FORUM 8

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President's Message

By Robert Folsom

Happy New Year, everyone! And, on behalf of the Eighth Judicial Circuit Bar Association, best wishes to you and your family in this coming year.

There is a lot to look forward to as the Eighth Judicial Circuit Bar Association moves forward over the coming months. First, Florida Bar President Gary Lesser will be speaking to the local bar on Wednesday, January 11, 2023, in the jury assembly room of the Judge Stephan P. Mickle, Sr. Criminal Courthouse. The event will be both live and available by Zoom for those who cannot attend live. President Lesser will be discussing the State of the Florida Bar. The following Friday, January 20, is our monthly luncheon. This month's speaker and topic will be Chief Judge Mark W. Moseley with the annual State of the Circuit address. We are looking forward to hearing about the many changes that have taken place over the past year, as well as the changes in the coming year. Among those changes are the appointment to the bench of Baker County Judge Lorelie Brannan following the retirement of Judge Joseph Williams; and the election to the bench of Circuit Judge Sean Brewer with the retirement of Judge Monica Brasington.

We wish Judge Brasington the best in this new phase of her legal career. Judge Brasington has been the apotheosis of a state court trial judge. She has a deep and expansive legal knowledge and is a formidable intellect. And her professionalism and ethical approach to her role as a judge is beyond reproach. The loss of Judge Brasington as a judge in the Eighth Judicial Circuit will be hard to recover from. However, we wish Judge Brewer the best in his transition from assistant state attorney to circuit judge.

Another transition that we have experienced in this circuit recently is with the position of Trial Court Administrator. Paul Silverman, who became court administrator in January 2015, has recently retired. Before becoming court administrator, Paul honorably served our circuit as a magistrate and hearing officer. We wish Paul the best in his retirement. If you have not already, please thank Paul for everything that he has done for the circuit in his many roles, and for his lasting legacy as court administrator.

The circuit's new court administrator is Michael Reeves. Prior to being chosen by the circuit's judges as the new court administrator, Michael was the circuit's Chief Technology Officer. And prior to being Chief Technology Officer, Michael was the circuit's Court Analyst. Like Paul, Michael has worn many hats and had a breadth of experience within court administration. Paul has been training Michael over the past several months. The EJCBA welcomes Michael to his new role and looks forward to supporting him as he works with the Chief Judge to navigate the Eighth Judicial Circuit into the future.

Keep your eye out for our e-blasts and watch our Facebook page for upcoming events. And remember that the EJCBA is a member-focused organization. If you have any suggestions for CLE's, social events, or programs that you would like to see, please let any of us on the Board of Directors, or our Executive Director, know. We love to hear from our members, and encourage your involvement in the organization. The EJCBA cannot succeed without you. So, join an EJCBA committee or help plan one of upcoming programs, like Law Day or the Professionalism Seminar.

The EJCBA Board looks forward to seeing you in the upcoming year.

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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.

About this Newsletter

This newsletter is published monthly, except in July and August, by:

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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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Deadline is the 5th of the preceding month

Alternative Dispute Resolution

By Chester B. Chance and Charles B. Carter

SEINFELD LAWSUITS

Nobody needed Alternative Dispute Resolution options more than the cast of Seinfeld. In this article we wanted to review some of the fictional Seinfeld lawsuits, and, touch upon some of the real world instances where Jerry Seinfeld had to gird his legal loins. We referenced a recent article by Andy Gillin as our source to remind us of these legal classics.

FICTIONAL LAWSUITS

Kramer v. Java World. Kramer spills coffee on himself and hires attorney Jackie Chiles to sue the fast-food company. To settle the claim prior to what in effect is a mediation/settlement conference, the company does a risk analysis and is willing to pay Kramer $50,000 plus free coffee for life. When they offer him free coffee, Kramer quickly agrees to that as full settlement. His case was weakened when he used 'the balm' to cure his burn injury. Jack Chiles referred to the settlement as "lewd, lascivious, salacious, outrageous." Lesson: do not let your client speak during joint sessions of a mediation or settlement conference.

