

# FORUM 8

Volume 79, No. 8

Eighth Judicial Circuit Bar Association, Inc.

April 2020

## President's Message

By Cherie Fine



It's that time again! The Eighth Judicial Circuit Bar Association Nominations Committee is seeking members for EJCBA Board positions for 2020-2021. The deadline for completed applications is April 20, 2020. I hope you will consider applying if you haven't already done so. <https://goo.gl/forms/0rYVqBeg1u4XuwlR2> is the link to apply.

The last year or so I have focused on mental health and wellness and hopefully encouraged us to take time for ourselves and work on our physical and mental health. Did you know the Florida Bar Association has a webpage devoted to mental health and wellness? Well they do. It's: <https://www.floridabar.org/member/healthandwellnesscenter/>

When I have gone to meetings of legal groups around the state, folks are concerned about the toll our profession can take on legal practitioners. So we are not alone here in the Eighth Circuit in our interest in the wellbeing of our members, but I like to think, as with many aspects of practicing law here in our area, we do it really well. Our own Carl Schwait co-chairs the Florida Bar's Mental Health & Wellness of Florida Lawyers Committee. I know our local judges promote wellness in our circuit and are always "counting their steps" to get their 10,000 a day. Our Charity Golf Tournament, the "Gloria," benefitting The Guardian Foundation for the Guardian ad Litem Program, allows a lot of fun and exercise while allowing us to do some good.

The EJCBA is always busy, holding meetings, conducting CLEs, presenting outreach programs to the public through *Law in the Library* and *Ask a Lawyer* events, and holding social and charitable events to give the membership a chance to come together to have fun and make a positive contribution to the community.

Upcoming in April: our Law Day 2020 plans, for the theme, "Your Vote • Your Voice • Our Democracy: The 19th Amendment at 100," are in the works. Let us know if you wish to participate! Spring Fling will be April 7<sup>th</sup> – right before Passover and Easter, come out and enjoy socializing with all your friends!

As you consider applying to be on the board, I also urge you to consider what programs or other activities or events you believe the EJCBA could do to work on the Bar's goals to:

- a) destigmatize mental illness in the legal community (lawyers and judges);
- b) educate employers, judges and lawyers how to identify and address mental health illness of Florida lawyers and create "best practices" on how to address mental health issues;
- c) educate lawyers about the benefits of balancing personal life and career obligations;
- d) provide health and wellness programs to provide Florida lawyers with healthy strategies to deal with the pressures of their practices to enhance the mental health and wellness of Florida lawyers;
- e) educate voluntary bar associations on mental health and wellness programs so they may better assist their members at the local level;
- f) expand the accreditation definition so as to broaden the scope of what constitutes a health and wellness continuing legal education (CLE) program; and
- g) develop new and innovative CLEs on mental health and wellness issues.

I look forward to seeing you at the Spring Fling and at the April Bar Luncheon!



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## Contribute to Your Newsletter!

*From the Editor*

I'd like to encourage all of our members to contribute to the newsletter by sending in an article, a letter to the editor about a topic of interest or current event, an amusing short story, a profile of a favorite judge, attorney or case, a cartoon, or a blurb about the good works that we do in our communities and personal lives. Submissions are due on the 5th of the preceding month and can be made by email to [dvallejos-nichols@avera.com](mailto:dvallejos-nichols@avera.com).

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## About this Newsletter

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Any and all opinions expressed by the Editor, the President, other officers and members of the Eighth Judicial Circuit Bar Association, and authors of articles are their own and do not necessarily represent the views of the Association.

News, articles, announcements, advertisements and Letters to the Editor should be submitted to the Editor or Executive Director by Email. Also please email a photograph to go with any article submission. Files should be saved in any version of MS Word, WordPerfect or ASCII text.

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# Alternative Dispute Resolution

By Deborah C. Drylie

## “WHY SHOULD YOU SUBMIT A WRITTEN MEDIATION STATEMENT?”



As a Mom, I could give the Mom answer: Because I said so. As a Mediator, I could give the same answer. But, that answer does not an article make, so here is my explanation as to why submitting a mediation statement is good, sound practice.

