

# FORUM 8

Volume 78, No. 5

Eighth Judicial Circuit Bar Association, Inc.

January 2019

## President's Message

By Cherie Fine



"It is never too late to be what you might have been."  
— attributed to **George Eliot**

### Do you do New Year's Resolutions?

I don't usually make resolutions at the new year, but I read somewhere and agree, that our goal as lawyers should be to see clearly; think clearly;

help our families, our loved ones and our community; perform to our full potential at work; and serve this profession to our fullest. To do this we must first focus on our well-being. In 2019, let's recommit to taking care of ourselves and each other.

A new year is here. As we welcome 2019, let us look back at what has gone before and ahead at what is just potential. With the retirements of Judge Toby Monaco and Judge Victor Hulslander we reflect on their wonderful careers, on all they have given in service to the court system here in our Circuit and around the State of Florida and to the integrity and honor with which they have served. With Judge Gloria Walker and Judge Denise Ferrero becoming our new Circuit Judges and Judge Meshon Rawls joining the County Court bench, we look ahead to their potential contributions and note the bench has a younger and more diverse look, thanks to them.

Another coming change is the effect of "millennial" attorneys on the profession. At some conferences, I have heard criticisms by older attorneys regarding the headaches that they claim to have experienced in attempting to integrate millennials into their firms and bar associations. Last year our Leadership Roundtable focused on

intergenerational relationships in the legal profession and, as a baby boomer, I admit to having a different take on things than a Gen X or Millennial might have. I can tell you, however, that the younger members of our Association are incredibly motivated and involved. These younger members often provide the heavy lifting for our committees and sections and are the go-to members for our community outreach initiatives.

As they say, "A Change Is Gonna Come" and as we bid farewell to what we have known, and consider the future, what is for sure is that our millennial members are going to be responsible for ushering our Association, and the practice of law, into the next generation of law practice. They have lived with technology for their entire lives. Computers and technology are not feared by them; they are embraced. Social media is how they communicate. We, as a profession, need to recognize and utilize these skills to adapt and compete. As we go forward, may we work for justice so that citizens of all races and creeds forge a common bond in true harmony to banish hatred and bigotry, and to safeguard the ideals and free institutions that are the pride and glory of our country. As we reflect on the past and look hopefully to the future, let us here in this circuit work towards the perfect life/work balance and take care of ourselves and each other. In this New Year the Gather, Grow, and Give committees of our bar association are happily working to provide more opportunities for us to socialize, learn and provide community service together as a group! I look forward to enjoying all the upcoming bar association events with you.

On behalf of the EJCBA, "Happy New Year" and best wishes for a healthy and prosperous 2019!

## 2018 - 2019 Board Officers

### **Cherie H. Fine**

*President*

622 NE 1<sup>st</sup> Street  
Gainesville, FL 32601  
(352) 372-7777  
[cfine@ffplaw.com](mailto:cfine@ffplaw.com)

### **Philip Kabler**

*President-Elect*

2700 NW 43rd St, Suite C  
Gainesville, Florida 32606  
(352)332-7688  
[pkabler@boginmunns.com](mailto:pkabler@boginmunns.com)

### **Sharon T. Sperling**

*Treasurer*

2830 NW 41 St., Ste C  
Gainesville, FL 32606-6667  
(352) 371-3117  
[sharon@sharonsperling.com](mailto:sharon@sharonsperling.com)

### **Dominique Lochridge-Gonzales**

*Secretary*

1000 NE 16th Avenue  
Gainesville, FL 32601  
(352) 415-2324  
[dominique.lochridge-gonzales@trls.org](mailto:dominique.lochridge-gonzales@trls.org)

## 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).

## Members at Large

### **Kirsten Anderson**

1229 NW 12<sup>th</sup> Ave  
Gainesville, FL 32601  
(352) 271-8890  
[kirsten.anderson@southernlegal.org](mailto:kirsten.anderson@southernlegal.org)

### **Jan Bendik**

1000 NE 16th Avenue  
Gainesville, FL 32601  
(352) 372-0519  
[jan.bendik@trls.org](mailto:jan.bendik@trls.org)

### **Robert M. Birrenkott, Jr.**

PO Box 117630  
Gainesville, FL 32611  
(352) 273-0860  
[rbirrenkott@law.ufl.edu](mailto:rbirrenkott@law.ufl.edu)

### **Raymond F. Brady**

2790 NW 43<sup>rd</sup> St, Ste 200  
Gainesville, FL 32606  
(352) 373-4141  
[rbrady1959@gmail.com](mailto:rbrady1959@gmail.com)

### **James Bush**

203 NE 1<sup>st</sup> Street  
Gainesville, FL 32601  
(352)416-0090  
[james.bush@dellsalter.com](mailto:james.bush@dellsalter.com)

### **Jodi H. Cason**

PO Drawer 340  
Starke, FL 32091  
(904) 966-6319  
[Casonj@circuit8.org](mailto:Casonj@circuit8.org)