Kramer v. Big Tobacco. As a result of chain-smoking numerous cigars, Kramer is left with a leathery and 'hideous' face. As Chiles notes: "Your face is my case." (Every lawyer needs a theme for his case.) When a Marlboro attorney comments that Kramer's face makes him look rugged and masculine, Kramer settles for his face on a Marlboro billboard in Times Square. He settled without consulting Jackie Chiles. Chiles notes the resolution was "the most public yet of my many humiliations." We assume an attorney lien was filed.

Kramer v. Mischke. Kramer takes golf lessons from a caddy named Stan. Kramer is considering a professional golf career. However, that prospect is ended when he is injured in a car accident as a result of driving and being distracted by pedestrian Ms. Mischke who is walking on the sidewalk shirtless, wearing only a bra. Enter Jackie Chiles who sues Mischke for flouting societal conventions. Chiles asks Mischke to try on the bra in court. When the bra doesn't fit, the judge acquits. And Mischke, like O.J., walks out of court in victory.

Jackie Chiles lost the last court case on *Seinfeld* in the final episode involving *Massachusetts v. Seinfeld, et al.* The result: Jerry, Elaine, George and Kramer spend 1 year in prison.

REAL SEINFELD LAWSUITS

Constanza v. Constanza? Jerry's college friend Michael Constanza sued Seinfeld for $100 million for harming his reputation. Michael asserted the George Constanza character was clearly based on him. Both were bald and portly. Both in real life and on the show went to high school and then Queen's College with Jerry, and in real life Michael had a gym coach in high school who called him 'Can't Stand Ya." Both had a problem with parking spaces and bathrooms. Michael sued for being used as the basis for a spiteful character. The court ruled the statute of limitations had run and noted no episode used Michael's name, portrait or picture.

Lapine v. Seinfeld? Missy Chase Lapine sued Jerry's wife alleging Jessica Seinfeld stole her idea for a cookbook based on disguising healthy food for kids. The court ruled in Jessica's favor noting "stockpiling vegetable purees for covert use in children's food is an idea that cannot be copyrighted." Perhaps more of a food fight than a lawsuit and seemingly worthy of an episode of *Seinfeld.*

Lapine v. Seinfeld II? While Lapine was suing Jessica, Jerry was a guest on the David Letterman show. He commented that as a celebrity, wackos pop up to add to the celebrity experience. He also commented that many of the three-name people turn out to be assassins like Mark David Chapman and James Earl Ray. Enter Missy Chase Lapine who sued Jerry for claiming she may be a murderer or someone who is potentially violent or hostile. The federal judge did not rule on the claim, and held it was a matter for the state court. We are afraid to add anything humorous at this point for obvious reasons.

So there you have it. The fictional and real-world legal squabbles of *Seinfeld.* Lessons? Well, do not hire Jackie Chiles. Do not comment on pending lawsuits. Keep your client quiet at all times. And never, never use the balm.

MAKE SOME MISTAKES IN 2023

By Samantha Howell, Pro Bono Director, TRLS

I know these start-of-the-year articles often focus on wishing good health and fortune on their readers. I wanted to take another approach, though:

"I hope that in this year to come, you make mistakes. Because if you are making mistakes, then you are making new things, trying new things, learning, living, pushing yourself, changing yourself, changing your world. You're doing things you've never done before, and more importantly, you're doing something."

~ Neil Gaiman ~

Maybe it's a new language (Hola, dia 900 de Duolingo!), building model airplanes or, dare I suggest, volunteering. Whatever you do to stretch your wings, I hope it is inspiring and fulfilling.

If you *are* interested in volunteering, though, TRLS is a great place to start! Volunteer attorneys are referred cases in their area(s) of expertise. But, if someone wants to try a new area of practice (like guardianship or sealing/expunging criminal records) we will provide training and mentorship throughout the case.

We also provide malpractice insurance coverage, reimbursement for some litigation costs, and can offer office space for you to meet with your referred client.

We will make every effort to ensure you have a positive experience volunteering with TRLS.