As you know, there are rules which govern the mediation process. What you may or may not know is, there is no rule **requiring** the submission of a written statement to the mediator (in our Circuit). Please note, this is not the case for matters in other circuits such as the 4th Judicial Circuit (Duval). There, the trial judge will enter an Order referring the case to Mediation and in the Order, it is specified the parties **must** submit a written statement within 10 days of the mediation date. In our Circuit, no such Order is entered by the trial judge which then leaves it up to the individual mediators to **request** a written statement, and this request is typically included in the mediator's Notice of Mediation or in their engagement letter. So, if a written statement is not required, why do one?

Answer - you do one because it can do nothing but help you, and your client. It helps you, as it forces you to review your client's case, position on liability and damages, and to consider what the opposing side's positions will be well before the mediation date. It helps you to prepare your client for what they are likely to hear at mediation and to be prepared for push back regarding their case. Preparing a statement assists you to prepare not only yourself, but the mediator as well. Don't you want your mediator to be prepared and knowledgeable about the facts and issues of your case? Of course, you do - it is why you are most likely using an experienced lawyer as your mediator, and not someone who has no prior legal experience. As a mediation participant, a statement allows the mediator to consider your client's claim or defenses, come up with questions or concerns, think ahead of time how these positions will be viewed by a jury or judge, and be able to hit the ground running rather than play 'catch up' over the course of the process. Further, if there are legal issues that are unusual, mediators can review case law and jury verdicts to gain insight into how these issues have played out in other cases.

Think about the factors that go into your selection of a particular mediator for a particular case. Do you want someone who has a reputation as a qualified mediator? Do you want someone who has or had the reputation as a

qualified litigator or judge? Then, think about what made them good at what they did or do. Most likely, you will conclude it was because they were not just knowledgeable, but also prepared. A mediator does not live with your case as you do, for years or even months.

At most, we have an ability to live with it for days prior to the mediation and can only do that if you give us the information we need to be both prepared and knowledgeable. As a practitioner, do you file a response to the other side's motion? You probably do. Why?

Because, you want to go into a hearing with the judge having seen both sides of an argument. Give the mediator that same information. And if you run out of time, a statement does not have to be formal - an informal email will suffice as will a copy of a PowerPoint presentation. Heck, even a phone call will do. Just do something.

If the old adage is correct - there are two sides to every story, let the mediator in on your side ahead of time, so they can do what they do best - help the parties to see those respective sides and resolve your case.

Footnote - for those of you who have read this entire article, full and fair disclosure requires this confession. Not getting a statement is a pet peeve. In 30 years of practice, never once did I attend a mediation without having first submitted a written statement to the mediator. At a minimum, 3 days in advance although once, I submitted one "late" - 1 day in advance. Pet peeve or not, because I did so or not, submitting a mediation statement is simply good practice.

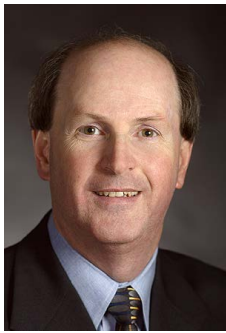
## Judge Moseley to be Chief Judge

The EJCBA is pleased to announce that the Honorable Mark Moseley has been unanimously elected to serve as Chief Judge of the Eighth Judicial Circuit following Judge Nilon's retirement at the end of this year. Judge Moseley will complete the final six months of Judge Nilon's term from January 1, 2021-June 30, 2021.

Judge Moseley, who has served on the circuit bench since 2005, has additionally served as the Administrative Judge - Circuit Criminal since 2014.

# Criminal Law

By William Cervone



Some of you will remember that I used to write about the "Year Of The Word" every, well, year. That was based on the annual American Dialect Society announcement of whatever word or phrase they decided to give such a recognition to. "Word" was loosely defined to include phrases, and was not limited to new words but more so to newly prominent or notable words. Or phrases. My favorite of their winners remains truthiness, which now has achieved such recognition that it doesn't even send spellcheck into paroxysms of red. As you'll recall, truthiness pretty much means that the truth is what you want it to be.

Anyhow, I got out of the habit of doing that article because like so many things in today's world the whole concept was taken over by a bunch of copycats and turned into such a multitude of words of the year that I got bored with it all. The American Dialect Society, a self-described 130 year old organization of linguists, lexicographers, etymologists, grammarians, historians, researchers, writers, editors, students, and independent scholars, now touts itself and its word of the year as the "longest running such vote anywhere"; I suppose necessarily so to distinguish itself from similar pronouncements by the Oxford, Cambridge, Merriam-Webster and Collins Dictionaries (who knew there were so many dictionaries?), among others.

