

# TITLE BOUT DECIDED!!

## “Weather Man” Sam Unleashes Fury on “Hurricane” Floyd



### Tempest in a Teapot

Hurricane Floyd, the most devastating storm of the century, encompassing an area larger, in square miles, than the great state of Texas, continues to churn in the North Atlantic of our minds. This cyclonic devil, evil incarnate, armed with the power of scores of hydrogen bombs, was burned into our national psyche by a rabid media bent on producing a storm with meaning; a storm so fraught with peril and intensity that we would be bound to immediately grant it iconic status.

Anthropomorphisms were as relentless as the storm itself. *The New York Times'* headline on September 16<sup>th</sup> was “Hurricane Aims at Coast of Carolina.” *USA Today* said, “Floyd Stays ‘Real Mean.’” *The Washington Post* announced that “Floyd and siblings grow up without influence of jet stream.”



Because this typhoon was so relentless, other interested parties, aware of the need for quick action in spinning this storm, sought me out. Two weeks ago, I was retained by Ralston Purina, owner of Energizer/Eveready batteries; the Wonder Bread Company; Dreamworks [actually Katzenberg had Spielberg call me. Jeff hasn't spoken to me since the Disney

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### GIESLA CLOSES PRACTICE!!

“I was counting on more business from Floyd...”

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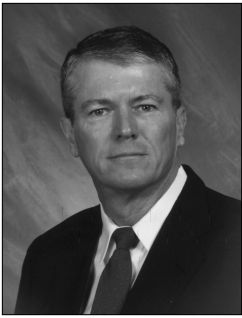
### Pres. succumbs to EDITOR'S WRATH!!

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### Battery and Bread STOCKS SOAR!!

# President's Message

In This Issue



by Frank Maloney

Today I received a very commanding fax from our esteemed Newsletter Editor "Perry White" Hankin: The deadline is tomorrow, the fifteenth, for your submissions. I don't give a ... about the hurricane! I want your articles in or else! ....Who cares! Get me those columns. NOW! I could only reply, "Yes, Chief."

As I look out my office window to the West I see the Baker County Courthouse next door. I have never seen the building this quiet and deserted. It is closed tighter than a drum. It is really ready for a class Four

Hurricane to hit. Justice is delayed even in Judge William's court. In sharp contrast looking out the window to the South, I see highway U.S. 90 grid locked with all kinds of vehicles never moving more than 5 miles per hour. They are the refugees fleeing Jacksonville from Hurricane Floyd. That traffic is just the overflow from Interstate 10. Is there no one left in Duval County? The Exodus consists of all kinds of trucks pulling trailers with every describable kind of livestock and cars packed with house pets, all of which are forbidden from the storm shelters. Interspersed with Noah's parade are all kinds of R.V.s and travel trailers, some of which are quite ancient and look as if they haven't moved for years. They are taking the folks west who do not have a hope for a motel room. On top of it all I just received an urgent E-mail from the Florida Bar Office in Tallahassee. It is a list of telephone numbers to call "regarding what lawyers should do after a hurricane or disaster strikes their office."The power of the coming storm is overwhelming considering what lengths people will go to prepare. Yet, the fear of Editor Hankin's wrath is far greater than my fear of any hurricane and has me glued to the keyboard. Kidding aside, I sincerely hope that by the time this column is in print Hurricane Floyd will have passed us by in the Eighth Judicial Circuit with no serious injury to life or property. If the worse does happen, I know that our members of the Eighth Judicial Circuit Bar Association will come to the front as did the members of the Dade County Bar Association in the wake of Hurricane Andrew with aid for the legal and other relief needs of the victims of the storm.

Our first month of this Bar year has started very well. At our Board of Directors meeting we learned that the committees of our Bar Association are all gearing up, and going. They still need active participation from as many of our members as possible. I know the Continuing Legal Education committee needs your ideas for good programs and speakers for the rest of the year. Likewise, the Pro Bono committee would appreciate your input as to people deserving recognition.

The September Bar lunch was sponsored by West Publishing, and the door prize of a new Black's Law Dictionary went to Dennis Comfort. Our speakers' Ken and Linda McGurn gave a very informative and entertaining presentation on downtown redevelopment with some new insights of its pitfalls. It was especially amusing to hear about frustrations about the upcoming Hooter Restaurant in their new building. A good time was had by all and hope to see you at next month's luncheon on October 8<sup>th</sup>. ■

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**"BEFORE YOU  
BEAT A DOG,  
LEARN HIS  
MASTER'S NAME"**

*From Chinese Proverbs From Olden Times (1956)*

# Inns Of Court Presentation - Open To All

Please join the James C. Adkins, Jr. American Inn of Court on Thursday, October 21 at 7:30 PM in the law school (Bailey) Courtroom, for a group presentation of the procedures of the Judicial Nominating Commission and a mock judicial interview. This presentation is open to all practicing attorneys and judges of the Eighth Circuit, and promises to be informative and entertaining. We hope to see you there. Contact Inn President, Ray Brady, at (352) 378-6118, if you need additional information. ■

## The Buck Stops Here

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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 by E-mail, or on 3.5" diskettes labeled with your name. Also, please submit a black and white photograph with your name written on the back. Diskettes and photographs will be returned. Files should be saved in any version of WordPerfect, or ASCII.