### **Katherine L. Floyd**

201 East University Avenue  
Gainesville, Florida 32601  
Phone: (352)384-3093  
[floydk@circuit8.org](mailto:floydk@circuit8.org)

### **Allison Derek Folds**

527 E. University Ave.  
Gainesville, FL 32601  
(352) 372-1282  
(352) 375-9960 (fax)  
[derek@foldsandwalker.com](mailto:derek@foldsandwalker.com)

### **Norm D. Fugate**

P.O. Box 98  
Williston, FL 32696  
(352) 528-0019  
[norm@normdfugatepa.com](mailto:norm@normdfugatepa.com)

### **Dean Galigani**

317 NE 1<sup>st</sup> Street  
Gainesville, FL 32601  
(352) 375-0812  
[dean@galiganilaw.com](mailto:dean@galiganilaw.com)

### **Evan Minton Gardiner**

151 SW 2nd Ave  
Gainesville, FL 32601-6229  
(352)338-7385  
[gardinere@pdo8.org](mailto:gardinere@pdo8.org)

### **Frank E. Maloney, Jr.**

Historian  
445 E. Macclenny Ave., Ste. 1  
Macclenny, FL 32063-2217  
(904) 259-3155  
[Frank@FrankMaloney.us](mailto:Frank@FrankMaloney.us)

### **James H. McCarty Jr. (Mac)**

2630 NW 41st St Ste A  
Gainesville, FL 32606-6666  
(352)538-1486 - cell  
[jhmcjr@gmail.com](mailto:jhmcjr@gmail.com)

### **Eric Neiberger**

203 NE 1<sup>st</sup> Street  
Gainesville, FL 32601  
(352)372-4831  
[eric.neiberger@dellsalter.com](mailto:eric.neiberger@dellsalter.com)

### **George Nelson**

81 N. 3rd Street  
Macclenny, FL 32063  
(904) 259-4245  
[nelsong@pdo8.org](mailto:nelsong@pdo8.org)

### **Peg O'Connor**

102 NW 2nd Avenue  
Gainesville, FL 32601  
(352) 372-4263  
[peg@turnerlawpartners.com](mailto:peg@turnerlawpartners.com)

### **Monica Perez- McMillen**

101 NW 75th St, Ste 1  
Gainesville, FL 32607  
(352) 335-2393  
[m.perez@foryourlaw.com](mailto:m.perez@foryourlaw.com)

### **Dawn M. Vallejos-Nichols**

Editor  
2814 SW 13th Street  
Gainesville, FL 32608  
(352) 372-9999  
(352) 375-2526 (fax)  
[dvallejos-nichols@avera.com](mailto:dvallejos-nichols@avera.com)

## About This Newsletter

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

Eighth Judicial Circuit Bar Association, Inc.  
P.O. Box 13924  
Gainesville, FL 32604  
Phone: (352) 380-0333  
Fax: (866) 436-5944

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.

Judy Padgett  
Executive Director  
P.O. Box 13924  
Gainesville, FL 32604  
(352) 380-0333  
(866) 436-5944 (fax)  
[execdir@8jcba.org](mailto:execdir@8jcba.org)

Dawn M. Vallejos-Nichols  
Editor  
2814 SW 13th Street  
Gainesville, FL 32608  
(352) 372-9999  
(352) 375-2526 (fax)  
[dvallejos-nichols@avera.com](mailto:dvallejos-nichols@avera.com)

**Deadline is the 5th of the preceding month**

# Alternative Dispute Resolution

By Chester B. Chance and Charles B. Carter



## Mediation, Negotiation & Ethics

The rules for professional conduct of the American Bar Association includes Rule 4.1 which states that a lawyer shall not knowingly make a false statement of material fact or law to a third person, or fail to disclose a material fact to

a third person when disclosure is necessary to avoid assisting a criminal act or fraudulent act by a client unless disclosure is prohibited by other code provisions.

How does such a rule and concept apply to mediation and negotiation? Oddly, the professional code of ethics preclude you from lying in court, but, to a degree permit you to lie in negotiation. Rules of ethics for negotiation are somewhat illusive including what must be revealed to an opposing party.

Rule 4.1 of the ABA model rules of professional conduct includes a comment which states "Under generally accepted conventions in negotiations... estimates of price or value placed on the subject of the transaction are not considered material nor are a party's intentions as to an acceptable settlement of a claim covered by Rule 4.1's prohibition against making false statements." (see comment 2).

We all understand that the professional rules of conduct require us to protect a client confidence. Therefore, a lawyer can hyperbolize and bluff during negotiation. A plaintiff's counsel can clearly tell the defense the case, in front of a jury, is worth in excess of \$500,000.00 even when both you and your client believe the case is, at best, a \$100,000.00 claim.

A lawyer may inform the opposition that the plaintiff "cannot accept less than \$250,000.00" even when the client will accept less. The defense attorney can do the same in a mirror image statement. This is all considered representations as to value in a negotiation and thus, in the legal profession, do not constitute a lie. A lie and a violation of the code of ethics would occur if, for example, the attorney for an injured plaintiff claimed his client sustained a fractured neck when it was known the client sustained a soft tissue cervical injury. Deception is acceptable, if it does not involve a material fact during negotiations in a legal scenario.

