FORUM 8

Volume 71, No.2 | Eighth Judicial Circuit Bar Association, Inc. | October 2011

President's Letter

By Mac McCarty

As many of you are aware, on August 31, 2011, the John A.H. Murphree Law Library was transitioned from its long-time location at the Alachua County Courthouse to the Headquarters of the Alachua County Library District at 401 East University Avenue in downtown Gainesville. A Memorandum of Understanding between the Governing Board of the Library District and the Board of Trustees of the John A.H. Murphree Law Library effected this change. While in some regards it is sad to see the library move from the courthouse to the public library, there were a number of good reasons to make the change, including professional staff to assist researchers, more ready access for the public, and more hours for all to use the law collection's resources.

At the ceremony on August 31st, many members of the Library District's Governing Board and the John A.H. Murphree Law Library's Board of Trustees were present, along with relatives of Judge Murphree. From discussions with the Boards' members, as well as attorneys and members of the general public present at the ceremony, it was clear that many in attendance were hoping that the transition of the Murphree Law Library collections to the public library would provide an impetus for increased community outreach by members of the Eighth Judicial Circuit Bar Association. In fact, the law library's relocation presents a golden opportunity for our association to work with the Library District to provide legal information for the public good. Ms. Shaney T. Livingston, Interim Library Director, made it clear that she would welcome—and was excited about—the prospect of working with our association for legal community outreach to benefit the citizens of the Eighth Judicial Circuit.

Public service for the public good is nothing new for our bar association. Over the years, our members have engaged in many community outreach programs—Law Week and the Holiday Project being two examples—and a number of our lawyers have participated in the Justice Teaching program (spearheaded by Florida Supreme Court Justice R. Fred Lewis) in the schools of this area. However, the public's need for legal information provided in an outreach context is far greater than what is currently available. Many local citizens cannot afford to secure general information on legal topics and others—if they better understood a particular area of the law through the receipt of general information—would then retain an attorney to assist them. Increased community outreach is a glaring need in our community—particularly in this economy. Most bar associations in the United States engage in some form of outreach activity. A cursory review of internet listings shows many types of programs (some of which have been done in our circuit before) including community legal forums, informational seminars, community "law school", radio or television call-in or public service programs, speakers bureaus, and mock trial exhibitions. There

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Advertisement

Attorney office space available to share in the Meridien Centre. Separate office and secretary areas, common conference rooms, and other amenities. Call Scott Krueger @ 376-3090, or email Scott@SDKrueger.com.

Job Opening: Gainesville City Attorney's Office

The Gainesville City Attorney's Office has a full time opening for an Asst. City Attorney I. Graduation from an accredited law school and Florida Bar membership required; preference given to applicants with transactional, land use planning and zoning and/or local government law experience. Apply online with 2 writing samples at www.cityofgainesville.jobs by 10/16.

About This Newsletter

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

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

News, articles, announcements, advertisements and Letters to the Editor should be submitted to the **Editor** or **Executive Director** by Email, or on a CD or CD-R labeled with your name. Also, please send or email a photograph with your name written on the back. Diskettes and photographs will be returned. Files should be saved in any version of MS Word, WordPerfect, or ASCII text.

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Deadline is the 5th of the preceding month

New Privacy Rules for Florida Court Filings

By Audrie M. Harris

On October 1, 2011, new privacy rules become effective in an effort to minimize the amount of unnecessary personal information included in court filings. The Florida Supreme Court adopted the privacy rules as part of its ongoing effort to provide the public with electronic access to non-confidential court records. The Court adopted new Rule of Judicial Administration 2.245 and amended the Florida Rules of Civil Procedure, the Florida Rules of Judicial Administration, the Florida Rules of Criminal Procedure, the Florida Probate Rules, the Florida Rules of Appellate Procedure, and the Florida Family Law Rules of Procedure and forms to require compliance with the new rule. (Case No. SC08-2443 (Fla. June 30, 2011)

Rule 2.245 governs the filing of personal information in all types of cases, except traffic and criminal proceedings; yet, such a reprieve for those cases is only temporary. The bottom-line is that unless authorized by Rule 2.245, statute, another rule of court, or the court orders otherwise, certain personal information shall ***not*** be filed with the court or it must be truncated or redacted before filing.