### Deadlines are the 15th of each month.

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## In the Eye of the Storm

by Dan Williams, Executive Director

I suppose it is ironic that as I am in the process of writing my initial column as your Executive Director, I am also in the process of preparing my home for Hurricane Floyd. As a native Floridian, the formation, organization and dynamics of hurricanes have always fascinated me. And, as a native Floridian, I have lived through more than my share of them. But, the storm I most remember is Dora.

Dora traveled through this area in 1964. Although she was not the monster that Floyd is predicted to be, Dora provided some damaging winds and torrential rains in this area. The eye of this storm, in fact, went through the town of Penney Farms, just west of Green Cove Springs. My neighborhood, near Newnan's Lake, received an ample supply of storm-related wind and rain over a 12-hour period. As a twelve year old boy, the thing that I most remembered is my Mom explaining that after the storm had passed "halfway" over, I could go outside and play for awhile. But, she explained, when the weather started getting bad again, I had to go back inside until the rest of the storm had passed. Somewhat true to character, I became so tired from my "playtime" in the eye of Dora that I somehow managed to sleep through the second half of the storm. This is a fact that amazes my Mom to this day.

When I put hurricanes in the context of my responsibilities with the 8<sup>th</sup> Judicial Circuit Bar Association, I do not think in terms of "stormy." Instead, I put it in the context of how to so organize our Association where we can make an impact on the lives of those citizens who live within this circuit. The singular mission of this Association is to provide professional and social outlets that combine to facilitate your practice. How do we do that? Well, we can take a few lessons from Dora and Floyd.

First of all, both hurricanes and your Association revolve around a central "eyewall" made up of low pressure. Your Board of Directors contains some of the most active, talented and concerned people it has ever been my pleasure to work with. "Low Pressure," in this context, doesn't mean that nothing happens. In fact, to the contrary, much is accomplished with little "panic" or "anxiety". In one recent week, I simultaneously assisted with a newsletter, an upcoming luncheon and the processing of annual membership dues. To accomplish this, I was working with three separate Board Members; in fact, several other members as well, not Board members, but equally devoted to the success of YOUR association. Every member has a responsibility and all work together to accomplish a very impressive list of projects.

Second, both your Association and hurricanes develop their strength in their central core, then project it to their extremities. Our September 10 luncheon got the year off to a good start. I am working with your Board and others to provide a "plate" of projects during this year that will provide continued stability, profitability and integrity for YOUR association. You will be hearing about these projects in upcoming newsletters. Confucius was once speaking with his emperor, who had asked him if he (the Emperor) had the right to take

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# Probate Section Report

by Larry E. Ciesla



The September meeting of the Probate Section of the Eighth Judicial Circuit Bar Association was held on September 8, 1999 in the Grand Jury Room of the Alachua County Courthouse, commencing at 4:30 p.m. Pan Zettler began the meeting with a discussion of a recent Baker Act case in which she was involved, where one of the main issues was the

continued validity of a previously executed Power of Attorney. Pursuant to Sec. 709.08, Fla. Stat. a Power of Attorney is temporarily suspended when a Petition to Determine the Competency of the principal is filed; and the Power of Attorney is terminated upon an adjudication of incapacity of the principal. In the case in which Pan was involved, it was thought that it would be in the best interests of the principal for the Power of Attorney to have continued validity, especially considering that no guardian would be appointed for the principal in connection with the Baker Act Proceedings. Pan was therefore able to persuade the Court to include in its Order finding incapacity under the Baker Act that the previously signed Power of Attorney would continue to be valid.

In a related matter, Bobbie Eubank indicated that in several recent guardianship cases in which she has been involved, she has been able to persuade the Court to appoint a guardian of the person and not a guardian of the property, where the ward has a valid, previously executed, Power of Attorney. Her argument to the Court was that under the Guardianship code, the Court is obligated to consider all available options to guardianship and to impose the least restrictive means reasonably available in each case.

Jay Donahoe then reported on the recent case of Law vs. Law, 24 Fla. Law Weekly D1924 (Fla. 4th DCA Aug. 18, 1999), where the Court held that, under certain circumstances, a husband and a wife may be entitled to two separate homestead tax exemptions. Specifically, the Court held that the husband and the wife must legitimately be living apart in separate residences. The Court stated that the parties must not be engaged in any "fraudulent or otherwise egregious act." The Court also added that, "...a husband and wife in an intact marriage can not have two homesteads."

Larry Ciesla reported on the case of Department of Revenue vs. Race, 24 Fla. Law Weekly D1899 (Fla. 5th DCA Aug. 13, 1999), another case in the continuing saga of the unreasonableness and overzealousness of the Florida Department of Revenue in the collection of documentary stamp taxes. There, the parties were husband and wife and intended to take title to their new home in their joint names as

tenants by the entireties. Both names were put on the mortgage. However, due to an oversight, the wife's name was not put on the deed. The husband subsequently signed a deed transferring the property from his name to both names. The Department of Revenue unsuccessfully argued at both the trial court and appellate court levels, that pursuant to §201.02(1), Fla. Stat., a tax was due based upon the outstanding mortgage balance. After losing at the trial court, the Department of Revenue appealed. In ruling against the Department of Revenue, the Fifth District stated, with regard to the applicable statutory provision, "...we are not required to interpret it in a technical, pedantic or unreasonable manner. A plain meaning analysis that leads to an unreasonable or ridiculous result, obviously not intended by the legislature, must be rejected." The Fifth District also stated, "...we are of the opinion that taxes are due only once on the same encumbrance regarding the same person." A discussion then arose among the section members as to whether the amount of the documentary stamp tax would be based upon the entire mortgage balance or upon 1/2 of the mortgage balance in a hypothetical case involving similar facts, such as if the

