can the employees generally find relief. The dissent asserts that the Court has subordinated the employee protective labor legislation of the NLRA to the Arbitration Act. In explaining why the dissent considers the decision to be in

See **ARBITRATION**, Page 17

Oversights can leave clerk's trust deposits in limbo or forfeited

The court registry maintained by the Clerk of the Court holds hundreds of thousands of dollars, all deposited pursuant to law or court orders. These dollars are held in trust until the Court makes a determination as to whom the money should be disbursed to.

Each year the Clerk is required to disburse unclaimed funds to the State that remain in the registry and have been deemed unclaimed as set forth in Florida Statutes. Typically, unclaimed funds result in a check not being

cashed or a return of payment due to the addressee not being found or no such address. So ... a message from the clerk, if you represent someone entitled to money from the registry make sure that the current address is on file.

In addition to unclaimed funds, thousands of dollars remain in the registry without a final decision made on the disbursement of money deposited into the registry even though the cases are closed and are appearing as though all the issues have been resolved.

The following are common examples but do not represent all situations where deposits are made into the registry and the funds remain in limbo in the court registry despite the case being closed. So ... a message from the clerk, if you

represent a party in one of these matters be sure that you address, with the court, any money that has been deposited into the registry.

- **Eviction cases:** Rent is deposited into the registry and remains there until a judicial determination is made regarding disbursement.
- **Foreclosure sales:** In the case where the sale results in surplus funds (successful bid amount exceeds the judgment amount) As of July 1, 2019, a surplus trustee will no longer be appointed to locate eligible claimants pursuant to Florida Statute 45.034.

To ensure that your client receives registry deposits they are entitled to, be sure to ask the court to rule on the matter prior to or at the time the case is being closed.

To avoid having to draft amended orders, contact the Clerk's Office to obtain the correct balance to include in your order. Registry deposits balances are subject to fees and prior disbursements, and it is best to check with the Clerk's office before incorporating into your order.

A deputy clerk will be happy to assist you.

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A small Family Law thought experiment

By Robert Young
Band, Gates, Dramis, PL

As Valentine's Day approaches, I believe a small family law thought experiment is worth keeping in mind. At this time of year, the practice of family law typically experiences an increase in cases. Some of the increase is due to the stresses of the past holiday season. Some of the increase comes from the approaching Hallmark holiday that truly tests how much people are willing to pay to show their feelings for their significant others. In some family law cases, clients are willing to pay an attorney quite a bit of money to show their negative feelings for their significant others. However, this willingness to pay for a divorce rather than a Valentine's Day gift does not necessarily signal the end of a relationship. Elie Wiesel famously said that "The opposite of love is not hate, it's indifference." There are cases in which a client's willingness to pay a retainer for a family law attorney shows a great depth of emotion for their signif-



Robert Young
Band, Gates,
Dramis, PL

icant other that could be used for more constructive purposes, such as marriage counseling.

Pursuant to Florida Statutes Section 61.001(2)(a), one of the purposes of statutes regarding the dissolution of marriage is "To preserve the integrity of marriage and to safeguard meaningful family relationships[.]" It is the responsibility of attorneys who practice under Chapter 61 to keep this purpose in mind when initially meeting clients who are filled with passionate dislike for their significant others. This passion usually signals a meaningful family relationship that is worth salvaging. You may be wondering why this thought experiment is necessary; after all, a client who is ready to pay a retainer for services is always a welcome sight in the world of private practice. But it is worth keeping in mind that a client who is so passionately against their significant other is still acting out of passion instead of rationality. It is all too common for that passionate client to turn against their attorney who was hired to feed their hurt and

anger when their case does not progress the way they intended. Chapter 61 is designed to remove the hate from the process of divorce, and parties who are singularly focused on using divorce for hateful ends are often ready to use it against anyone who stands in the way of their goal of hurting the other party, which can include their own attorney. In my experience, there is not enough money to adequately compensate for the aggravation in dealing with an angry, irrational client.