Under Rule 2.245(a), only the initials of a minor may be included in information filed with the court except for orders relating to parental responsibility, time-sharing or child support or any document or order affecting the minor's ownership of real property. Also, only the year of a person's birth date may be filed except for in a writ of attachment or notice to payor or whenever the birth date is necessary for the court to establish or maintain subject matter jurisdiction.

No portion of any social security number, bank account number, credit card account number, charge account number or debit account number may be filed. An exception exists for an account number which identifies property alleged to be the subject of a proceeding.

Only the last four digits of any taxpayer identification number, employee identification number, driver's license number, passport number, telephone number, financial account number, brokerage account number, insurance policy account number, loan account number, customer account number or patient or health care number may be filed.

If a litigant seeks to file an email address, computer user name, password or personal identification number, it must be ***truncated***.

In addition to the exceptions discussed above, personal information can be included in the record of an administrative or agency proceeding; the records in appellate or review proceedings; information used by the clerk or courts for case management purposes; or if the information is relevant and material to an issue before the court. Obviously, the last exception could represent quite a large window. However, while the Florida Supreme Court acknowledges that Rule 2.425 represents a "change in mindset" for attorneys, the Rule does include sanctions for filings not made in good faith. Regardless, we must all remember that once personal, sensitive information is entered into a court file, it becomes public record.

Professor Bernard "Andy" Raum speaking about forensic science at the September bar luncheon

Date Change

The March 2012 EJCBA luncheon, previously scheduled for March 9, 2012, has been changed to Friday, March 16, 2012. Our guest speaker will be Florida Supreme Court Justice Barbara Pariente. Please calendar this important date now.

E-Filing to be Topic of October Luncheon

E-Filing is here and here to stay! Don't just hyperventilate - YOU CAN DO THIS!! Please join us for the EJCBA luncheon on October 14, 2011 at Villa East and learn how from our speaker, Clerk of Court J.K. "Buddy" Irby.

Reliance as an Element *vel non* of a FDUTPA Claim

By Siegel, Hughes & Ross

In order to state a fraud claim, there must be actual reliance. *See, Tucker v. Mariani,* 655 So. 2d 221, 225 (Fla. 1st DCA 1995). That is, the aggrieved party must allege and prove he detrimentally relied on the representation or omission of the other party. *See id.* One notable exception to this rule is that actual reliance is not an element of a claim for damages resulting from fraudulent or deceptive trade practices under Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA"). *See, Davis v. Powertel, Inc.*, 776 So. 2d 971 (Fla. 1st DCA 2000)

FDUTPA "provides that an aggrieved party may initiate a civil action against a party who has engaged in 'unfair or deceptive acts or practices in the conduct of any trade or commerce.'" *Id.* at 974 (quoting § 501.204(1), *Fla. Stat.* (1999)). However, the statute does not define the elements of a FDUTPA claim. *See id.* Rather, the Florida legislature explained that Florida courts must give "due consideration and great weight […] to the interpretations of the Federal Trade Commission and the federal courts relating to s. 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. s. 45(a)(1)."

As explained by the First DCA, the federal decisions define a deceptive practice as one that is "likely to mislead" the consumer. *See, Davis*, at 974. "This standard does not require subjective evidence of reliance, as would be the case with a common law action for fraud." *Id.* The rationale behind this rule is based on the "likely to mislead" standard. *See id.* The question is not whether the plaintiff actually relied on the alleged deceptive practice, but whether the practice was likely to mislead a consumer acting reasonably in the same circumstances. *Id.*

Although actual reliance is not an element of a FDUTPA claim, a "FDUTPA claim cannot be stated based upon oral representations which are in contradiction of written terms of a contract, because reliance on such representations is unreasonable as a matter of law." *See, Dorestin v. Hollywood Imports, Inc.*, 45 So. 3d 819, 825 (Fla. 4th DCA 2010) (citing *Mac-Gray Serv., Inc. v. DeGeorg*e, 913 So.2d 630, 634 (Fla. 4th DCA 2005). This rule appears to be an extension of the well-recognized defense to fraud in the inducement: that a party cannot recover in fraud for alleged oral misrepresentations that are adequately covered or expressly contradicted in a later written contract. *See, e.g., Hillcrest Pacific Corp. v. Yamamura*, 727 So. 2d 1053 (Fla. 4th DCA 1999). Indeed, in *Rosa v. Amoco Oil Co.*, 262 F. Supp. 2d 1364, 1368-69 (S.D. Fla. 2003), the Court cited *Hillcrest* in expanding this defense to bar a FDUTPA claim. The Fourth DCA, in turn, summarily cited *Rosa* in similarly denying a FDUTPA claim for lack of reasonable reliance. *See, Mac-Gray,* at 634.