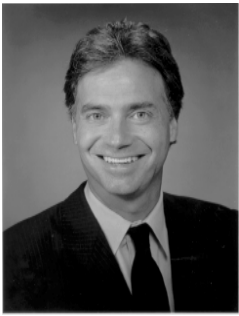
wife's name had not previously been placed on the mortgage. It was suggested that where one of the two grantees is already a party to the full amount of the mortgage, that perhaps the tax would be imposed only as to 1/2 of the mortgage balance. Parker Lawrence indicated that he has recently inquired into this issue and has been advised by the Department of Revenue that the tax is imposed on the entire mortgage balance outstanding at the time of

the deed transfer. Bobbie Eubank then pointed out that in divorce cases, the parties are often faced with this issue. Under a recent statutory amendment, limited to division of property in connection with a divorce, the parties are exempt from the payment of this documentary stamp tax, with regard only to the homestead of the parties. However, all non-homestead properties transferred pursuant to a divorce are subject to the tax.

Larry Ciesla then reported on an article appearing in the August 1999 issue of the Fund Concept. This article explains that Attorneys' Title Insurance Fund has approved a new type of deed known as an enhanced life estate deed. In the typical scenario, a parent will execute a deed conveying title to a particular parcel of real property to a child or children of the grantor, and the grantor will reserve a life estate. In the traditional life estate deed, the grantor may not thereafter convey or mortgage the property without the joinder and consent of the holders of the remainder interest. In the new enhanced life estate deed, the language would read as fol-

Due to Hurricane Floyd, the Probate Section will meet at its regularly scheduled time on October 13, 1999 at 4:30 PM in the Grand Jury Room of the Alachua County Courthouse.

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by Samuel Hankin

Put on the *Revolver* CD and listen to Eleanor Rigby and Yellow Submarine on the left channel of your stereo only.

I hated that "So You Want to Be a Millionaire?" thing with Regis Philbin. Carl Schwait loved it.

My horrible lunch experience in Gainesville: I couldn't eat at Chesapeake Bagel because there was a line out the door. Then I went to Walgreen's to buy some candy and there was a line out the door there. Then I go to Popeye's Chicken and there is a line out the door. Then I went to Larry's Giant Subs and there's a line out the door and people standing around as if they were waiting for Godot. Then I went to Main Moon for their "All you can eat Chinese buffet," and there was no one there, but I realized that I would probably end up eating about six or seven thousand calories worth of food. I moved to Mac's Drive-thru and there's a line of cars about ten deep. I ended up at Kentucky Fried Chicken with a two-piece tender roasted.

## Bleary-eyed Nocturne

The first time I really got drunk, I was a student at Blair Academy in Blairstown, New Jersey. I was in the eleventh grade. I had been sent to prep school because my parents were at their wit's end as to what to do with me. Anyway, my friend, Frank Wesley Graham Jr., and I got a hold of a bottle of Johnny Walker Red Label and sat on the top of a hill overlooking the bucolic and serene Jersey countryside. We finished the bottle and fell asleep on top of the hill. When I woke up in the morning, I was at the bottom of the hill, my left side crushed against a barbed wire fence. Frank was nowhere to be seen. I got up and staggered back to campus. It was about 7 o'clock in the morning. I made it to the steps of the school church. I was one of the only, maybe the only, Jewish kid at the Episcopalian school. Unable to stifle the urge, I vomited on the sidewalk leading to the chapel just as the masters and students were coming up the walk for morning vespers. I always thought that God would have forgiven this trespass as venial at worst, but the Headmaster did not and I was shortly expelled. To this day, I have not had another drop of Johnny Walker Red Label.

But why, dear reader, should I trouble you with this saccharin reminiscence? Well, as I write, I sit here at the bar in the Marchand Grille at the Vinoy in St. Pete, having left the environs of Gainesville to avoid the repercussions associated with those groundlings who inundate our city, such as it is, for the Florida/Tennessee game. (We leave town on all "Gator" weekends.) As I sit here, I'm looking at four carved-

wood pedestals, each with a malachite plaque. On each pedestal stands a proud bottle. The first is Johnny Walker Red Label, the second Johnny Walker Black Label, the third Johnny Walker Gold Label, and the last is Johnny Walker Blue Label at \$25.00 per glass. My point is that Johnny Walker Red Label is just that, along with its brethren. The name of the product is exactly what the name sits on, a red label. It's not often that a product describes itself being what it is.

It reminds me of a scene in a John Steinbeck novel, I think it was the *Grapes of Wrath*, where the protagonist is watching a juke box whose mechanism allows the nickel to nestle between two electrodes completing a circuit and thus allowing the song to play. The nickel, as both a conductive metal alloy and coin, serves a real purpose, both in transmitting electricity and the capitalistic transaction associated with it.

Which brings me to a wonderful book, *Boggs, A Comedy of Values*, by Lawrence Welsher, University of Chicago, 160 pages, \$22.00. A short journalistic foray into the concept of money, of currency, of specie and a wonderful and witty essay on the inherent value of that which most of us routinely seek in our professional lives. This volume profiles an artist whose genre is currency, U.S., British and others, and whose meticulous recreations of bills gets him in all sorts

of scrapes, some of which you can read about by logging on to Westlaw and reading the opinion of the U.S. Court of Appeals for the District of Columbia which ruled, "Art is supposed to imitate life, but when the subject matter is money, if it imitates life too closely, it becomes counterfeiting."