Let's look at some examples gleaned from



Lawyer Negotiation: Theory, Practice and Law by Folberg and Golann.

You, as an attorney, represent the defendant in a bodily injury lawsuit. The attorney for the plaintiff/claimant is a young lawyer. You realize plaintiff's counsel believes the plaintiff's potential recovery is limited by a tort reform statute. You know this statute has been found to be unconstitutional. Should you correct the opposing counsel's mistake about the law?

Many lawyers would take advantage of the young lawyer's mistake. No code of professional conduct requires any lawyer to be an attorney for the opposing counsel. No statute, no rule and no professional code requires settlement of cases based on a concept of "fairness."

The authors Folberg and Golann suggest "... strictly ethical inquiry cannot end the discussion." They suggest a lawyer might find that taking advantage of such a mistake in a *particular* circumstance, such as a horrific injury to a young child, "...would be morally wrong although ethically permissible." They suggest a lawyer is free to counsel a client about non-legal matters such as the morality of leaving the injured child unable to obtain lifelong care which the child needs. They suggest the lawyer is free to seek to withdraw if assisting in a settlement under these circumstances would be "repugnant to the lawyer."

Most importantly the authors ask: is there any reason to behave differently toward people in negotiation then you would in other interactions?

Gollan and Folberg suggest that one should go beyond the rules of ethics and suggest a lawyer should ask themselves what the best strategy is in a particular negotiation.

The above-mentioned authors give the following scenario: you represent a plaintiff in a breach of contract action. You are seeking lost profits. What can you say in negotiations about the lost profits if:

- 1) your expert has come to no conclusion about their cause.
- 2) your expert has told you the breach did *not* cause the lost profits.

*Continued on page 7*

# Criminal Law

By William Cervone



As I write this, Marcy's Law has been voted into the Florida constitution. It becomes effective in early January. By the time you are reading this, you may even have become familiar with it as the latest chapter in the victims' rights movement. To some degree but not entirely, I kept my

counsel to myself regarding the need for and efficacy of Marcy's Law, although I believe that it is unnecessary in Florida. Which brings me to this article, which is at least partly related to why it is unnecessary.

Tyler Kersting appears to have done something awful in Broward County. I temper my judgment because he remains, as far as I know, un-convicted as he is pending trial, although that may have changed before you read this. Suffice it to say that he is the defendant in a DUI case in which a victim suffered what the 4th DCA referred to as a catastrophic injury. In anticipation of trial, where the victim would have a right guaranteed in the Florida constitution even before Marcy's Law to be present, Kersting moved to compel the "non-testifying disabled victim" to undergo a compulsory neurological examination to determine his "conscious awareness" of the proceedings, the findings of which, one assumes, he would have used to try to exclude the victim from the courtroom. We all know exactly why he would want that.

Although the trial court granted the compulsory exam, the DCA disapproved and quashed the order allowing it. In so doing, the DCA noted that a victim has (and bear in mind again this is before Marcy's Law passed) a constitutional and decisional right under Florida law "to remain inviolate from an invasive examination not authorized or required by law." Quoting from a 1972 Florida Supreme Court decision, the DCA noted that "[n]o right is held more sacred, or is more carefully guarded, by the common law, than the right of an individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear and unquestionable authority of law."

The case mentions many other related issues, noting, for example, that the specific facts did not even include a question of evidentiary concern or impeachment. It's totally speculative whether that would have mattered. The DCA goes on to recite some analogous situations. These include a decision refusing to allow second opinion type physical examinations of a child sex-crime victim and another one involving an adult sexual battery victim. One of the child victim cases prohibiting a compelled gynecological exam went so far as to throw down the gauntlet of 'fair warning' against the 'spontaneous generation' of a criminal defense right to subject victims to physical examinations. I suppose this was thought to be necessary because these opinions seem to always allow the escape clause or wiggle room concession of language such as "in the absence of extreme or compelling circumstances" or a theoretical "miscarriage of justice." Indeed, there have been instances where courts have allowed what amount to compelled competency evaluations as to certain witnesses and their ability to accurately recall and recollect, much less truthfully testify.

Interestingly, the case also avoided the ultimate question, that being whether the victim would be excluded from the courtroom. Solomon like, the unanimous panel decision simply said that the trial judge would have to decide on that without the benefit of a compelled neurological examination, weighing and balancing exclusion with the defendant's over-riding fair trial rights.

So why is this noteworthy? I don't know. Maybe because it shows that there are some limits to the never-ending claims that such and such a thing is indispensably necessary to some tortured definition of due process or justice. Maybe it's because I'm still curious as to why a bunch of wealthy out of state interests can come into Florida and convince us that we need a Marcy's Law when existing Florida law is victim friendly and no one in the Florida criminal justice system - prosecution, defense, or judiciary - was clamoring for the proverbial "reform" that was urged on us. Maybe it's worth noting, ultimately, because human decency is still relevant, at least some of the time.