Just as importantly, there are a multitude of ways to volunteer:

Telephonic Housing Clinic - This advice-only clinic is offered every Tuesday from 5pm-6:30pm. Appointments are scheduled for 45 min. TRLS staff screen and schedule clients, notifying volunteers of their assignments on the Friday (or Monday) prior to the clinic. Issues involve private landlord/tenant issues (eviction, repairs, and security deposits, usually). Volunteers complete an online form during the call so that TRLS knows what advice was given and if any follow-up by TRLS is needed.

Pro Se Divorce Clinics - These clinics are offered every three months in Gainesville and involve a morning session (for petitioners with minor children) and an afternoon session (for petitioners without minor children). TRLS will pre-fill much of the forms with the clients; volunteer attorneys will participate for the limited purpose of providing counsel/advice.

Ask-A-Lawyer - These "pop-up" clinics are hosted at local shelters including Grace Marketplace, St. Francis House, Peaceful Paths, and the VA Honor Center. Volunteers will meet with individuals in need of legal assistance, and provide advice/counsel and, perhaps, even a brief service. These clinics are held one Saturday a month, typically between 10am-12pm. The 2023 schedule will be shared soon.

Law in the Library - These are community outreach events, wherein a volunteer presents on a legal topic for about 40 minutes and then answers a few audience questions. The clinics are presently being held via Zoom and will be at the Alachua Library Main Branch when they return to in-person (recordings of the session are available on the Library website). They are scheduled for the 1st Wednesday of each month at 5:30pm. TRLS's Kevin Rabin presented in September on Evictions/Defense and Joel Osborne and Dennis Ramsey presented in November on the new traffic laws in Florida.

Upcoming presentations include:

January 4th - Estate Planning with Leigh Cangelosi

February 1st - Car and Pedestrian Accidents with Ray Brady and Peg O'Connor

March 1st - LITC/Taxes with Derek Wheeler

We still need a presenter for April - please let me know if you are interested in presenting on a legal topic.

Finally, you can take on a client matter for **limited scope or full representation** in a variety of areas including: bankruptcy, special education, family, housing/property, consumer, income maintenance, and trusts & estates. We are in particular need of attorneys to assist with probate cases, guardianship and guardian advocacy, and landlord/tenant. Summaries of a couple available cases (as of the writing of this article) follow:

1. Alachua County - Client needs to probate mother's estate. Client and sibling are surviving heirs and there is real property (homestead) involved. (22-0342800)
2. Alachua County - Client is the named beneficiary in a trust. Client needs an attorney to review the trust and to advise on how it might impact benefits. If additional work is needed to protect benefits, the volunteer can take on the matter or TRLS can refer to another attorney. (22-0346069)
3. Alachua County - Client would like guidance in seeking temporary relative custody of grandchild. Child's parents are both incarcerated. (22-0344834)

If you would like to take on any of the above, please contact me and include the identification number (XX-XXXXXXX).

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Eleventh Circuit in *Owens*: A Roadmap for Best Practices Concerning Disability Accommodation Requests

By Conor Flynn

The Eleventh Circuit Court of Appeals recently answered the following question: 'What information does a disabled employee need to provide her employer to trigger the employer's duty to accommodate her disability?'

The case – *Owens v. Governor's Off. of Student Achievement*, 52 F.4th 1327 (11th Cir., Nov. 9 2022) – concerned a plaintiff who was employed by the State of Georgia in the Governor's Office of Student Achievement ("GOSA"). Following a C-section childbirth in July of 2018, plaintiff Owens informed her employer that she would need to work remotely for several months. Two notes from her doctor, mentioning the C-section, stated that Owens was "doing well" and advised that she "may" telework until November 2018. Beyond the notes, Owens informed her employer that she was seeking telework permission due to "complications" but provided no further detail concerning the complications or how teleworking would accommodate her. The employer found the information Owens provided was insufficient. The employer made repeated, documented requests asking for additional documentation, or in the alternative for Owens to return to the office. Owens did not provide further detail as requested and did not return to the office. GOSA terminated her employment. Owens subsequently sued for failure to accommodate and retaliation in violation of the Rehabilitation Act, and further alleged pregnancy discrimination. The trial court granted summary judgment for GOSA on all claims. Owens appealed.