Boggs takes his art one step further than most. After having spent hours on a superb recreation of a U.S. twenty, he goes out to spend it, but not in the usual way. He might go to a restaurant and enjoy a good meal and at the end, after being presented the check, produce his bogus but beautiful twenty. He'll show it to the waiter. The waiter may comment favorably regarding Boggs's skill. Boggs always and purposefully leaves the obverse side of the tender blank. He is no counterfeiter, although often accused and sometimes indicted, both in Britain and here.

Boggs also creates whimsical differences in his bills, signing them sometimes JSG Boggs, "Secret of the Treasury" or stating that it's "In Fun We Trust" rather than God. For example, instead of promising to pay the bearer on demand, he "promises to promise to promise." As the waiter and Boggs chat, Boggs offers a novel barter. The meal in return for his art. He will have eaten \$20.00 worth of food approximately. If the bill is \$19.00 with tip, he will ask for \$1.00 back in change. If the waiter turns down or appeals to higher authority, then

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# Professional Video Conferencing Suites

In my continuing efforts at shameless self-promotion, I would like to announce to the readership, the imminent opening of two professional video conferencing suites here in Gainesville. Advances in technology have now allowed the installation of high speed, low cost, real-time video communication equipment which support long distance conferencing, learning, court appearances, mediations, and settlement conferences without the attendant and substantial costs in terms of travel and time investment.

These suites will utilize T1 technology and broad band providers to obtain a nominal 30 frames per second transmission capability, equivalent to four bundled ISDN lines with studio quality broadcast transmission. For those of you who scanned the last sentence as gibberish, in essence, we will be creating two large suites with conference room tables, comfortable chairs, coffee service, fax, speaker phone, and courier services, and the added attraction of a large TV monitor and an unobtrusive camera which can scan, pan, tilt, and zoom, giving you the ability to sensorily perceive people who are thousands of miles away. You can see them, you can hear them; however you still won't be able to either touch, smell or taste them. If you are looking for the latter three sensations, you'll still have to make airplane reservations, hotel reservations, dinner reservations, pack your clothes and travel the 2,000 miles to Butte, Montana. Attorneys locally can avail themselves of these suites for purposes of oral argument before the First DCA, the Bankruptcy Court or the Supreme Court of the State of Florida. You can also use the suite for mediations, settlement conferences and video depositions<sup>1</sup>, as well as distance learning for use in seminars, CLE, and other educational forums which otherwise would require travel and the attendant inconvenience in terms of time and money.

Additional features include the ability of the camera to locally focus on the individual speaking, to access documents in real-time, to fax documents, or to scan and e-mail documents and store them on a local hard drive.



While the costs of video conferencing are certainly not nominal, when compared with the costs associated with face-to-face depositions or oral arguments, they are astonishingly cheap.

## Before Video Conferencing

- Hotel expense
- Airline expense
- Rental car expense
- Meal expense
- Salary expense for employee downtime during travel
- Leasing expense for meeting place rooms

## After Video Conferencing

- Long distance charges
- Conference suite rental

If you'd like to use an on-line calculator to determine your savings, point your browser to <http://www.intel.com/proshare/conferencing/roi/calc.htm>.

Hourly rates are \$150.00 and up. The long distance charges associated with the various types of communications, depending on the speed of the connection, vary from 25¢ to \$1.00 per minute. Remember that in most situations, the cost will be split by both attorneys or with the parties on the other end. In addition to the hard costs saved from driving to Tallahassee and back and spending the night, you're also saving the six hours you're on the road in terms of billable time. For those defense attorneys who are used to traveling around the country and may, in part, enjoy it, the concept of video conferencing, (which will, I assure you, be ubiquitous in a couple of years), is being eagerly adopted by insurance companies.

It is anticipated that the two suites here in Gainesville, one located at the 305 Building, 305 Northeast First Street, and the other at the Meridien Place complex at 2772 Northwest 43<sup>rd</sup> Street, will be on-line before the millennium, and even if you are not interested in the video conferencing for a specific deposition, mediation or conference, they will be available for use in meetings, depositions, and mediations on an *la carte* basis. ■

<sup>1</sup> An added convenience to video depositions is the instantaneous ability to obtain the video tape at the conclusion of the examination.



thing]; and, of course, the Weather Channel. My job? Work the hurricane in such a fashion as to derive as much media attention, economic gain and curb appeal for this otherwise drably named tempest.

In retrospect, after two weeks of intensive work, I feel in-all that I did a pretty good job; although, as in any task, there are a few things I would have done differently. I guess if you ask me what the most difficult thing to accomplish was, I would have to say creating the largest peacetime evacuation in our country's history, given the fact that the hurricane actually made landfall nowhere in our state. I was able, with the help of the Weather Channel and the folks in Miami, to fill I-95, U.S. 1, and all major collaterals to overflowing. Just before I began the evacuation, I got a frantic call from Weyerhaeuser asking me to hold off for a few hours because they still had several thousand board feet of plywood left. In trying to accommodate them, I may have slowed things down a bit, but it's hard to juggle sixteen balls at one time.