So, during this Valentine's Day holiday, whether or not you practice family law or have any interest in doing so, it is very likely that you will meet people who will be in the throes of hatred instead of love. Just keep in mind that the passion that fuels both of these emotions is cut from the same cloth. It could be that your encouragement to those people to channel their passion to constructive ends will have a positive influence, not only on those you meet, but on the family law attorney that person may ask for help from in the future. We appreciate your help.

SCBA NEWS

Improvements in technology within the Bar

By Jason Gaskill, Esq.
Adams and Reese, LLP

If you attended a general membership meeting last year, you may have noticed the presence of a camera filming the event. Under the vision of Chip Gaylor, a Technology Task Force was formed to investigate use of technology within the Sarasota County Bar Association to enhance membership experience and ease burdens on members with regard to participation and meetings. During the prior bar year, the Technology Task Force discussed a number of potential technologies that might be implemented as part of the membership/leadership activities. Under Nancy Cason, that work continues.

One of the primary targets for technology implementation was to address the possibility of virtual meeting attendance. During

our investigation, we were able to successfully broadcast general membership meetings to a remote viewing site in South County. This allowed for a few volunteer South County members to view the meetings without having to make the journey north to the general membership meeting sites. Through a number of test runs, the Technology Task Force identified a video conferencing service to facilitate the broadcast and ultimately invested in video hardware to improve the overall feel and experience for the remote user. We now have the ability to both broadcast and capture quality video and audio at meetings.

The next step in this technology movement is implementation. With the hardware and software capabilities in place, we will be investigating use of these tools to capture general membership meetings, section meetings, and



Jason Gaskill
Adams and
Reese, LLP

other events. Ultimately, the intent is for the tools to be implemented to record CLE programs for later viewing and to permit remote viewing of specific events. The Technology Task Force will continue to investigate implementation options over the next bar year.

In addition to capturing and broadcasting meetings, the video conferencing software we have investigated has even broader applications within the bar association. For example, the Technology Task Force has used the video conferencing software to hold the Technology Task Force meetings. This allowed the entire team to meet from our respective desks without the need to travel to each other's offices. Our intent is to make the video conferencing software available to each of the sections and committees to facilitate easier

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■ Williams Parker is pleased to announce partner **William M. Seider**, a Florida Bar board certified Real Estate attorney, has achieved an additional Florida Bar board certification in Condominium and Planned Development Law. He is one of three attorneys in Sarasota to hold both designations.

■ Williams Parker is pleased to announce president **Ric Gregoria** will present a tax seminar on the 31st Forbes Cruise for Investors, hosted by Steve Forbes.

■ **Whitney C. Glaser** is pleased to announce the opening of the Law Office of Whitney C. Glaser, PLLC. Ms. Glaser practices in the areas of estate planning, wills, trusts, guardianship, and probate. Ms. Glaser has been practicing law in the Sarasota/

Manatee area since 1995. The firm is located at 3027 Manatee Avenue West, Suite A, Bradenton, FL 34205. Telephone is (941) 241-8266. Email is whitney@whitneyglaserlaw.com. Website is www.whitneyglaserlaw.com.

■ The law firm of Shumaker, Loop & Kendrick, LLP, is pleased to welcome **Scott J. Kalish** to our Sarasota office as an associate in the Litigation practice.

■ Shumaker, Loop & Kendrick, LLP is pleased to announce that Sarasota Associate **Brett Henson** presented on the topic of “Dispute Resolution for Design Professionals and Construction Specifiers” at the monthly meeting of the Construction Specifications Institute (CSI) Suncoast Chapter on January 8, 2019.

ARBITRATION

Continued from Page 15

error, Justice Ginsburg cites the extreme historical imbalances in the workplace in the late 19th and early 20th century before the NLRA, and reflects upon the enactment of collective bargaining legislation to achieve better pay, shorter workdays, and safer workplaces. She notes employers’ early responses via employer tactics such as “yellow dog” contracts, a device which required as a condition of employment an agreement to abstain from joining a union. Such agreements were initially protected by the courts under the right to contract. Later, in the 1930s, the Great Depression shifted attitudes in favor of protecting associational rights, eventually defeating “yellow dog” contracts and other coercive employer practices.