The Eleventh Circuit affirmed. The Court held that in order to "establish that a requested accommodation is reasonable under the Rehabilitation Act, an employee must put her employer on notice of the disability for which she seeks an accommodation and provide enough information to allow her employer to understand how the accommodation she requests would assist her." *Owens*, 52 F.4th at 1330. The Court applied the holding to Owens' case by stating "Because Owens did not identify any disability from which she suffered or give GOSA any information about how her requested accommodation—teleworking—would accommodate that disability, the district court correctly granted summary judgment." *Id.* The Court further concluded that the discrimination claim failed for lack of evidence that GOSA's proffered reasons for termination were pretextual.

The *Owens* decision provides a critical case study of best practices for employers when addressing requests for accommodation. Creating form requests can be a powerful way to show a court that the employer has a procedure for promptly and effectively addressing such requests. As a part of any such form, employers should ask for the following:

1. A verification of the disability;
2. A description of limitations caused by the disability, with a focus on the restrictions impacting an ability to complete work-related tasks; and
3. Suggestions and recommendations on accommodations that would permit the requesting party to adequately complete the work-related tasks.

If confronted with a sticky or confusing case involving a request for accommodations, employers need to keep the *Owens* case in mind. *Owens* shows how policies, forms, and training can prepare a company to follow through on best practices. Moreover, the *Owens* case is yet another clear example of the value of documenting all communications with the requesting party. Though employer requests for additional documentation may be understandably perceived as delving into personal and sensitive issues, "[t]he Rehabilitation Act does not require employers to speculate about their employees' accommodation needs." *Id.* at 1334.

Deadly Force to Prevent the Imminent Commission of a Forcible Felony

By Steven M. Harris

Deadly force may be justifiably threatened or used *to prevent the imminent commission of a forcible felony*. There are three statutory vectors for the forcible felony justification predicate: (1) defense of self or another, under § 776.012(2), *Fla. Stat*.; (2) home protection, under § 776.013(1)(b), *Fla. Stat*.; and (3) defense of property, under § 776.031(2), *Fla. Stat*. There is no requirement that a relationship or duty exist between the intervenor and the person or property being defended from the forcible felony. See October 2022 *Forum 8*. The deadly force righteous location and behavior burdens respecting the privilege of nonretreat apply, except, in "home protection," there is no not engaged in a criminal activity burden. However, a righteous behavior burden is imposed on the intervenor and the use of the property for the "reasonable fear" evidentiary presumption. See § 776.013(2) and § 776.013(3)(c), *Fla. Stat*.

Forcible felony prevention justification under Chapter 776 should not be conflated with the freestanding deadly force justification statute -- § 782.02, *Fla. Stat*. That statute makes justifiable the use of deadly force by a person who is *resisting* attempted murder or the commission of *any felony* upon such person, or *any felony* "upon or in any dwelling house in which such person shall be." See March 2020 *Forum 8*. *Of note*: "Dwelling house" is not defined by § 782.02, *Fla. Stat*. See § 810.011(2), *Fla. Stat*., and related caselaw when considering whether § 782.02, *Fla. Stat*., includes the related curtilage. See also *Russell v. State*, 54 So. 360 (Fla. 1911). "Dwelling" and "residence" are defined for § 776.013, *Fla. Stat*., home protection. See § 776.013(5), *Fla. Stat*.

Threatening or using deadly force to prevent the imminent commission of a forcible felony should also not be conflated with self-defense or defense of another against imminent great bodily harm or death. See *Garcia v. State*, 286 So.3d 348 (Fla. 2d DCA 2019). A forcible felony intervenor does not actually need to believe deadly force harm is imminent. See *Cummings v. State*, 310 So.3d 155 (Fla. 2d DCA 2021). Deadly force peril is presumed because of the nature of forcible felonies.