As for the Weather Channel, I remember a particularly amusing incident in which Spielberg and I were sitting in director's chairs watching one of the correspondents reporting from a slightly breezy beach location in Melbourne. Off camera, gaffers were tossing leaves and small twigs toward the shot, but it still didn't look like much. Finally Spielberg gets up and yells, "Get the damn hood up!" At that point we cut and the correspondent, looking at us sheepishly, hands outstretched, palms up, raised the hood of his Weather Channel slicker and we continued on, watching as he was misted. Spielberg turned to me and said, "I tell them over and over again. They've got to keep the damn hood up. Without the hood, there's no suspension of disbelief." Turning back to the reporter, he yelled, "And tie the drawstring!"

We tested several guys in the Weather Channel wind tunnel until we found somebody with cheeks so flaccid that we could get them to vibrate at moderate wind speeds. Those wind tunnels come in really handy when the storm isn't producing the kind of visuals you'd like.

As the storm worked its way up the Atlantic, I got into a production fight with the National Weather Service. They wanted to go public with the information that the storm was heading north and would not threaten Florida or Georgia, but I needed to hold for a few more hours, because we still had a depot full of D-cells at Eckerd's distribution center. I guess the hard questions revolve around integrity to the storm or integrity to the larger purpose served by educating, entertaining, and herding the masses. We compromised and the Weather Service allowed me to delay the announcement of the expected turn to the north for eight hours longer.

The swath of devastation left by Floyd through Florida and particularly Gainesville, was enormous. At about 10:00 AM on September 15<sup>th</sup>, the winds got so heavy at our house that a little plastic swimming pool almost blew over. I also saw some leaves swaying in a tree. Working with local officials, and thank goodness for their cooperation, we were able to cancel two days of school, close the courthouse, the airport (losing two flights over the two day period!) and most businesses and agencies.

As you can tell from the excruciatingly extended metaphors to Hurricane Floyd scattered in other articles throughout this newsletter, it is quite clear that the hurricane as a concept is a mind grabber. One that shakes us out of our daily work-a-day routine and creates a little excitement in our lives.

As Floyd wandered aimlessly into the gutter of the North Atlantic, like a drunk who finally gives up on his family and friends, meandering from a near category 5 storm of greatness to a 4, then a 3, then finally just a pitiful tropical storm, I sat at the bar bent over my Vodka 7 and thought hard about the last month and what it had meant to me. In addition to the recompense that I received from my various corporate accounts, what had I gained? What had I learned?

I'll tell you one thing. You should never name a hurricane Floyd. It just has no credibility. It's like a defense secretary named Casper or Melvin. We need to be naming them Jason or Brittny or Ricky or In-Synch, or maybe even Backstreet Boy. And sell the rights of each hurricane to a corporate sponsor. Like we do with stadia. The Delta hurricane. Hurricane 3Com, Tropical Storm United. Now that Gert, Hillary and Harvey (three more loser names) have passed us by with little media opportunity, although I am flying to Bermuda today (September 22), I am really looking forward to Hurricane Iglesia next week. ■

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**Musings***continued from page 5*

Boggs moves on. If, however, an agreement is reached, then the transaction moves to another level. Now Boggs pockets the receipt, writes the date and name of the restaurant and meticulously details the nature of the transaction. He then sells the paperwork to one of many collectors who are interested in his work, usually for about \$500 or so. But this is only part of the artwork. To complete the piece, the collector must retrieve the errant and ersatz bill, for now in the possession of our art-loving waiter. When the bill is re-joined by the collector to the flotsam and jetsam associated with the underlying transaction, then the object becomes far more valuable and the waiter is rewarded for his discerning eye by being paid a handsome profit. The essence of the Boggsein pursuit is a search for true value and after reading the book, you may find yourself wondering what those bills in your pocket really stand for and what it is you do, and why, to put more of those bills in those pockets.

To give you an idea of the value of a Boggs transaction, one, not long ago, resold for \$420,000 and others have been acquired and placed in the permanent collections of the British Museum, the Art Institute of Chicago, the Museum of Modern Art and the Smithsonian. People don't even cash Boggs's bank checks anymore.

I learned about this book from an article in *The Atlantic Monthly* reviewing it. That article is available on-line in the July, 1999 issue of *The Atlantic Monthly* at [www.theatlantic.com](http://www.theatlantic.com). Simply search the back issues. ■

September 21, 1999

Vlasic Pickles International Foods, Inc.  
6 Executive Campus  
Cherry Hill, NJ 08002-4112

Dear Vlasic:

I tried your new Vlasic Hamburger Stackers and they really stink. In your commercials and on your jar, you state that they are crunchy and crisp. I found them instead to be extremely soggy and watery, with no crunch. In addition, their color is a sickly yellow-green and overall, my experience with them was an extremely unpleasant one.

The idea of creating a pickle large enough to encompass an entire bun and cover an entire burger is a laudable one; however, your execution of this marketing concept was, to say the least, all wet.

I am enclosing my Vlasic jar label in the hopes that you might recompense me the purchase price. I've lost the receipt, but just send me whatever you think is reasonable or send some coupons for some of your other products which are extremely delicious and bright green.

Sincerely,

Samuel Hankin  
SH/ksh  
Enclosures



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# Eighth Judicial Circuit Nominating Committee Seeking Applications for Newly Created Circuit Judgeship

By Jill Conti

Applications are being accepted beginning Oct. 1<sup>st</sup>, 1999, by the Eighth Judicial Circuit Nominating Committee pursuant to this year's judicial certification approved by the Florida Legislature and signed by Gov. Jeb Bush adding a new circuit judgeship for this Eighth Judicial Circuit.