Brent Siegel, Charles Hughes & Jack Ross

In comparing the *Davis* and *Dorestin* cases, there seems to be some question as to what role the element of reliance plays in a FDUTPA suit. On one hand, the case law is clear that actual reliance is not an element of a FDUTPA claim. *See, Davis*, at 974. On the other hand, the case law is equally clear that a consumer cannot prevail on a FDUTPA claim where he alleges that he relied on an oral representation that is contradicted by a later written agreement. *See, Dorestin*, at 825. These rules can, perhaps, be logically reconciled by resort to the reasoning behind each rule. A statement cannot be deemed "likely to mislead" the consumer if the consumer later consummates the transaction by signing a contract that contradicts the allegedly misleading statement. In other words, it could be said that the consumer has not acted reasonably in relying on statements contradicted by the contract he later signs.

Despite the logic behind this rule, there seems to be something amiss about applying a "lack of reasonable reliance" defense to a claim that requires no showing of reliance in the first place. As explained above, the rule in *Mac-Gray* and *Rosa* barring a FDUTPA claim for "lack of reasonable reliance" is an extension of the well-recognized defense to fraud in the inducement. However, a critical difference between claims for fraud in the inducement and violation of FDUTPA is that the latter does not require a showing of actual reliance. Given this distinction, is it fair to transplant common law fraud principles into a FDUTPA analysis?

In his concurring opinion in *Dorestin,* then Chief Judge Robert Gross criticized the majority and the *Mac-Gray* and *Rosa* decisions for what he viewed as an unwarranted expansion of the lack of reasonable reliance defense to

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FDUTPA Claim

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FDUTPA claims. *Id.* at 830-32. Judge Gross explained that *Mac-Gray* adopted the defense from *Rosa* without any discussion or analysis. *Id.* at 831. He then traced the *Rosa* Court's creation of this FDUTPA defense to its reliance on *Hillcrest*, which involved a claim for fraud in the inducement. *Id.* The problem with the *Rosa* Court's application of this defense to a FDUTPA claim is that the Court did not at all consider the public policy behind the statute. *Id.*

Undoubtedly, FDUTPA was designed to protect consumers, and the scope of conduct that may constitute an "unfair or deceptive" practice is therefore "extremely broad." *Id.* at 832 (quoting *Day v. Le-Jo Enters., Inc.,* 521 So. 2d 175, 177 (Fla. 3d DCA 1988)). Judge Gross criticized *Rosa* and *Mac-Gray's* expansion of the above-mentioned defense because it "improperly restricts the broad remedy intended by the legislature." *Id.* at 831. Finally, citing to the rule that actual reliance is not an element of a FDUTPA claim, Judge Gross argues that "reasonable reliance" has no place in a FDUTPA case. *Id.*

Judge Gross suggested that a contradiction between oral representations and a written contract should not be dispositive of a FDUTPA claim, as it was in *Rosa* and *Mac-Gray*. *Id.* at 832. Rather, it should be just one factor to consider in deciding whether a FDUTPA violation has occurred. *Id.*

In support of his suggestion, Judge Gross cites several compelling authorities within and without this jurisdiction. A Florida Supreme Court decision explained that "deception [under FDUTPA] occurs if there is a 'representation, omission, or practice that is likely to mislead the consumer acting reasonably in the circumstances, to the consumer's detriment." *Id.* (quoting *PNR, Inc. v. Beacon Prop. Mgmt., Inc.*, 842 So. 2d 773, 777 (Fla. 2003)). A federal decision applying Florida law explained that a "claim under FDUTPA is not defined by the express terms of a contract, but instead encompasses unfair and deceptive practices arising out of business relationships." *Id.* (quoting *Siever v. BWGaskets, Inc.*, 669 F. Supp. 2d 1286, 1293 (M.D. Fla. 2009)). A federal court in Texas, confronted with a similar issue, held that a deceptive trade practices claim may rest on "extra- and pre-contractual statements, neither the merger doctrine nor the parol evidence rule serves to exclude such statements, either from evidence or as the basis of the claim." *Id.* (quoting *Bakhico Co., Ltd., v. Shasta Beverages, Inc.*, 1998 WL 25572 at 7 (N.D. Texas 1998)). And, a Texas appellate court expressly held that:

A party cannot avoid liability under [the Texas Deceptive Trade Practices Act] by entering into a contract concerning the same subject matter which contains provisions inconsistent with a prior representation. It is the

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President's Letter

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are many more types from which to choose.

At the annual retreat for this year's Board of Directors for our association, increased community outreach was one of the agenda items and, as I stated at the Murphree Law Library's opening ceremony at the downtown public library, I have requested that our association's board try to develop a program for additional community outreach.

Sustaining any new effort is always critical. A program that occurs for one year and never occurs again has, in my opinion, limited value. Hopefully through our association's outreach committee, we can put together a program that will be sustainable for future boards and will allow the public to begin to expect and routinely attend various community events. However, as with any EJCBA program, it cannot be successful without your efforts as volunteers. I believe you will respond to the call when it comes. Even at the opening ceremony for the library transition, two attorneys volunteered to be speakers at community seminars, which would be designed to provide general information on a specific topic, such as Elder Law.

My experience during 30+ years of legal practice is that attorneys perform many worthwhile and unheralded services to many members of the public over and above the Florida Bar mandated pro bono obligation. For this, they frequently seek and receive no recognition. As we all know, the public perception of lawyers typically ranks with used car salesmen on the lower end of public opinion polls. I know this public perception is not accurate, but unless we as members of the EJCBA move into the public eye and participate in community outreach programs or similar efforts, I don't know that this perception can be changed in the near future, if ever. I would ask for you to keep your eyes open for opportunities to participate in our association's efforts in this regard and to please volunteer your time helping the public at large by sharing your expertise and providing an extremely worthwhile benefit for the citizens of the Eighth Judicial Circuit.

EJCBA Address Change

Due to the closing of the downtown post office, the address of the EJCBA office has changed. It is now P.O. Box 13924, Gainesville, FL 32604. Please make a note of it. Our telephone and fax numbers remain the same and are listed on page 2 of this newsletter.

Clerk's Corner

By J. K. "Buddy" Irby, Clerk of Court

The wave of the future is here! As of September 1, 2011, the Alachua County Clerk of Court's Office is accepting electronically filed documents in probate cases. We anticipate accepting circuit civil electronic filings by October 1. Documents must be e-Filed through the statewide e-Filing Portal. e-Filing is currently available only to attorneys. However, attorneys can authorize assistants to file for them.

To register for e-Filing, use the following link: https://www.myflcourtaccess.com/. Create a user account by clicking the "Register Now" option. After completing the registration process, you will move to a filing options page. At the bottom of the main page, click on "Filer Documentation" to access a user manual for the e-Filing portal, or go to www.myflcourtaccess.com/Docs/Filer_06072011.pdf.

When e-Filing documents, you will be asked to select the type of court, county and division. Select "Trial" for Type of Court and "Alachua" for County. Under Division, the drop-down menu will include only the divisions in which e-Filing is available here.

Please note that you will need to use the full uniform case number when e-Filing documents in an existing case. Uniform case numbers for Alachua County begin with 01 (the county code), followed by the year of the case, the case type, and a six-digit case number. In addition, you must enter 6 x's after the case number for Alachua County, since the UCN system requires all case numbers to be 12 digits long.

So, if your case number is 01-2011-CP-123, enter the Uniform Case Number as 012011CP000123xxxxxx (no dashes and 6 x's at the end). If you use a different number format, you will not be able to retrieve your case. Also, when selecting the party on whose behalf you are filing, scroll down the options menu until you find your client's name and party type.