Now, however, I am compelled to recognize a recent award winner, this one from 2018 and the Merriam-Webster folks. With apologies for not having seen this sooner, their 2018 Word of The Year was "Justice." How could I have missed that and not informed all of you about it? According to Merriam-Webster, "justice" saw a 74% upswing in look-ups in 2017.

I could go on about justice and what it means for more columns than any of you would read. I could note that it is elusive and that it seems to depend on the eye of the beholder. I could wonder how it is that two polar opposite definitions of justice could be articulated in the same courtroom based on the same facts as they are perceived by the different sides of a dispute. There's social justice, racial justice, criminal justice, economic justice, anything you want justice. And whether it's done or not done too often seems to be a matter of whether it came down on your side or not. One of my favorite movies is *Jesus Christ Superstar*, in which at one point Pontius Pilate anguishes that "We both have truths - are yours the same as mine?" Justice and whatever it is must surely be blind, but have we blinded ourselves to it

in the divisive world of today? I hope not, and I hope all of us can be open to whatever the other side of any particular issue or case might see as justice when we formulate our own opinion on it.

Runners-up, by the way, to justice included nationalism (despite it seeing as much as an 8000% spike in those same lookups at Merriam-Webster on some days based on events across the country), pansexual (as an alternative to bisexual and viewing gender as a spectrum; I won't go there), lodestar, epiphany, feckless, and pissant, a word that frankly I've always favored as an insult.

This is to say nothing of the several competing words of the year out there. The aforementioned American Dialect Society went with "Tender-Age Shelter" in 2018. This is, according to them, a euphemism for government detention centers for the children of asylum seekers. Sorry, that term just doesn't get it for me although the concept of language being weaponized for political purpose, as the Society explains it, does. The Oxford Dictionary went with "toxic," which isn't particularly inspiring to me. The Cambridge Dictionary chose "nomophobia," the fear or worry of being without your mobile phone or unable to use it. I get that. The Collins Dictionary picked "single-use," again not inspiring. Dictionary.com selected "misinformation." In my day those things were simply called lies but nowadays we seem to be called upon to be gentler less we need to issue a trigger warning for some snow flake or other. The Global Language Monitor (there is clearly not enough real work to do in the world if people can earn a living tracking top trending words as this organization apparently does) endorsed "The Moment" (capitalization required) and "weaponize" in a tie but since this is only their 18th year in this arena they can be forgiven for being doubly enthusiastic.

But enough of this - I promise not to do it again. Maybe, and euphemistically at least.

## It's that time again!

The Eighth Judicial Circuit Bar Association Nominations Committee is seeking members for EJCBA Board positions for 2020-2021. Consider giving a little time back to your local bar association. Please complete the online application at <https://goo.gl/forms/0rYVqBeg1u4XuwlR2>. The deadline for completed applications is April 20, 2020.

# Coronavirus and Flu Prevention in the Workplace

By Laura A. Gross



Businesses should be proactive in coronavirus and flu prevention. Balancing employees' interest in working and earning a living with the business's interest in maintaining a healthy work force can be precarious. Here are four steps employers should take to reduce their level of risk and liability.

**1. Implement a Coronavirus and flu prevention policy now.**

The policy should identify personal precautions to be taken by employees. For instance, employees should stay home when they are sick, wash their hands frequently, clean frequently touched surfaces, use company-provided sanitizers, cover their mouth with tissues when they sneeze, and DISCARD those tissues in the trash can—don't stick them back in their pocket or purse. The policy should outline virus symptoms and instruct employees with such symptoms not to return to work until they are fever free for at least 24 hours.

**2. Replace nonessential business travel and face-to face meetings with teleconferencing.** Join the race to stay home.

You'll be in a crowd that includes Amazon, Starbucks, Twitter, and Google, all of which have limited in-person meetings and business trips in favor of virtual meetings.

**3. Provide and encourage the use of sick leave and short-term telecommuting.** Many employees cannot afford to miss work simply because they feel the onset of cold symptoms. Paid sick leave eliminates that issue, as does short-term telework opportunities for employees whose job duties are conducive to working from home.

**4. Send symptomatic employees home.** This is easy when an employee self-identifies or has noticeable symptoms. It is also critical as employers have an obligation under OSHA to provide all employees a safe workplace, free from recognized hazards. However, if there is only a suspicion of infection, then the case can be tricky. While an employer can require asymptomatic employees to work from home during an outbreak of a serious health concern, individual employees may not be singled out and certainly not based on a protected status like nationality, ethnicity, or race.