Applicants must have been members in good standing of the Florida Bar for the past five years, registered voters and live in the jurisdiction of the court they are applying for.

Applications are available from Jill A. Conti, Esquire, Chairperson Eighth Judicial Nominating Committee, at 204 West University Avenue, Suite 4, Gainesville, Florida, 32601, and on the Bar's International WebSite, FLABAR Online. To get an application online go to the site, and then click on the organization item from the menu on the left side of the page. When the new page comes up, click on Standing Committees on the left hand menu, then select the Judicial Nominating Procedures Committee from the following page.

At the top of the JNC Procedures Committee page is a hypertext link to the application page. The application is in the PDF, PKZIP, and EXE formats, and there are directions for accessing the documents in each of the three formats, along with links for any additional software necessary. EXE documents include the program to extract the documents in WordPerfect format. Instructions for doing this are on the Web site.

The filing deadline for the judicial applications is Oct. 26, 1999. Ten copies of each application must be submitted. The applications must be received by Jill A. Conti, Chairperson Eighth Judicial Nominating Committee before 5 p.m. on the deadline date. Questions may be directed to her office at 352-372-8573.

Copies of the "Judicial Nominating Commission Application for Appointment" can also be obtained from the Editor of this newsletter. ■



# Gainesville Association of Paralegals

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## Commitment to Excellence

by Pamela S. Craig, CLA

What is a legal assistant/paralegal? What can they do? Is a legal assistant/paralegal the same as a legal secretary? Unfortunately, legal assistants have been asked these questions once too often. As a result, area legal assistants/paralegals joined forces in 1993 and established the Gainesville Association of Paralegals ("GAP").

GAP is dedicated to promoting the profession's growth, helping paralegal students enrolled in area colleges, educating Gainesville, and surrounding communities, on the utilization of paralegals.

In addition to educating local communities, GAP provides a forum where members can share experiences, knowledge, and information about different types of legal practices.

An important objective of GAP is to promote professional excellence. Therefore, GAP encourages paralegals to take the Certified Legal Assistant ("CLA") exam offered by the National Association of Paralegals. This exam covers such areas as communications, analytical skills, ethics, human relations, legal terminology, legal research, plus four areas of your choice of substantive law. For the past five years, GAP has offered a CLA Review Course to prepare paralegals that are registered for the exam.

GAP has grown substantially in the past six years and continues to develop as a professional organization. To learn more about GAP, monthly meeting dates and times, collect any information outlined above, please visit our web site at [www.afn.org/~gala/](http://www.afn.org/~gala/) or contact Pamela S. Craig, CLA at Avera & Avera, P.A., (352) 372-9999.

### 1999-2000 GAP OFFICERS

President	Pamela S. Craig, CLA
Vice-President	Barbara Barlow
Secretary	Michelle Boatwright
Treasurer	Lisa "Nan" Mack
Parliamentarian	Tony Alvarez
NALA Liaison	Pam Perry

### JOB BANK

Call our Job Bank number to locate highly-qualified paralegals. GAP is proud to be a member of the finest legal communities in Florida and is eager to contribute its talents.

Please call: Theresa Becks, CLA: (352) 491-5106



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## Quote of the Month from Pat Buchanan

### The most dangerous man in America

America is locked in a cultural war for the soul of our country. On one side: secularists armed with the proposition that God is dead. Their governing axioms reduce faith to superstition and traditional morality to quaint nonsense. If we are to reclaim American morality, we must restore traditional values—patriotism, loyalty, courage, and decency. We must revitalize our popular culture with media detoxified of raw sex & violence. We must ensure that the schools teach the values we hold dear. ■

### GAP'S UPCOMING EVENTS

**Tuesday, October 19 – 12:30 p.m.**

General Business Meeting

Location: Harry's Seafood Bar Grille

**Friday, October 22**

Seminar titled "An Overview of Insurance Coverage's and Ethics"

Location: Savannah Grande Reception and Conference Center, Gainesville, FL

Contact for registration: Patricia Muncey, CLA, Avera & Avera, (352) 372-9999

**Tuesday, November 16 – 12:30 p.m.**

Keynote Speaker: Thomas W. Brown, Gainesville MRI

Location: Szechuan Panda Restaurant, SW 13<sup>th</sup> Street

### CLA DEADLINES AND EXAM DATES

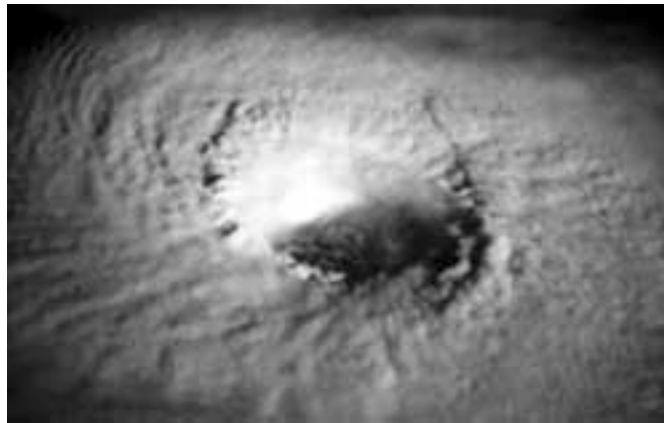
Filing:	October 1, 1999	Exam:	December 3-4, 1999
	January 15, 2000		March 24-25, 2000
	May 15, 2000		July 21-22, 2000
	October 1, 2000		December 1-2, 2000

"A tremendous number of people in America work very hard at something that bores them. Even a rich man thinks he has to go down to the office every day. Not because he likes it but because he can't think of anything else to do."