For new filings or those requiring a filing or service fee, that fee is paid through the e-Portal. Credit card companies assess a fee of 3% of the total charge for payments made by credit card. VISA is not accepted. The fee for making an ACH transfer through your checking account is a flat $3.00.

e-Filing is currently available in more than a dozen counties throughout Florida. For at least the first 90 days that e-Filing is available in each county, Rule 2.525 of the Florida Rules of Judicial Administration requires a follow-up paper filing of each document, with original signatures. In Alachua County, follow-up filings will be required at least until December 1. If approved by the Chief Judge and Supreme Court, follow-up filings may be discontinued after that date. The e-Filing Portal will indicate when follow-up filings are no longer required.

I will be making a presentation on e-Filing at the October EJCBA luncheon. In the meantime, our office would appreciate feedback about your e-Filing experience. Although we do not control the e-portal, we can pass along feedback and may be able to tweak our data. To report problems or offer suggestions, contact Assistant Clerk for Operations Chuck Stiles at (352) 374-3663 or Legal Counsel Jean Sperbeck at (352) 337-6142.

Notice – Change Of Mailing Addresses

Due to the closing of the downtown Post Office, the Alachua County Clerk of Court's Office and the Public Defender's office in Gainesville are no longer able to receive mail at their Post Office boxes. Therefore, all future mailings should be addressed to:

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Gainesville, FL 32601

Office of the Public Defender
Stacy A. Scott
Public Defender
35 North Main Street
Gainesville, FL 32601

We regret any inconvenience and thank you for your assistance in making this transition as smooth as possible.

Family Law

How to Make a Case for (or against) Alimony

By Cynthia Stump Swanson

There have been some changes in Florida's alimony statute in the last two years that, while they are not earth-shattering, still are important for you to understand. The Legislature amended Florida Statutes §61.08, and may have made some things easier for trial judges (and thus the lawyers who appear before them).

In any alimony case, you have to keep sight of the purpose of alimony, which the Florida Supreme Court has said is "to provide the needs and the necessities of life to a former spouse as they have been established by the marriage of the parties." *Canakaris v. Canakaris*, 382 So.2d 1197, 1201 (Fla. 1980). The lifestyle of the parties is the measuring stick by which the court is to determine one party's needs: "In determining the amount of alimony, the trial court should ensure that each party's standard of living comes as close as possible to the prior lifestyle, given the available financial resources. *Griffin v. Griffin*, 906 So.2d 386, 389 (Fla. 2d DCA 2005)." *Mills v. Mills*, 62 So.3d 672, 676 (Fla. 2d DCA 2011). However, a payor cannot be required to support the former spouse in the marital lifestyle if the payor cannot afford to do that. See, e.g., *Ginsburg v. Ginsburg*, 610 So.2d 655 (Fla. 1st DCA 1992); *Squindo v. Osuaa-Squindo*, 943 So. 2d 232 (Fla. 3rd DCA 2006) (Alimony award which equals 70% of husband's net monthly income is excessive).

In working up an alimony case, be sure to rely upon the P-E-A-C-E memory device. This is the order in which the trial court must rule on the issues before it. E (equitable distribution) comes before A (alimony). The court must consider all financial circumstances when making an award of alimony. (P = parenting issues; C= child support; the 2d E= everything else). So, the court must identify, classify, value, and distribute the parties' assets and liabilities before considering alimony. So, for example, if a house which is paid for is awarded to one party, then that party has no need for funds to pay for rent or for a mortgage payment. Or, if a large investment account is awarded to a party, then income which that investment account may be likely to produce would be included in that party's income in determining his or her need for or ability to pay alimony.

Temporary support awards may be requested by either the Petitioner or the Respondent in the initial pleadings or by a motion filed later. It is intended to provide support and to prevent the recipient spouse from becoming a charge on the state while his or her rights are being adjudicated. If the request is wellfounded, the court must award a reasonable sum for temporary alimony. Fla. Stat. § 61.071. The criteria for a temporary award is the same for a permanent award: need and ability to pay, considering the parties' lifestyle: "In making a temporary alimony and child support award of $215 biweekly, plus half the mortgage payments on the parties' home for which the husband was obligated anyway, the trial judge observed that "the only thing I am doing is keeping everybody alive until the final hearing." This just-prevent-them-from-going-to-the-poor-house-until-the-case-is-over view of the legal principle controlling pendente lite awards, which is directly reflected in the inadequacy of the sums provided, is both widely held and thoroughly wrong." *Vickers v. Vickers*, 413 So.2d 788, 789 (Fla. 3rd DCA 1982).