Because "reasonable belief" is the cornerstone of Chapter 776 justification, a forcible felony need not actually be imminent or occurring. An intervenor justifiably acts on his or her reasonable belief based on appearances. However, to justify the threat or use of deadly force, the appearance of an imminent forcible felony must be so real that a reasonably cautious and prudent person under the same circumstances would have then believed that the ostensible forcible felony could only be prevented by the threat or use of deadly force (i.e., that level of force was necessary). Compare Std. Jury Instr. (Crim) 3.6(f), and see *Harris v. State*, 104 So.2d 739 (Fla. 2d DCA 1958). *Of note*: There is no legal requirement that a forcible felony intervenor see a weapon, brandish a firearm, issue a verbal warning, or take a warning shot before threatening or using deadly force. *Mobley v. State*, 132 So.3d 1160 (Fla. 3d DCA 2014). When an intervenor acts to prevent the commission of a forcible felony on another, the defended person's belief respecting the commission of the forcible felony is of no legal consequence. See October 2022 *Forum 8*. *Of note*: It would seem that *non-deadly* force ought to be justifiable to prevent the imminent commission of a forcible felony whenever deadly force would be permitted. No Chapter 776 provision provides for that, and I have found no case on point.

In *Cummings v. State*, 310 So.3d 155 (Fla. 2d DCA 2021), the court accepted the defendant's proposition that in a pretrial immunity hearing the State must prove by clear and convincing evidence the malefactor was not committing a forcible felony. A jury being instructed on the forcible felony predicate should therefore be told that the defendant *must* be found not guilty unless the State proved beyond a reasonable doubt that the defendant's belief it was necessary to threaten or use deadly force to prevent the imminent commission of the averred forcible felony was not reasonable. See December 2022 *Forum 8*. See also *Adams v. State*, 727 So.2d 997 (Fla. 2d DCA 1999).

The standard instruction (hyperlink above) includes this comment:

> Give the elements of the applicable forcible felony that defendant alleges victim was about to commit but omit any reference to burden of proof. See *Montijo v. State*, 61 So. 3d 424 (Fla. 5th DCA 2011). The instruction may need to be modified in the event that the forcible felony at issue is not a crime against a person.

That style of instruction was sustained against a fundamental error challenge in *Woods v. State*, 95 So.3d 925 (Fla. 5th DCA 2012).

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Deadly Force to Prevent the Imminent Commission of a Forcible Felony

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The distinct manslaughter provision, § 782.11, *Fla. Stat*., ought to be charged when the State can prove beyond a reasonable doubt that the use of deadly force to prevent the commission of a forcible felony resulted in a death which was unnecessary, including because the unlawful undertaking had already failed. However, that crime is rarely charged -- almost certainly because caselaw has curiously narrowed the application of it. See Std. Jury Instr. (Crim). 7.7(b). *Of note*: A forcible felon in full retreat or flight suggests the intervenor's temporal window for justified deadly force has closed. However, contemporaneous flight might be considered within the commission of certain forcible felonies. See, e.g., § 810.011(4) (burglary); § 812.13(3)(a) (robbery); § 812.131(3)(a) (robbery by sudden snatching), and; § 812.133(3)(a) (carjacking), *Fla. Stat*.

Like too late, deadly force threatened or used *too early* can be found wanting of legal justification. See, e.g., *Little v. State*, 302 So.3d 396 (Fla. 4th DCA 2020) (suggesting that a trespasser trying the door handle and looking around a vehicle's hood without entering the vehicle, and looking into someone else's mailbox, do not constitute the imminent commission of a burglary).

The forcible felonies are enumerated in § 776.08, *Fla. Stat*., but not by statutory reference. A catchall is included, collecting any felony not enumerated "which involves the use or threat of physical force or violence against a person." That phrase will likely be applied only to offenses "which involve a level of physical force or violence comparable to that of the enumerated felonies." See *State v. Hearns*, 961 So.2d 211 (Fla. 2007).