- W.H. Auden

a man's life in the name of the state (early Capital Punishment debate). Confucius responded that he did, but it should not be necessary. Confucius went on to explain that the Emperor was the wind, and the subjects were the grass. Confucius then told the Emperor that he believed that the grass would always bend in whatever direction the wind blew. Thus, this association is no better and no stronger than its leadership and overall organization.

Which brings me to the final similarity between EJCBA and Hurricanes Dora and Floyd. They both require energy from their surroundings. Awesome wind power and torrential sheets of rain are now falling in the Bahamas as this column is being written. Even so, that energy didn't come "out of nowhere." Hurricanes, AND EJCBA, both require energy from the surrounding area if they are to become stronger and make any impact. Your Board (the eye of this "storm") is depending on you to make a positive response to your recent dues notice. Response has been great so far, but there are many more of you, members last year, who still need to renew. And, just as important, there are some that practice within this circuit who either have never joined EJCBA, or haven't been members in a long time. The absence of your energy does make a difference in the organization of "Hurricane EightBar." We need your input. I am available if you need assistance; or, please contact any of the Board Members, whose names and telephone numbers appear regularly in this newsletter. Please think about it. You can-----and do-----make a difference in our Association. ■



Hurricane Edna from the Space Shuttle

lows: "... Sam Jones and wife, Melinda Jones, to Sam Jones and wife, Melinda Jones, for a life estate, without any liability for waste, then with full power and authority in said life tenant to sell, convey, mortgage, lease or otherwise manage or dispose of the property...without joinder of the remainderman, and with full power and authority to retain any and all proceeds generated thereby, then upon the death of the last life tenant, the remainder, if any, to Douglas Jones and Jennifer Jones, as grantees. This new type of deed is basically a contingent deed. Title will only pass to the remainderman if the life tenant has not sold the property during his or her lifetime. In addition to the obvious benefits of giving the life tenant full power and control over the property during his or her lifetime, and avoiding probate upon the death of the life tenant, there is an additional benefit if the life tenant receives Medicaid benefits during his or her lifetime, the property will be put beyond the reach of the Medicaid Estate Recovery Unit, which would have a lien on any non-homestead prop-

erty contained in the estate of the Medicaid recipient. According to a recent seminar on the subject of Medicaid Planning, attended by Larry Ciesla, this type of deed is sometimes referred to as a "Lady Bird Deed", apparently because it was first used by Lady Bird Johnson. It was further pointed out that the child or children inheriting the property would receive a stepped-up date of death basis in the property because there was no actual transfer of the property during the lifetime of

the grantor. It was pointed out by the speaker at the Medicaid Planning Seminar that this type of deed can be viewed as a "poor man's estate plan" since it obviates the use of a revocable living trust and accomplishes the same result.

The meeting next proceeded to a discussion of Senate Bill 2228er, recently passed by the Florida Legislature, which comprehensively deals with end-of-life care issues. The bill is very lengthy (39 pages) downloaded from the Internet or 32 pages otherwise) and should therefore be read in its entirety. The bill does amend the suggested form for a living will contained in §765.303, Fla. Stat. The new form is much broader in scope and application than the old. Whereas the old applied in the case of a terminal condition, the new form can apply, at the option of the signor, in situations including (1) the person is both mentally and physically incapacitated; (2) the person has a terminal condition; (3) the person has an end-stage condition; or (4) the person is in a persistent vegetative state. The bill adds a definition of end-stage condition in §765.101(4), Fla. Stat. and likewise adds a definition of persistent vegetative state in §765.101(12). A copy of this new comprehensive legislation can be downloaded from the Florida Legislature's web site at [www.leg.state.fl.us/](http://www.leg.state.fl.us/) or it can be obtained by contacting Larry Ciesla's office. ■

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# Federal Bar Association Chapter "Up and Running"

by Rob Griscti

The newly-formed Gainesville Area Chapter of the Federal Bar Association is proud to announce that over 75 judges, lawyers and law students have joined as "charter members," making this Chapter of the national organization one of the fastest-growing in the country. The Chapter currently represents Alachua, Dixie, Gilchrist, Lafayette, Levy, and Marion Counties in the national Federal Bar Association.

The organization was formed by a steering committee including the Hon. Stephan P. Mickle, Pamela Bernard, Stan Cushman, Thomas Edwards, Gloria Fletcher, Karen Gilliam, Robert Griscti, Rodney D. McGalliard, Thomas Miller, R. Jerome Sanford, Gilbert Schaffnit, Karen Specie, John Stokes and Lloyd Vipperman in March of this year. In May, approximately 50 lawyers and judges attended the Chapter's first event, a tour of the newly renovated federal courthouse. Since then the board has drafted and passed Bylaws and Articles of Incorporation for the non-profit organization and has worked on member services such as a newsletter, a pro bono/pro se/CJA referral panel, and programs with the Young Lawyers Division and Law School Divisions of the local Chapter. On September 9th, over 100 judges, lawyers, and students attended the Chapter's Fall Reception at the Hippodrome.