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# Florida Law on "Brandishing," Gun Pointing, and "Warning" Shots

By Steven M. Harris



Open carry of a firearm is largely prohibited by F.S. § 790.053(1) (second degree misdemeanor). However, a *licensed person lawfully carrying a concealed firearm* (see F.S. § 790.06(1)) may briefly display a firearm to the "ordinary sight" of another, unless "intentionally done in an angry or threatening manner, not in necessary self-defense." F.S. § 790.10 applies to improper exhibition "not in necessary self-defense" more generally, making it a first degree misdemeanor to exhibit a firearm to one or more persons "in a rude, careless, angry, or threatening manner."

Firearm display without discharge, including gun pointing, is *nondeadly force as a matter of law*. *Marty v. State*, 210 So.3d 121 (Fla. 2d DCA 2016); *Jackson v. State*, 179 So.3d 443 (Fla. 5th DCA 2015); *Carter v. State*, 115 So.3d 1031 (Fla. 4th DCA 2013); *Rivero v. State*, 871 So.2d 953 (Fla. 3d DCA 2004). Thus, threatened or actual display, including gun pointing, may be justified to:

- Defend real or personal property (lawfully possessed or in the possession of one's immediate family member or household, or of a person whose property one has a legal duty to protect) from trespass or tortious or criminal interference. F.S. § 776.031(1), § 776.013(1)(a)(dwelling or residence).
- Defend self or others from unlawful nondeadly or deadly force. F.S. § 776.012(1), § 776.012(2).
- Prevent the imminent commission of a forcible felony. F.S. § 776.012(2), § 776.013(1)(b), § 776.031(2).

The language of Chapter 776 appears to equate the threatening of deadly force with its actual use. As gun pointing threatens deadly force, it might be argued that it is now only lawful when the actual use of deadly force would be lawful. Case law is soundly at odds with that construction.

A threat with a displayed firearm which creates a "well-founded fear" of imminent violence in the mind of another may constitute an aggravated assault, a second degree felony. F.S. § 784.011(1); § 784.021(1)(a). Defensive exhibition and gun pointing based on good faith but mistaken belief should not routinely be considered aggravated assault. The "victim" and the threat are distinguishable, and the latter is conditional, not imminent. Of note: See the intent statements of F.S. § 790.25(4) and § 775.021.

It is widely thought that the well-publicized case, *Alexander v. State*, 121 So.3d 1185 (Fla. 4th DCA 2013), caused the legislature to amend Chapter 776 to expressly sanction "warning" shots. Whether it intended to or not, it has not done that. Once again, case law is quite settled. The *discharge* of a firearm in the vicinity of another person is *deadly force as a matter of law*, whether it was accidental or an intentional "warning" shot which did not endanger human life. *Hosnedl v. State*, 126 So.3d 400 (Fla. 4th DCA 2013); *Miller v. State*, 613 So.2d 531 (Fla. 3d DCA 1993).

Thus, a "warning" shot is justifiable under Chapter 776 to defend against imminent *deadly* force, or to prevent the imminent commission of a forcible felony. (F.S. § 776.012(2), § 776.031(2), § 776.013(1)(b)). It would also be lawful to counter attempted murder or a personal or dwelling felony, per F.S. § 782.02. (See *March Forum 8*).

It is easily argued that a "warning" shot not likely to pose a threat of death or great bodily harm should be considered *nondeadly* force, or submitted to the jury for determination. Florida case law does not yet permit that, although there is authority for giving both the deadly and nondeadly force jury instruction. *Deluge v. State*, 710 So.2d 83 (Fla. 5th DCA 1998); *Brown v. State*, 113 So.3d 103 (Fla. 5th DCA 2013); *Mathis v. State*, 863 So.2d 464 (Fla. 1st DCA 2004). Of note: a shot made without intent to inflict harm has raised peculiar issues in other states. A self-defense instruction might then not be available, and the jury might be allowed to consider the taking of a "warning" shot to be evidence that the defendant didn't actually believe deadly force was necessary. See, e.g., *State v. Cook*, 802 S.E.2d 575 (N.C. App. 2017), *aff'd per curiam*, 809 S.E.2d 566 (N.C. 2018).