A frequently raised question with respect to forcible felony intervention is whether deadly force can be justifiable under § 776.031(2), *Fla. Stat*., to prevent the burglary or arson of an *unoccupied* structure or conveyance. *Falco v. State*, 407 So.2d 203 (Fla. 1981), is often cited as authority holding it cannot be justifiable. I think *Falco* is properly limited to booby trap ("trap gun") situations where the forcible felony intervenor is not present. See *Rodriguez v. State*, 837 So.2d 1177 (Fla. 3d DCA 2003) (*Falco* did not modify the definition of forcible felony to exclude burglary of an unoccupied structure). My analysis is that under § 776.031(2), *Fla. Stat.*, the intervenor must be present in order to claim the necessary reasonable belief that the commission of a forcible felony was imminent and deadly force was necessary to prevent it. See *Butler v. State*, 493 So.2d 451 (Fla.1986).

Forcible felony prevention justification can be invoked by a law enforcement officer acting in his or her official capacity. Thus, law enforcement officers may avail themselves of the Chapter 776 pretrial immunity process in such cases. See February 2022 *Forum 8*.

!! SAVE THE DATE !!

The annual EJCBA Charity Golf Tournament – "The Gloria" Benefiting the Guardian Foundation/Guardian ad Litem Program will be held on Friday, March 10, 2023 at UF's Mark Bostick Golf Course. Add it to your calendar now and watch for registration information coming soon via email!

Become a Safe Place

Please consider becoming a Safe Place location. All your office will need to do is complete a few questions and a training. If a runaway youth or a child feels endangered, they can easily spot the sign at your door and seek safety. Your role is to make them comfortable, give us a call, and we will take it from there. You will be doing a true service with a recognized national program and at no cost to your organization.

For information, please call Paula Moreno of CDS Family & Behavioral Services, Inc. at paula_moreno@cdsfl.org or (352) 244-0628, extension 3865.

PITFALLS OF ELECTRONIC COMMUNICATIONS

By Siegel Hughes Ross & Collins

Many of us think of electronic communications, such as text messages and emails, as less formal than "hard copy" communications and, as a result, are less careful than we would be in formal correspondence. Two recent developments demonstrate the pitfalls of that thinking.

First, in an unpublished opinion the Eleventh Circuit Court of Appeals recently ruled that a text message could be considered a signed writing constituting an enforceable guarantee of the debt of another under the Florida statute of frauds. *Brewfab, LLC v. 3 Delta, Inc.,* Case No. 22-11003 (11th Cir. Oct. 13, 2022). In that case Brewfab had a contract to provide a machine to 3 Delta. When 3 Delta got behind on payments the parties had a telephone conference in which Appellant, Russo, participated. After the phone conference Russo sent a text message stating:

> As per our conversation on Jan 30th 2020 I george Russo from 3 Delta do promise to pay brew fab in full all outstanding bills as of this date and all agreed upon work done for 3 delta future forward. (*4)

3 Delta failed to keep up its payments and Brewfab sued 3 Delta for breach of contract and Russo for breach of a personal guarantee. Russo alleged, among other defenses, that Brewfab's claim violated the Florida statute of frauds, Fla. Stat. §725.01. That statute prohibits enforcement of a promise to pay the debt of another unless "in writing and signed by the party to be charged therewith…." The Eleventh Circuit found the text message was "signed" under Florida's Electronic Signature Act, Fla. Stat. §668.001, *et seq*. The Act defines an electronic signature as "any letters, characters, or symbols, manifested by electronic or similar means, executed or adopted by a party with an intent to authenticate a writing." Fla. Stat. §668.003.

The Court held the words "I george Russo from 3 Delta" in the body of the message to be such an electronic signature. I question whether the legislature intended for a person identifying him/herself in the body of a text message to be an electronic signature. However, a trial judge and three appellate judges all agreed that entry of summary judgment on that issue was proper. Not only can such language be sufficient to manifest the necessary "intent to authenticate the writing," but there can be no disputed issue of fact that it manifests the necessary intent. Given this approach by, at least, four judges, it seems wise to be extremely careful what we say in electronic communications.