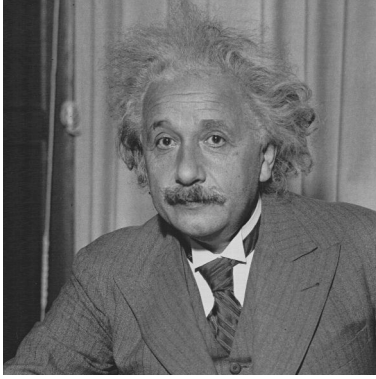
One accomplishment of the local Chapter to date is the installation of a telephone in the attorney's lounge on the third floor of the Federal Courthouse building. Previously, lawyers were required to leave the building to have telephone access. The Chapter thanks the Eighth Judicial Circuit Bar Association which has pledged funding support for this project. We also thank Senior Judge Paul and courthouse staff, including Sharon Bruley and Scott McCartney from the Clerk's office, for their invaluable assistance with this small but important project.

On November 17th from 1:00 to 5:00 p.m., the Chapter will sponsor a CLE seminar entitled "A View from the Bench." This event will start at 1:00 p.m. at the Sovereign Restaurant, 12 SE Second Avenue, in Gainesville. The Chapter has applied for up to 4 hours of CLE credit for this seminar, including one hour of ethics/professionalism credit. Speakers will address recent amendments to the Federal Rules of Appellate Procedure and the Local Rules of the United States District Court for the Northern District of Florida. Sharon Bruley, Resident Deputy Clerk for the Northern District of Florida, Gainesville Division, will speak about some of the "do's and don'ts" of federal practice from the Clerk's perspective. Following these speakers, a panel consisting of Senior Judge Maurice M. Paul, District Judge Stephan P. Mickle, and Magistrate Judge Gary R. Jones will present a "View from the Bench" that will allow questions and answers between judges and lawyers. This informative program will be followed by an informal reception from 5:00 p.m. to 6:00 p.m., also at the Sovereign. Registration fees will be minimal to encourage both chapter member and non-member participation. Please contact Chapter Treasurer, Sharon Sperling, at (352) 375-5602 for registration information.

If you have not joined the Gainesville Area Chapter, applications and information will be available at the November 17th seminar, or join before October 1st, when membership in the national organization will increase from the current fee schedule. Please note that those who practice primarily in state court, as well as state judges, are welcome to join and participate in the social and educational goals of the Chapter. Contact the Chapter's membership chair, Elizabeth Waratuke, at (352) 334-5011 for further information about applications and membership services. ■

<p><i>Cut out and send to:</i>                  Gainesville FBA                  CLE Committee                  P.O. Box 2361                  Gainesville FL 32602-2361</p>	<p><b>Register me for the VIEW FROM THE FEDERAL BENCH seminar, Wednesday, November 17, 1999</b></p>	
<p>Name(s) _____                  _____                  _____                  Firm: _____                  Address: _____                  _____                  Phone: _____                  _____</p>	<p>_____ GFBA member: \$25.00                  _____ GFBA law student member: free                  _____ YLD member: \$25.00                  _____ Non-member attorney: \$45.00                  _____ Non-member law student \$10.00</p>	
<p>Please include registration fee as indicated, payable to "Gainesville Area Chapter, FBA". It is anticipated this course will qualify for 4.0 CLE hours, including 1 hour of Ethics &amp; Professionalism. Non-members, join the Federal Bar Association now (before dues increase Oct. 1<sup>st</sup>) and register for this seminar as a member! Include \$86 (\$44 if 5 years or fewer in practice; \$11 law students) payable to Federal Bar.</p>		





"A hundred times every day I remind myself that my inner and outer lives are based on the labors of other people, living and dead, and that I must exert myself in order to give in the same measure as I have received and am still receiving."

Albert Einstein, from "What I Believe," in *Forum and Century* 84 (1930), pp. 193-194; reprinted in *Ideas and Opinions*, pp. 8-11

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## Calendar Of Events

*Tuesday, October 5*

Board of Directors Meeting, Lake Butler 5:30PM

*Wednesday, October 6*

Family Law Section Meeting, 4PM, Courthouse

*Friday, October 8*

Bar Luncheon, 11:45AM, Sovereign Restaurant



Eighth Judicial Circuit Bar Association, Inc.  
Post Office Box 127  
Gainesville, FL 32602-0127

## October Bar Luncheon

*by Jennifer Lester*

As everyone knows by now, this month's luncheon is (as is every Bar Luncheon), on the second Friday of the month, October 8, 1999. This month, Judge Larry G. Turner will present his perspective on the transition from practicing attorney to presiding judge. Judge Turner will discuss the change in perspective and give his insights on practicing before the Eighth Circuit Bench. This luncheon is a must for anyone who practices in this Circuit!

If you attended last month's luncheon, you know that we have some exciting speakers lined up for the rest of the year. Just to name a few, Fred Levin, Justice Pariente and Billy Donovan have all agreed to come speak to us, so put the following dates on your calendar:

- October 8, 1999
- November 12, 1999
- December 10, 1999
- January 14, 2000
- February 11, 2000
- March 10, 2000
- April 14, 2000
- May 12, 2000

All luncheons are at 11:45 a.m. at the Sovereign Restaurant in Gainesville. We'd also like to thank Ken and Linda McGurn for their enlightening and entertaining presentation on Union Station and the role city government plays in downtown redevelopment. We will see YOU on October 8th, at 11:45 a.m. at the Sovereign.

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