Other statutes prohibit specific firearm discharges, subject to statutory exception and justification under Chapter 776 or F.S. § 782.02. F.S. § 790.15 (misdemeanor and felony) prohibits certain public, residential, and vehicle discharges, except when "lawfully defending life or property." Under F.S. § 790.151 (a rather muddled statute), it is a second degree misdemeanor to discharge a firearm or have a loaded firearm in hand when "under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, when affected to the extent that his or her normal faculties are impaired." The statute does not apply to "persons exercising lawful self-defense or defense of one's property."

Continued on page 8

# Need to Hear Some Good News?

By Marcia Green



Spring has sprung and, with the support of our diligent pro bono attorneys, several of our low income community members have enjoyed some very good outcomes! Here are just a few ...

Recently, two clients who were initially seen through Ask-A-Lawyer events at Grace Marketplace received settlements with life-changing possibilities. One was the beneficiary of his mother's estate; she had lived in California and our client's whereabouts were unknown to the executor. With the help of pro bono attorneys Ray Brady and John Bonner, the client received a significant settlement which should allow him housing, security and safety. Brady assisted another individual living in Dignity Village; he had been in a motor vehicle accident while riding his bicycle and, although his injuries were relatively minor, a settlement was reached that will allow him to move into housing.

Attorney Frank Maloney assisted the grandparents of four young children to secure custody after the mother passed away during the birth of the youngest child. With his representation, the children are remaining together in a stable, loving home.

Volunteer attorneys Norm Fugate and John Haswell both represented young mothers in the probates of their family estates. The deceased in both cases died intestate and there were other siblings and heirs, all of whom ultimately signed over their interests in the homes. Our clients secured clear title to their family homes, providing homestead exemption and residences for the clients and their children.

After our client's mother committed suicide, pro bono attorney Ellen Gershow helped her settle the small estate. With compassion, Gershow's representation allowed the young woman to move forward from the tragic situation.

Pro bono representation expands the legal assistance available in the north central Florida area and can bring stability to our clients and the community. Whether the individual is experiencing homelessness or is the victim of domestic violence, whether they are in a temporary situation or a lifetime of poverty, access to the legal system can open the door to moving forward, up or out. When a family can secure clear title to their home, they can make improvements that can affect the whole neighborhood. When an individual has the opportunity to move from a tent into housing, it is truly life-changing. When a parent obtains guardian advocacy of their adult child with disabilities, medical and other care can continue and be secured.

Be a part of these good stories and share your expertise to help resolve the legal issues of our lower income community members. Volunteering with Three Rivers Legal Services can be as simple as a will or advice clinic or may be more challenging, such as providing representation in a family law matter or settling an estate with many heirs. Contact me at [marcia.green@trls.org](mailto:marcia.green@trls.org) and add your name and legal skills to the panel of volunteers who choose to make a difference! Not sure you have the right training? Let me know. We have a list of free training available, some with CLE credits.

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## National Federal Bar Association Statement on Attacks on the Judiciary

*(Adopted March 5, 2020)*

"The Federal Bar Association stands in solidarity with the federal judiciary to condemn all attacks on members of the judiciary, especially by those in senior government positions.

As the Association noted in its February 19, 2020 statement, "Judicial independence, free of external pressure or political intimidation, lies at the foundation of our constitutional democracy. An independent judiciary must be free of undue influence from the executive and legislative branches and must remain committed to the preservation of the rule of law and the protection of individual rights and liberties. When criticism of judges' rulings crosses the line into personal attacks or intimidation, public respect for our system of justice is undermined, creating risk to our constitutional bedrock and the preservation of liberty. The Federal Bar Association urges all Americans and elected leaders to remain mindful of these cherished principles."

*The national Federal Bar Association, the primary voluntary professional organization for private and government lawyers and judges practicing and sitting in federal courts in the United States, celebrates its 100th anniversary in 2020.*

*Submitted by Robert S. Griscti, a member of the national FBA and of the North Central Florida Chapter of the FBA, which celebrated its 20th anniversary in 2019.*

# Contractual Forum Provisions: Worth Their Weight in Gold or Not Worth the Paper They're Written On?

By Krista L.B. Collins



Often, when parties sign a contract, whether to buy an expensive product, sell a business, or perform services, a mandatory forum-selection provision is included in the fine print. Unless the parties are represented by attorneys, it will probably be completely ignored. How many of us remember what the forum selection clause said in the contract for the last car we bought? But the

forum selection clause shouldn't be ignored – the venue for litigation can be extremely important. Juries are different, courts have local rules with which out-of-town lawyers may not be familiar (to their detriment), and court dockets in some places are busier than others, resulting in hearing and trial dates being more difficult to schedule. Typically, such clauses are written in one of two ways: by specifying a place (Alachua County) or by specifying a court (the Circuit Court of the Eighth Judicial Circuit in and for Alachua County). But how enforceable are they?