Justice Ginsburg emphasized that Section 7 of the NLRA guarantees employees the right to engage in concerted activities for mutual aid or protection in addition to the right to self-organize and collective bargain. Her dissent claims that the Court is now obliging employees to sign contracts stipulating that wage and hour claims must be submitted on a one-on-one basis to arbitration, often foreclosing their recovery of unpaid wages and overtime otherwise available in a collective or class action. Such a result arguably

deprives them of the right to mutual aid and protection. The employees are prevented from acting together to improve their lot as was intended by the passage of the NLRA, which has been broadly interpreted by both the National Labor Relations Board and federal courts. The dissent rejects that the Federal Arbitration Act provides any emphatic direction to enforce arbitration agreements which are not bilateral in nature and required for continued employment.

Although the *Epic* decision is clearly a win for arbitration of FLSA claims, there is still room for debate regarding the value to employees and employers of the arbitration process. Litigants are generally guaranteed due process and a fair judge. Arbitration, while usually less costly, is viewed with additional uncertainty. In most union forums, the parties select the arbitrator together and have some joint authority regarding the process. With non-union shops, the employer may control the choice of the decision maker. Costs may also be an issue if the dispute occurs in more than one forum. As a practical matter, labor and employment practitioners should consider the potential costs in both time, money, and morale when considering whether or not to mandate these agreements. When selecting an arbitrator, attorneys should carefully review their qualifications and seek individuals they believe can be impartial.

TECHNOLOGY

Continued from Page 16

participation by the membership.

Thank you to the Technology Task Force members — **Doug Cherry, Scott Westheimer, Frank Malatesta, and Brady Sharrer**. And a special thank you to **Robert Lincoln**, whose knowledge and efforts to the Technology Task Force made our current accomplishments possible. If you have any interest in contributing to the Technology Task Force or suggestions for technology to be considered, please contact me at jason.gaskill@arlaw.com.

MOCK

Continued from Page 1

Director Erin Watson oversees and coordinates the high school mock trial program statewide. A large team of volunteers also come together each year to make this event possible, something for which we are very grateful. Attorneys, teachers, judges, paralegals, and many others take time from their busy schedules to assist with the day of the competition. Attorney coaches and teachers make the biggest time commitment, beginning their preparation many months ahead of the competition to coach the student teams. This year’s Young Lawyers Division committee members organizing the event are Sara Castro, Vivian Bastawros, Yuliya Swain, and Jennifer Hicks. The Farr Law Firm is sponsoring the event, among other sponsors to be announced leading up to and at the competition.

Please contact Sara Castro at scastro@farr.com if you are interested in volunteering on the day of the competition to act as a scoring judge. Scoring judges sit in the jury box and evaluate the participants during the trial, providing feedback on a standard rubric. Depending on the timing, jurors sometimes have the opportunity to provide verbal feedback to the students. No preparation ahead of the competition is required! Just arrive at your scheduled time. The average time commitment is two hours and each volunteer may choose their preferred time of day. More involved roles are available as well.

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JUDGE MOSS

Continued from Page 1

they don't want to sit there all day.

So, my goal is just to get moving quickly and get people in and out and be efficient. But still have their day in court and feel like their case was heard and they had adequate time spent with the judge reviewing their case.

Q: So, in your previous life as a lawyer, when you were looking at the bench, what things did you admire in the judges you saw, and what are you trying to take with you onto the bench?

A: I always respected the judges who were courteous and demanded that everyone in the courtroom be courteous as well. The judges who were professional: I think they set the tone for the courtroom, so when a judge is professional, courteous, well prepared, studies the law, it just sets the tone. And I think lawyers come in and mimic what is there.

I've always loved the judges. When I first started out, there were some judges, I liked to refer to them as teaching judges, where they take every opportunity they can to help educate lawyers while still staying within their role as a judge as well. And I always appreciated judges who held us accountable. Some of the judges will give little pop quizzes. "Well, what does the law say on this?" Again, it was a way of making the attorneys be accountable. But I think it's a great way to help shape and groom young lawyers just starting out, especially the ones that start at the state attorney's office and public defender's office, and they may go out and start working for civil firms or start their own practice. They're going to get their foundation in that courtroom, and I think if it's a good solid judge with good disposition, good temperament, and encourages professionalism, I think that's going to go a long way.