# New Year, New Rule

By Krista L. B. Collins



Happy New Year to all! As we welcome 2019, we also welcome changes to the Florida Rules of Civil Procedure, the Florida Rules of Judicial Administration, and the Florida Rules of Appellate Procedure. (The Florida Rules of Criminal Procedure likewise have

amendments going into effect January 1, 2019, but as a civil litigator, I'm not going anywhere near those!) Most of the changes relate to timing and service. The following is a not-comprehensive list of the changes which will be effective as of 12:02 a.m., January 1, 2019.<sup>1</sup>

As regular readers of the Forum 8 will know, thanks to an informative article by Tee Lee in last month's issue, the Florida Supreme Court has now (finally and sensibly) done away with the extra five (5) days for mailing as applied to e-mail service, recognizing that "e-mail, unlike postal mail, is now nearly instantaneous and no additional time should be permitted for responses to documents served by e-mail." Supreme Court of Florida, No. SC17-882. The changes to Rules 2.514 and 2.516(b)(1)(D)(iii), doing away with the extra five (5) days and providing a new method of calculating time, were well-explained by Ms. Lee, as was the change to Rule 1.351(b), *Fla. R. Civ. P.*, regarding the time for a notice of intent to serve a subpoena.

However, these are not the only rules that have been amended. Rule 1.510(c), *Fla. R. Civ. P.*, has been amended to treat e-mail and electronic filing of summary judgment evidence the same as delivery, a move that will surely be cheered by everyone defending a motion for summary judgment. The rule now reads, in relevant part:

---

<sup>1</sup> No, 12:02 a.m. is not a typo; the Florida Supreme Court's Order actually specifies 12:02 a.m. See Supreme Court of Florida, No. SC17-882. No, I don't know why they chose 12:02.

The adverse party must identify, by notice served pursuant to Florida Rule of Judicial Administration 2.516 at least 5 days prior to the day of the hearing if service by mail is authorized, or delivered, electronically filed, or sent by e-mail no later than 5:00 p.m. 2 business days prior to the day of the hearing, any summary judgment evidence on which the adverse party relies. To the extent that summary judgment evidence has not already been filed with the court, the adverse party must serve a copy on the movant pursuant to Florida Rule of Judicial Administration 2.516 at least 5 days prior to the day of the hearing if service by mail is authorized, or by delivery, electronic filing, or sending by e-mail no later than 5:00 p.m. 2 business days prior to the day of hearing.

The Rules of Appellate Procedure have been amended somewhat differently. The Appellate Rules Committee initially wished to retain the additional five days for service by e-mail. Supreme Court of Florida, No. SC17-882. After some discussion with the Board of Governors, a compromise was reached, which has resulted in the enlargement of various time frames. *Id.* For instance, the filing of a notice of cross-appeal must now be filed with 15 days of the notice of appeal, rather than 10. See Rules 9.110(g), 9.130(g), 9.140(b)(4) and 9.140(c)(3).

Interestingly, some time frames have been enlarged beyond the five days affected by the method of service. Rule 9.210(f), *Fla. R. App. Proc.*, now provides that the answer brief shall be served within 30 days after service of the initial brief, and the reply brief shall be served within 30 days of the answer brief.

For a complete list of the amendments to the various Florida Rules of Procedure, see Supreme Court of Florida, No. SC17-882, available [here](#). And a friendly reminder – make sure that your staff members who are responsible for calendaring due dates are aware of these changes now and save yourself a headache later!

## Wage and Hour:

# Arbitration Agreements with Class Action Waivers

By Laura Gross



Earlier this year, the U.S. Supreme Court approved the use of class action waivers of wage and hour claims in arbitration agreements between employers and employees. *Epic Systems Corp. v. Lewis*, 548 U.S. \_\_\_\_, 138 S. Ct. 1612 (2018). The Supreme Court stated:

In each of these cases, an employer and employee entered into a contract providing for individualized arbitration proceedings to resolve employment disputes between the parties. Each employee nonetheless sought to litigate Fair Labor Standards Act and related state law claims through class or collective actions in federal court. Although the Federal Arbitration Act generally requires courts to enforce arbitration agreements as written, the employees argued that its “savings clause” removes this obligation if an arbitration agreement violates some other federal law and that, by requiring individualized proceedings, the agreement here violated the National Labor Relations Act. The employers countered that the Arbitration Act protects agreements requiring arbitration from judicial interference and that neither the saving clause nor the NLRB demands a different conclusion.

Until recently, courts as well as the National Labor Relations Board’s general counsel agreed that such arbitration agreements are enforceable. In 2012, however, the Board ruled that the NLRA effectively nullifies the Arbitration Act in cases like these, and since then other courts have either agreed with or deferred to the Board position.

Held: Congress has instructed in the Arbitration Act that arbitration agreements providing for individualized proceedings must be enforced, and neither the Arbitration Act’s savings clause nor the NLRA suggests otherwise.