In short: very. Florida law presumes that forum selection clauses in contracts are valid and enforceable. *Am. Safety Cas. Ins. Co. v. Mijares Holding Co., LLC*, 76 So.3d 1089, 1092 (Fla. 3<sup>rd</sup> DCA 2011). A party seeking to avoid enforcement of a forum selection clause must establish that enforcement would be unjust or unreasonable—and enforcement is only unreasonable and unfair when the designated forum “amounts to ‘no forum at all.’” *Id.* (quoting *Corsec, S.L. v. VMC Int'l Franchising, LLC*, 909 So.2d 945, 947 (Fla. 3<sup>rd</sup> DCA 2005)).

In fact, Florida courts have held that if there is a significant and obvious nexus between a statutory claim and a contract—for instance, where resolution of a statutory claim requires reference to or interpretation of the contract—then the statutory claim is governed by the venue provision in the contract. *Farmers Group, Inc. v. Madio & Co.*, 869 So.2d 581, 582 (Fla. 4<sup>th</sup> DCA 2004). Similarly, Florida courts have held that common law claims that are related to a contract will be subject to the venue provision in the contract. *Bovis Homes, Inc. v. Chmielewski*, 827 So.2d 1038 (Fla. 2<sup>d</sup> DCA 2002) (applying a venue provision to a fraudulent misrepresentation claim); *also see Bus. Aide Computers, Inc. v. Cent. Florida Mack Trucks, Inc.*, 432 So.2d 681 (Fla. 5<sup>th</sup> DCA 1983) (holding that a venue provision in a contract that referred to “legal action taken in connection with this lease” encompassed a rescission action to set

aside that lease because it is in connection with the contract).

Does this mean that a forum selection is *always* enforced? We all know what the answer to that question is: of course it's not! Florida courts have enumerated multiple exceptions to the enforcement of forum selection clauses. When the contractually agreed-upon venue is “unreasonable or unjust,” it may be possible to avoid enforcement. *R.S.B. Ventures, Inc. v. Berlowitz*, 201 So.3d 719, 721 (Fla. 4<sup>th</sup> DCA 2016). Similarly, if the forum selection clause is tainted by fraud, the product of overwhelming bargaining power of one party or where the clause is the sole basis upon which to base jurisdiction, courts may decline to enforce it. *Golden Palm Hospitality, Inc. v. Stearns Bank Nat. Ass'n*, 874 So.3d 1231 (Fla. 5<sup>th</sup> DCA 2004). Likewise, where enforcing a forum selection clause would result in multiple lawsuits in different venues arising from the same facts and run the risk of conflicting results, a court may decline to enforce the forum selection clause. *Dore v. Roten*, 911 So.2d 218 (Fla. 2<sup>d</sup> DCA 2005).

Finally, it is important to note that if you do have an objection to venue – whether seeking to enforce a forum selection clause or seeking to avoid it – that objection must be raised in the answer or it will be waived. *Marine Environmental Partners, Inc. v. Johnson*, 863 So.2d 423 (Fla. 4<sup>th</sup> DCA 2003).

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## Florida Law on “Brandishing,” Gun Pointing, and “Warning” Shots

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Crafting adequate and proper jury instructions to defend a firearm “brandishing” or discharge crime necessitates in-depth consideration of the offense statute’s language, Chapter 776, and case law. The burden to disprove a statutory exception should fall on the State, by the reasonable doubt standard. The interaction between Chapter 790 exception phrases and statutory justification provisions is not explained by case law.