Q: To that point of educating the young lawyers, what would your advice be to a brand new lawyer who enters your courtroom for the first time?

A: One, don't be afraid to ask questions ... obviously not of the judge right in the middle of the case, but certainly of reaching out to mentors, colleagues. Spend time in the courtroom. Come in and watch. This week alone, there was a newer attorney, he called the JA that I'm working with and asked, "Hey, is there any hearings going on of this

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type of nature? I'd like to come and watch because I'm going to have a case coming up soon."

I think that shows a lot of initiative, and I think it takes the fear away from walking into the courtroom for the first time if you've actually gone in, spent time, see how others do it, and then again, have a good network of mentors that you can reach out to ahead of time.

Q: So, on that note of mentors, who are you looking to from the judges as a mentor or getting advice from these days?

A: We actually have a formal mentoring program in the judiciary, so Judge Walker, Stephen Walker has been assigned to be my mentor, and he'll stay with me for the first full year. He has been absolutely wonderful. From the very day I got the news that I received this appointment, he called and is just sharing materials, always being there to answer questions. But he's not the only one. Even though he's my formal mentor, I've had just about everyone on the bench offer to be available.

Judge Goldman, who just retired and I took her spot, she spent a lot of time mentoring and doing some training to get ready to pass over the division for a smooth transition. Judge David Denkin, I spent some time with him as well preparing for this transition, and they've all been wonderful. So, great mentors.

Q: And from those mentors, what's the best advice you got and what's the worst advice. You don't have to say who gave what.

A: Let's see, best advice. The thing I've been told a lot is "listen, don't be afraid to take a recess. If you don't know what to do, take a recess." And I think that's good advice. Take the recess and go ask someone. So, I've heard that a number of times over and over, so I'm guessing that is very common advice that's given to new judges. I don't think I've been given any bad advice. Everyone has been absolutely wonderful. I was encouraged from day one. They really had me pumped up that you're going to love this. You'll have trying days and difficult days, but take your recesses if you need to and just enjoy it.

Q: So what inspired you to actually apply and to become a judge?

A: I have to wonder, do most of us think that when we go through law school like, wow, that would be great to get to that point? I know when I was in law school I thought it. Wow, that would be just the pinnacle, the

highlight of ending a career and making it to that point. I had a lot of friends and even some law school professors and colleagues who said, "Oh, I can see you making it to the bench one day." And I thought, really, me? And I think that kind of inspired me, encouraged me as well.

One of the things that really encouraged me back in 1997, I was a police officer in Raleigh, North Carolina, and there was a judge who was on the bench at that time who used to be a police officer in our same department. He went to law school, and he really inspired me. He asked me what my plans were as far as ... I was a new officer at the time. And I said, "Well, I'm doing this for the time being, but I do hope to go to law school in the future." He said, "That's great, because I was a police officer, I went to law school, and look at me, I'm a judge now and I love it." And that inspired me.

Q: Final thing. Should anybody go on notice of any pet peeves, like for instance, Judge Williams has his podium/lectern distinction (that should never be confused). Do you have any of those things that people should know about?

A: I would just say the only thing I've seen so far that seems to be an issue, and I'm guessing it's a pet peeve of all the judges, schedule enough time for your hearing or your trial. If you only scheduled an hour and it takes two, I think that's going to be an issue. Just be mindful of the time.

YLD

Continued from Page 13

to vote. Ballots will be mailed out on March 1, 2019 and must be returned on or before **midnight eastern standard time on March 21, 2019** for your vote to count. Thank you to the candidates for taking the time to be interviewed!

This month's tip for your Young Lawyers Guide to Practicing Law is a shorty but goody ... don't be afraid to ask questions. Whether you are in a courtroom and the judge asks a question that you don't understand, or your superior asks you to research a topic and you don't quite understand the topic, ask, ask, ask! It looks much better to ask your questions (and do so early on and all at one time if possible) so that you do not waste your time, the court's time, or your colleague's time.

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Wednesday, March 20, 2019

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**5:00 pm Social Hour
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