*Id.*

While class action waivers might help employers avoid class claims worth millions of dollars (workplace class action settlements totaled over \$2.72 billion in 2017, individualized arbitration could be the employer’s “death by a thousand paper cuts.” But managing small recovery individualized arbitration cases on a contingency basis is also a lot of work for a plaintiff’s attorney.

Will class action waivers limit wage and hour claims? That has not happened yet. Stay tuned. Meanwhile, for 2019, employers should consider arbitration provisions with class action waivers.

## 2019 EJCBA Charity Golf Tournament

### “The Gloria: In Memoriam of Gloria Fletcher”

By Rob Birrenkott

Please consider joining our team to help youth in our circuit who are in the dependency system enjoy the normal experiences that many of us may take for granted. All of the proceeds from the tournament go to The Guardian Foundation, which provides resources to children in our community who have been abused, neglected, or abandoned. We have made it possible, whether you’re a golfer or not, to support the tournament; you can: [PLAY](#), [SPONSOR](#), or [DONATE](#).

This year’s tournament will take place on Friday, March 1, 2019, at the UF Mark Bostick Golf Course. Registration, lunch, and warm up will begin at 11:30 a.m. followed by a 12:30 p.m. tee time. The tournament format is a two-person or four-person scramble (player’s choice). The registration fee is \$130 per golfer (early bird rate of \$115 if registered by February 16). Please contact Rob Birrenkott ([Rbirrenkott@law.ufl.edu](mailto:Rbirrenkott@law.ufl.edu)) to learn more about supporting the tournament.

# Alternative Dispute Resolution

Continued from page 3

3) your expert has given you a range between \$2-5 million for the lost profits.

4) your expert says the maximum lost profit is \$2 million.

5) you do not have an expert; your client says the loss is \$5 million.

Folberg and Gollan suggest any statement about the expert's conclusions probably will be the subject of discovery. Therefore, if you make a statement that is found to be false, the lawyer who made the false statement will lose credibility.

"That loss, which will likely survive the conclusion of this particular case and affect negotiations with the other lawyer in future cases, will cause these future negotiations to be more strained, more lengthy and probably less fruitful. To the extent that the lawyer gains a reputation for untruthfulness as a result of statements about the expert, the lawyer may be impeding all his/her future negotiations."

The above referenced book also includes a discussion about disclosure of factual errors. It posits a scenario where an attorney represents a husband in a divorce case. That lawyer receives from opposing counsel a proposed property settlement with several errors, including:

1) a transcription error that undervalues an asset;

2) an arithmetical error that undervalues an asset;

3) a valuation by purchase price of an asset when market value is much higher.

All these errors work to the husband's lawyer's advantage. What should that lawyer do, if anything?

Fulberg and Gollan suggest the first two errors are scrivener's errors and suggest the husband's attorney has a duty to correct the mistake. The third error raises "more difficult issues" because the error may come from opposing counsel's conscious but erroneous judgment about what valuation is best for his or her client. It is suggested that sometimes correcting a mistake would be the wise thing to do although it is not required. If the mistake involved were a fundamental error, it may lead to the opposing party attempting to void the transaction under the law of contracts. If the parties (the husband and wife) for the minor children are sharing custody and have an ongoing relationship, that may be a factor for consideration in whether an error is corrected. "Here, as in many situations, ethics tells you the options available, but the lawyer must still exercise good judgment among the options."

Your current authors of this article are not suggesting what you should do in situations similar to the above examples. We do think that sometimes the failure to correct an error may lead to future litigation

over that very failure which will cost your client money when they think a matter has been resolved and closed.

In summary, ask: What is the best strategy for you as a lawyer in a particular negotiation. Will it lead to future litigation? Is the negotiation decision morally reprehensible?

What situation do we as mediators see a lot? The following:

At mediation, a plaintiff's counsel in a personal injury case makes a statement such as "I am making a policy limit demand of \$100,000.00." Actually, the policy limits are \$300,000.00. Does defense counsel have an obligation to correct the coverage mistake? Is the answer different if the declarations page has been disclosed to plaintiff's counsel and the amount of coverage has been provided and answered in an interrogatory? Would, in the words of Sir/St. Thomas More, silence be affirmation?

Just food for thought.



# United States Supreme Court Honors Judge Hodges

By Stephanie Marchman



The Honorable Wm. Terrell Hodges was honored by the Supreme Court of the United States on December 4, 2018 for his service as Chair of the Judicial Conference of the United States Committee on Court Administration and Case Management (“CACM”). His leadership of CACM follows a long career of distinguished service to federal judiciary committees, including service as Chair of the

Eleventh Circuit Committee on Pattern Jury Instructions and Chair of the Executive Committee of the Judicial Conference.

To pay tribute to His Honor, a reception and dinner was hosted at the United States Supreme Court by United States Supreme Court Associate Justice Sonia Sotomayor and incoming CACM Chair United States District Judge Audrey Fleissig. It was evident from the dinner program that Judge Hodges’ quiet leadership, gift for storytelling, ability to think outside the box, and kindness to all people left an indelible impact on CACM’s members and staff.