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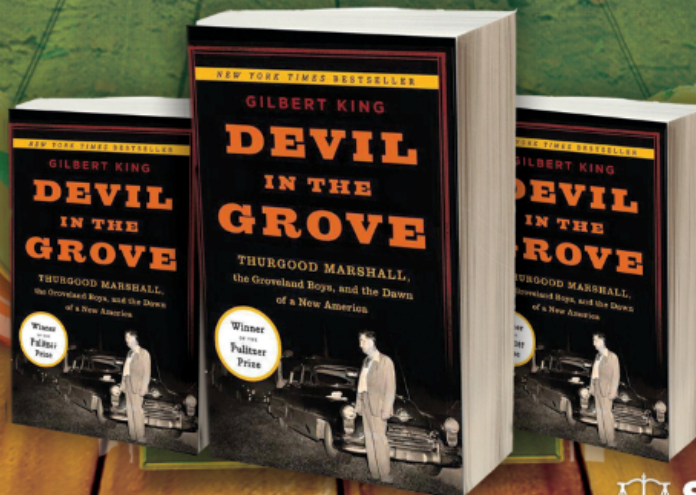
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## Nominees Sought for 2020 James L. Tomlinson Professionalism Award

Nominees are being sought for the recipient of the 2020 James L. Tomlinson Professionalism Award. The award will be given to the Eighth Judicial Circuit lawyer who has demonstrated consistent dedication to the pursuit and practice of the highest ideals and tenets of the legal profession. The nominee must be a member in good standing of The Florida Bar who resides or regularly practices law within this circuit. If you wish to nominate someone, please submit a letter describing the nominee's qualifications and achievements and submit it to Raymond F. Brady, Esq., 2790 NW 43<sup>rd</sup> Street, Suite 200, Gainesville, FL 32606. Nominations must be received in Mr. Brady's office by Friday, May 1, 2020 in order to be considered. The award recipient will be selected by a committee comprised of leaders in the local voluntary bar association and practice sections.

## PROBATE & GUARDIANSHIP BROWN BAG LUNCH- 4/30/20

All attorneys practicing probate and guardianship in the Eighth Circuit are invited to attend a Brown Bag Lunch on **Thursday, April 30, 2020 from 12:00-1:00pm** in the Chief Judge's Conference Room of the Alachua County Civil/Family Courthouse. Probate/Guardianship judges will discuss best practices in getting orders timely signed, potential updates to the probate/guardianship checklists, and more. Please bring your lunch and join us for the discussion along with a Q & A session.

### \*\*\* NEW MAILING ADDRESS \*\*\*

Please take note that EJCBA's mailing address has been changed. Effective immediately, the new address is as follows:

EJCBA  
P.O. Box 140893  
Gainesville, FL 32614

## YOU'RE INVITED: COFFEE WITH THE COURT- 4/24/20

Calling all Civil Litigation Attorneys – Please join Judges Brasington and Keim for a special edition of our annual “Coffee with the Court” featuring coffee, pastries, and discussion on **Friday, April 24, 2020** at 9:15am. Judge Brasington and Judge Keim will provide information on procedural preferences and will host a Q & A session. In addition, this year, we will present a panel discussion on a new Case Management Order (“CMO”) that has been developed in response to a request made by several attorneys at last year's Coffee with the Court. Civil attorneys practicing throughout the circuit are encouraged to attend to ask questions and receive information concerning the new “CMO.” The event will take place in Courtroom 4A of the Alachua County Family/Civil Courthouse. **Refreshments will begin at 9:15am and the discussions will begin at 9:30am.** Please RSVP to [DunawayR@circuit8.org](mailto:DunawayR@circuit8.org).

# Educate the Eighth

## A Demonstration of Trial Skills



When: Friday, April 24, 2020

Where: Alachua Family and Civil Justice Center - Courtroom 4A

Time: 1:00 - 5:00 p.m.

Register: [www.8jcba.org](http://www.8jcba.org)

Presentation Includes:

- Ethics and Professionalism Panel
- Case Management Order Updates
- Testimonial, Real and Demonstrative Evidence
- Using Social Media/Text Messages
- Business Records
- Hearsay
- Common Objections and Responses

The Eighth Judicial Circuit is pleased to present our 6th Annual Educate the 8th Trial Skills Program. The event includes a demonstration of trial skills presented by experienced litigators in a "show and tell" format using a mock case as a guide.

The event will start with a panel presentation on ethics and professionalism featuring Judges Brasington and Ferrero. Among other topics, the panel discuss proposed changes to the civil case management order.