Another pitfall of electronic communication is exemplified by the ABA Formal Opinion 503 issued on November 2, 2022, addressing copying a client with an email to opposing counsel. Of course, good attorneys keep their clients fully informed of the progress of the clients' cases and can be expected to send clients copies of most, if not all, of their correspondence with opposing counsel. However, the ABA Formal Opinion provides that, "in the absence of special circumstances, lawyers who copy their clients on an electronic communication sent to counsel representing another person in the matter impliedly consent to receiving counsel's 'reply all' to the communication." The Opinion compares copying a client on an email with "adding the client to a videoconference or telephone call…or inviting the client to an in-person meeting with another counsel." It recommends lawyers who do not want opposing counsel replying directly to their emails not to copy the client but separately forward those communications in another email. Of course, sending multiple additional emails to keep clients informed would not be difficult because most of us don't spend enough time sending and receiving email.

The Florida Bar, however, may approach the issue differently and place the burden on the receiving attorney to be careful not to "reply all" to an opposing party. The Florida Bar's Best Practices for Professional Electronic Communication warns to "use 'Reply All' only when appropriate." p. 7. Another way to avoid the risk of opposing counsel replying to our clients is to copy the client as a bcc. A client receiving a bcc copy will receive the email but will not be visible to the other recipients and will not receive a "reply all" response. The ABA opinion also states that the permission to copy the client on the return email is implied and an advance notice from an attorney that permission to "reply all" to a client is not given will eliminate the implication.

It seems the larger problem and the greater danger will flow the other way. A client responding to us may "reply all," inadvertently revealing privileged communications to the opposing attorney. Clients must be warned about this danger and monitored to make sure they remember.

November 2022 Luncheon

November luncheon speaker Sherry Brown, 8th Judicial Circuit Specialty Courts Manager

Chief Judge Mark Moseley and Court Reporting Manager Karen Wable.

New Trial Court Administrator Michael Reeves, Civil Court Program Coordinator Tyrell Daniel, and Communications Coordinator Christy Cain.

Asst. Director of Court Operations Blanche Woods, Court Interpreter Gilberto DePaz, and former Trial Court Administrator Paul Silverman.

MAKE SOME MISTAKES IN 2023

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And, just a friendly reminder that, as attorneys, we are encouraged to provide at least 20 hours of pro bono service each year. Volunteering with TRLS is a great - and easy - way to take care of this duty while meeting colleagues and learning more about our client communities. It is also an effective way to dip your toes into a new area of law.

If you have any questions or would like to participate in any of the above, please contact me at samantha.howell@trls.org or 352-415-2315. You can also select an available case and learn more about TRLS's Pro Bono Legal Assistance Program (PBLAP) at https://www.trls.org/volunteer/.

January 2023 Calendar

2 New Year's Day (observed), County & Federal Courthouses closed
4 EJCBA Board of Directors Meeting, Stephan P. Mickle, Sr. Criminal Courthouse, 220 South Main Street, 3d Floor Conference Room, or via ZOOM, 5:30 p.m.
5 Deadline for submission to February Forum 8
11 Florida Bar President Gary Lesser, Stephan P. Mickle, Sr., Criminal Courthouse Jury Assembly Room (or via Zoom), Noon
11 Probate Section Meeting, 4:30 p.m. via ZOOM
16 Birthday of Martin Luther King, Jr. observed, County and Federal Courthouses closed
20 EJCBA Monthly Luncheon Meeting, Chief Judge Moseley, "The State of the Circuit," The Wooly, 11:45 a.m.

February 2023 Calendar

1 EJCBA Board of Directors Meeting, Stephan P. Mickle, Sr. Criminal Courthouse, 220 South Main Street, 3d Floor Conference Room, or via ZOOM, 5:30 p.m.
5 Deadline for submission to March Forum 8
8 Probate Section Meeting, 4:30 p.m. via ZOOM
10 EJCBA Monthly Luncheon Meeting re Innocence Project of Florida, The Wooly, 11:45 a.m.
14 Valentine's Day – show the love!
20 President's Day (observed) – Federal Courthouse 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.