Judge Hodges was gracious enough to include Florida in his special occasion, with his friend and colleague, Chief United States District Judge Mark Walker, the Dean of his alma mater, the University of Florida Levin College of Law, Laura Rosenbury, and his former law clerks, Leslie Hoffman and Stephanie Marchman, in attendance as his guests.

At the close of the dinner, Judge Hodges wished his colleagues well and said goodbye with an Irish Blessing –

*May you have . . .  
enough happiness to keep you sweet,  
enough trials to keep you strong,  
enough sorrow to keep you human,  
enough hope to keep you happy,  
enough failure to keep you humble,  
enough success to keep you eager,  
enough wealth to meet your needs,  
enough enthusiasm to look forward,  
enough friends to give you comfort,  
enough faith to banish depression,  
enough determination to make each day  
better than yesterday.*

Judge Hodges is a Senior United States District Judge in the Ocala Division, Middle District of Florida, who maintains his chambers in the Gainesville Division of the Northern District of Florida. Judge Hodges was nominated to the Court by President Richard Nixon on December 8, 1971 and confirmed by the United States Senate on December 11, 1971.



Judge Hodges & Justice Sotomayor



Judge Walker gives remarks at the dinner honoring Judge Hodges at the United States Supreme Court



Judge Mark Walker, Karen Walker, Leslie Hoffman, Dean Rosenbury, Justice Sotomayor, Brian Marchman, Stephanie Marchman, and Judge Hodges



# Happy New Year and Thank You from Three Rivers Legal Services!

By Marcia Green

It's 2019 already! This past year was a whirlwind of activity, including celebrating 40 years of providing civil legal services in North Central Florida and comfortably settling into our new office conveniently located for our clients near the Department of Children and Families and Catholic Charities. We secured a large CyPres Award, new grants for assisting the homeless, a Florida Bar Foundation Pro Bono Innovation Grant to assist rural clients and increased funding to assist the victims of domestic violence. We launched our Senior Medical Legal Partnership with UF Health and continue collaborating with Southern Legal Counsel to address issues of homelessness and other community legal needs.

Long-time staff departures hit deep, with the retirement of Judy Collins, staff attorney since the inception of Three Rivers, and Gloria Walker's election to Circuit Judge after 18 years with our program. Lauren Sleasman transferred from our Lake City office to specialize in domestic violence after the departure of Merise Jalali, who is moving to Canada. Mikel Bradley became Managing Attorney and we welcomed two part-time staff members - housing and consumer attorney, Adriana Shimeall, and Kimberly Tibbetts, our Rural Pro Bono Outreach Project paralegal. We are so grateful to be able to work with such an amazing group advocating on behalf of our clients.

We also want to recognize and thank the attorneys in our community who have provided services, made donations and otherwise supported Three Rivers Legal Services in the past year. We would not be able to address the legal issues facing our low income residents without the dedication and compassion shown by our legal community. Because of these attorneys, our accomplishments are greater. It is a pleasure to share this list of very special lawyers with you.

Attorneys on this list recognize that there are residents in our circuit who need help in navigating the legal system, who face poverty, domestic violence, homelessness, and age and disability-related impairments. Thank you for caring and helping to make so much possible.

Amy Abernethy  
Bob Ackerman  
Natasha Munkittrick Allen  
Allen Law Firm  
Mark Avera  
Avera & Smith  
Robert W. Bauer  
Harvey Baxter  
Marilyn "Lynn" Belo  
Phil Beverly Jr.  
Marvin W. Bingham, Jr.  
John R. Bonner Sr.  
Sam W. Boone, Jr.  
Kimberly G. Bosshardt  
Raymond F. Brady  
Eric Brill  
Ted Burt  
Robert P. Butts  
Erin Carr  
Ramona Chance  
Chandler, Lang, Haswell & Cole  
Lisa C. Cohen  
John S. Cooper  
Tom L. Copeland  
Ryan Colby Curtis  
Jeff Dollinger  
Teresa A. Drake  
Gary Edinger  
Thomas L. Edwards  
Sharon W. Ehrenreich  
Brooke C. EliazarMacke  
Lisa C. Elliott  
Richard Fabiani II  
Michelle L. Farkas  
Sally H. Foote  
Kathleen C. Fox  
Norm D. Fugate  
William B. Galione  
Ellen Gershow  
Lucy Goddard-Teel  
Susan Goffman  
Harvey L. Goldstein  
Nouvelle L. Gonzalo  
Gray Robinson  
Nancy W. Gregoire  
Virginia E. Griffis  
Gary D. Grunder  
Marynelle Hardee  
McCabe G. Harrison  
John H. Haswell  
Leslie S. Haswell  
Bruce E. Hoffman  
Holland & Knight  
Ben A. Hutson  
Denise Lowry Hutson  
Ayanna Hypolite  
Adriane M. Isenberg  
Raymond M. Ivey  
Johnson & Osteryoung, PA  
Philip Kabler  
Randy M. Kammer  
Aaron Kelley  
John J. Kelly  
Caleb S. Kenyon  
Peter J. Kim  
Ben H. King  
Charles B. Koval  
Kathryn M. Lancaster  
F. Parker Lawrence II  
Tee H. Lee  
Eric J. Lindstrom  
Charles W. Littell  
Lorenzo Lleras  
Patti Phillips Locascio  
Christy Lopez  
Marjorie H. Malagodi  
Frank E. Maloney Jr  
Lauren McCord  
Kelly R. McNeal  
Kevin A. McNeill  
Stephen G. Mercadante  
Susan L. Mikolaitis  
Shannon M. Miller  
William A. Miller  
Gary C. Moody  
Murphy Law  
Peg O'Connor  
Maru Ilena Opabola  
Judith B. Paul  
Meshon Rawls  
Robert "Bert" Ranum  
Stephen A. Rappenecker  
Lauren N. Richardson  
Edith R. Richman  
Howard M. Rosenblatt  
Laura A. Rosenbury  
Jack M. Ross, Jr.  
Sara R. GonzalezRothi  
Eric S. Ruff  
William D. Ryals  
Reina E. Saico  
Bill Salmon  
Anthony J. Salzman