Professionalism/ethics questions may be anonymously submitted prior to the event by emailing: [educatethe8th@gmail.com](mailto:educatethe8th@gmail.com)

Members of the judiciary will be in attendance to provide comments and critique. Whether you are a seasoned litigator or are looking to learn your way around the courtroom, this presentation will have something for everyone.

This course is expected to be approved for four (4) hours of CLE credit.



## EJCBA's March 2020 Moments:

The Leadership Roundtable and Diversity Conference (Getting to Know You: Implicit Bias in the Jury Process) and Luncheon with attorney and author Ben Crump was held on March 13, 2020.



Members of the Leadership Roundtable and Diversity Conference Committee, from L to R: Kathryn Lancaster, LaKeshia Thomas, Ayanna Hypolite, Phil Kabler, Mary K Wimsett, Jennifer Lester, Judge Kristine Van Vorst, and Judge Meshon Rawls. Not present: Stephanie Marchman, Cherie Fine, Magistrate Katie Floyd, Lauren Richardson, Judge Gloria Walker, Aubroncee Martin, Charisma Calloway, and Dawn Vallejos-Nichols.



Roundtable Panel Members, from L to R: State Attorney William Cervone, Simone Chriss, Esq., Robert Folsom, Esq., Honorable Walter Green, Lora Levett, Ph.D. and Public Defender Stacy Scott



The Roundtable, held in the Jury Room at the Criminal Courthouse, was well attended and involved a lively discussion regarding bias during jury selection.



Luncheon Speaker Ben Crump, Esq. Speaker Ben Crump discussed his book, *Open Season* at the March 13 EJCBA luncheon; here he is pictured with Board of Bar Governors Representative Stephanie Marchman.



Public Defender Stacy Scott leads a discussion during the breakout session of the conference.

## April 2020 Calendar

- 1 CANCELLED - EJCBA Board of Directors Meeting, Three Rivers Legal Services, 1000 NE 16<sup>th</sup> Avenue, 5:30 p.m.
- 6 Deadline for submission of articles for May Forum 8
- 7 POSTPONED - EJCBA SPRING FLING! Location TBD, 6-8 p.m.
- 8 Probate Section Meeting, 4:30 p.m., Chief Judge's Conference Room, 4<sup>th</sup> Floor, Alachua County Family & Civil Justice Center
- 10 Good Friday – County Courthouses closed
- 17 CANCELLED - EJCBA Luncheon, Speaker Florida Bar President John Stewart, "The State of the Florida Bar," Big Top Brewing Co., 11:45 a.m.
- 20 Deadline to apply for 2020-2021 EJCBA Board of Directors
- 21 Family Law Section Meeting, 4:00 p.m., Chief Judge's Conference Room, Alachua County Family & Civil Justice Center
- 24 Coffee with the Court, Judge Monica Brasington & Judge Donna Keim, Courtroom 4A, 9:30 a.m.
- 24 Educate the Eighth – A Demonstration of Trial Skills, 1-5 p.m., Alachua County Family & Civil Justice Center, Courtroom 4A
- 30 Probate & Guardianship Brown Bag Lunch, 12-1 p.m., Chief Judge's Conference Room, Alachua County Family & Civil Justice Center

## May 2020 Calendar

- 1 Deadline to submit nominations for 2020 James L. Tomlinson Professionalism Award
- 5 Deadline for submission of articles for June Forum 8
- 6 EJCBA Board of Directors Meeting, Three Rivers Legal Services, 1000 NE 16<sup>th</sup> Avenue, 5:30 p.m.
- 13 Probate Section Meeting, 4:30 p.m., Chief Judge's Conference Room, 4<sup>th</sup> Floor, Alachua County Family & Civil Justice Center
- 15 EJCBA Luncheon, Alachua County Clerk of Court, Property Appraiser, Tax Collector and Court Administrator, Big Top Brewing Co., 11:45 a.m.
- 19 Family Law Section, 4:00 p.m., Chief Judge's Conference Room, Alachua County Family & Civil Justice Center
- 25 Memorial Day, County & Federal Courthouses closed

Have an event coming up? Does your section or association hold monthly meetings? If so, please fax or email your meeting schedule to let us know the particulars, so we can include it in the monthly calendar. Please let us know (quickly) the name of your group, the date and day (i.e. last Wednesday of the month), time and location of the meeting. Email to Dawn Vallejos- Nichols at [dvallejos-nichols@avera.com](mailto:dvallejos-nichols@avera.com).