*Continued on page 10*

# Three Rivers

Continued from page 10

M Paul Sanders  
Gail E. Sasnett  
James Sawyer  
Schackow & Mercadante  
Stacy A. Scott  
Michael Sechrest  
Juan Sierra  
Joshua Silverman  
Staci Braswell Sims  
Frederick Smith  
Sharon T. Sperling  
James Sproull  
Samuel Stafford  
Ronald W. Stevens  
Adam Stout  
Christian A. Straile  
Cynthia S. Swanson  
Crystal P. Talley  
Diane A. Tomlinson  
Allison P. Thompson

A. Scott Toney  
Kimberli L. Trader  
Turner, O'Connor, Kozlowski  
P.L.  
Algeisa M. Vazquez  
Warner Sechrest & Butts PA  
Thomas R. Weller  
Jonathan F. Wershow  
Richard M. White Jr  
William T. White  
Robert L. Williams  
Mary K. Wimsett  
Jerrold A. Wish  
Michael Wolf  
Wanda M. Yachnis  
Nancy E. Yenser  
*My sincerest apologies to  
any names omitted in error  
or enrolled or donated after  
publication deadline.*

Are you interested in joining this list? We can make it easy for you!!

If you become a volunteer, we will refer cases to you in your area of expertise or we provide training and information for you to assist in other areas of law. You can participate in clinics, outreach events or our video conferencing project to reach rural residents. Our clients are pre-screened for financial eligibility and, if needed, we can connect you with attorneys who are willing to discuss the case with you to share their legal expertise. We provide malpractice insurance coverage, litigation cost reimbursement (if feasible and available) and, if needed, you can meet with your pro bono client at our office. We will try to make your experience positive while recognizing that our clients are often needy and confused with the legal system.

For those who donate money, we thank you for your kindness and generosity. As you are aware, funding for Three Rivers Legal Services is a constant challenge. Our program survives with good management, dedicated staff, generous donors and volunteers.

Please contact me to volunteer for any one of our projects at [marcia.green@trls.org](mailto:marcia.green@trls.org) or call me at 352-415-2327. Check out our improved [website](#). Look for cases to consider at this [statewide website](#) that lists available pro bono cases. We look forward to working with you in 2019.

## Circuit Notes

The following local law firms are proud to announce their recognition among the “Best Law Firms” for 2019 as ranked by US News and Best Lawyers®:

Avera & Smith, LLP  
Dell Salter, P.A.  
Donnelly + Gross  
GrayRobinson, P.A.  
Morgan & Morgan, P.A.  
Saliwanchik, Lloyd & Eisenschenk  
Turner O'Connor Kozlowski, P.L.



**The Fund**  
ALWAYS DRIVEN

**Fund Membership is your competitive advantage**

**Featured Resources:**

- Worksheets & Calculators
- Online Publications
- Information Center
- Title Notes
- Paradigms

**These essential tools are created by attorneys, for attorneys** and include access to the very best education, products, support, services and publications.

**Learn more:**  
[thefund.com](http://thefund.com)

## Former Public Defender Of The Eighth Judicial Circuit, Rick Parker, Passes

C. Richard ("Rick") Parker passed away on Friday, December 14 at the age of 71 surrounded by his family. Originally from Miami, Florida, Rick attended the University of Florida and received his bachelor's degree in Journalism in 1969 and his law degree in 1972. Rick dedicated his entire professional career to representing the underprivileged and indigent accused - 38 years in the office of the Public Defender of the Eighth Judicial Circuit (27 years as the elected Public Defender) and almost six years during his "second career" as a contractor with the U.S. Department of State serving in Afghanistan, where he assisted with their criminal justice system reform efforts. He also taught as an adjunct professor at UF Law School for 24 years.

In addition to his public defender work, Rick was actively involved in lobbying for the Florida Public Defender Association (FPDA), serving as Chair of the General Legislation Committee for ten years and Chair of the Appropriations Committee for 12 years. He also served as President of the FPDA five times.

During his time in Afghanistan, he served in positions of increasing responsibility, culminating in Chief of Team overseeing a team of over 500 U.S. and Afghan nationals, including attorneys and [security](#) personnel. Among his proudest achievements was sponsoring over a dozen Afghan nationals for their U.S. special immigrant visas.

Rick often said that by representing those on the fringes of society, he was representing everyone. In our society, he said, those most marginalized will be the first to lose their rights; by protecting them it ensured equal protection and justice for all.

Universally respected by all, Rick has had a profound and lasting impact on the lives of everyone he's touched and on the criminal justice system both domestically and internationally. The members of the Eighth Judicial Circuit Bar Association were deeply saddened upon learning of Rick's passing; our hearts and prayers are with his family and friends.

## Professionalism Seminar – SAVE THE DATE

### Inexpensive & Enlightening CLE Credits

By Ray Brady

Mark your calendars now for the annual Professionalism Seminar. This year the seminar will be held on Friday, March 29, 2019 from 9:00 a.m. (registration begins at 8:30 a.m.) until Noon at the Trinity United Methodist Church on NW 53<sup>rd</sup> Avenue. Our speaker will be Roberta Kemp Flowers, Professor of Law at Stetson University College of Law and William Reece Smith Jr. Distinguished Professor in Professionalism. Professor Flowers will speak on "The Public's Perception of Our Profession: Whose Fault Is It?"

We expect to be approved, once again, for 3.5 General CLE hours, which includes 2.0 ethics hours and 1.5 professionalism hours.

Watch your email and the *Forum 8* newsletter for reservation information in early February. Questions may be directed to the EJCBA Professionalism Committee chairman, Ray Brady, Esq., at 373-4141.

### Save The Following Dates For Upcoming 8<sup>th</sup> Judicial Circuit Investitures

**Eighth Judicial Circuit Court Judge Denise Ferrero**  
February 1, 2019 at 3:00 p.m. (reception following)  
Alachua County Criminal Justice Center

**Alachua County Court Judge Meshon Rawls**  
February 22, 2019 at 3:00 p.m. (reception following)  
Alachua County Criminal Justice Center

**Eighth Judicial Circuit Court Judge Gloria Walker**  
March 22, 2019 at 3:00 p.m. (reception following)  
Alachua County Criminal Justice Center

**Union County Court Judge Mitchell Bishop**  
March 29, 2019 at 3:00 p.m. (reception following)  
Union County Courthouse



## Federal Bar Association, North Central Florida Chapter

Ocala "Chambers Luncheon" Series

---

Senior District Judge James Whittemore \*

---

Thursday, January 17, 2019, starting at noon

United States District Court, Middle District of Florida, Ocala Division

Golden-Collum Memorial Federal Building and U.S. Courthouse

207 N.W. Second Street, Ocala, Florida 34475

\$15.00 for members, North Central Florida Chapter, Federal Bar Association

\$25.00 for non-members (lunch included)

\*Senior District Judge James Whittemore of Tampa

Shares the Criminal Case Docket in the Ocala Division

Moderated by Mary Mills, Office of the Federal Public Defender, Ocala Division

---

For more information and to RSVP, please contact Robert Griscti,

[robert.griscti@grisctilaw.com](mailto:robert.griscti@grisctilaw.com),

352/375-4460 office or 352/256-8268 mobile/text

## January 2019 Calendar

- 1 New Year's Day observed – County and Federal Courthouses closed
- 2 EJCBA Board of Directors Meeting, Three Rivers Legal Services, 1000 NE 16th Avenue, 5:30 p.m.
- 7 Deadline for submission to February Forum 8
- 9 Probate Section Meeting, 4:30 p.m., Chief Judge's Conference Room, 4th Floor, Alachua County Family & Civil Justice Center
- 15 Family Law Section Meeting, 4:00 p.m., Chief Judge's Conference Room, Alachua County Family & Civil Justice Center
- 18 EJCBA Luncheon, Chief Judge James Nilon, "The State of the Circuit," The Woolly, 11:45 a.m.
- 21 Birthday of Martin Luther King, Jr. observed, County and Federal Courthouses closed

## February 2019 Calendar

- 1 Investiture of Circuit Court Judge Denise Ferrero, Alachua County Criminal Justice Center, 3:00 p.m.
- 5 Deadline for submission to March Forum 8
- 6 EJCBA Board of Directors Meeting, Three Rivers Legal Services, 1000 NE 16th Avenue, 5:30 p.m.
- 13 Probate Section Meeting, 4:30 p.m., Chief Judge's Conference Room, 4th Floor, Alachua County Family & Civil Justice Center
- 14 Valentine's Day – show the love!
- 15 EJCBA Luncheon, The Woolly, Speaker TBD, 11:45 a.m.
- 18 President's Day Holiday – Federal Courthouse closed
- 19 Family Law Section Meeting, 4:00 p.m., Chief Judge's Conference Room, Alachua County Family & Civil Justice Center
- 22 Investiture of Alachua County Court Judge Meshon Rawls, Alachua County Criminal Justice Center, 3:00 p.m.

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).