Fla. Stat. § 61.08(2) sets out the factors for the court to consider in making an award of alimony. I won't list them all here, but you should consider using that section of the statute as your checklist for obtaining information from your client, from witnesses, documents, and so on. It should also be your checklist for your presentation at trial.

Before these changes to the alimony statutes, Florida's different District Courts of Appeal had slightly differing definitions of a "long term marriage." Because the award of permanent periodic alimony was considered a rebuttable presumption in long term marriage, the exact definition of what constituted a long term marriage was very important. And it did seem to the Legislature that the definition should be the same regardless of whether you live in Miami or Orlando or Gainesville. So, now it is (almost). Fla. Stat. § 61.08(4) provides definitions of a short term marriage as being one of less than seven years; of a moderate term marriage as one of seven to 17 years; and of a long term marriage as being one greater than 17 years. This is measured from the date of the marriage to the date of the filing of an action for

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dissolution of marriage. I say these are "almost" definitions, because they are really only rebuttable presumptions.

It's important to know the length of the marriage, because additional changes to the alimony statute, defining four different types of alimony, depend upon the length of the marriage in most cases.

Bridge-the-gap alimony may be awarded to assist a party by providing support to allow the party to make a transition from being married to being single. Bridge-the-gap alimony is designed to assist a party with legitimate identifiable short-term needs, and the length of an award may not exceed two years. An award of bridge-the-gap alimony terminates upon the death of either party or upon the remarriage of the party receiving alimony. An award of bridge-the-gap alimony is not modifiable in amount or duration.

Rehabilitative alimony may be awarded to assist a party in establishing the capacity for self-support through either (a) The redevelopment of previous skills or credentials; or (b) The acquisition of education, training, or work experience necessary to develop appropriate employment skills or credentials. In order to award rehabilitative alimony, there must be a specific and defined rehabilitative plan which must be included as a part of any order awarding rehabilitative alimony. An award of rehabilitative alimony may be modified or terminated based upon a substantial change in circumstances, upon noncompliance with the rehabilitative plan, or upon completion of the rehabilitative plan. A specific and detailed plan is more capable of objective evaluation - is party complying with the plan or not? - and therefore beneficial to both sides (and the trial judge, who may be asked to terminate or modify a rehabilitative alimony award). Most important - the plan must be clear about when the obligation to pay rehabilitative alimony ends.

Durational alimony is brand new. It may be awarded when permanent periodic alimony is inappropriate. The purpose of durational alimony is to provide a party with economic assistance for a set period of time following a marriage of short or moderate duration or following a marriage of long duration if there is no ongoing need for support on a permanent basis. An award of durational alimony terminates upon the death of either party or upon the remarriage of the party receiving alimony. The amount of an award of durational alimony may be modified or terminated based upon a substantial change in circumstances. However, the length of an award of durational alimony may not be modified except under exceptional circumstances and the term may not exceed the length of the marriage.

Permanent alimony may be awarded to provide for the needs and necessities of life as they were established during the marriage of the parties for a party who lacks the financial ability to meet his or her needs and necessities of life following a dissolution of marriage. Permanent alimony may be awarded following a marriage of long duration if such an award is appropriate upon consideration of the factors set forth in Fla. Stat. § 61.08(2), following a marriage of moderate duration if such an award is appropriate based upon clear and convincing evidence after consideration of the factors set forth in §61.08(2), or following a marriage of short duration if there are written findings of exceptional circumstances. In awarding permanent alimony, the court shall include a finding that no other form of alimony is fair and reasonable under the circumstances of the parties. An award of permanent alimony terminates upon the death of either party or upon the remarriage of the party receiving alimony. An award may be modified or terminated based upon a substantial change in circumstances or upon the existence of a supportive relationship in accordance with Fla. Stat. § 61.14.

Lump sum alimony is a method payment, not a specific type of alimony. It is authorized by Fla. Stat. § 61.08(1) - ". . . the court may order periodic payments or payments in lump sum or both." The Florida Supreme Court, in *Canakaris*, provided for the use of lump sum alimony as a method of equalizing the distribution of assets as part of equitable distribution, but this does not change the traditional use of lump sum alimony to provide support. It may be ordered to be paid via cash or by transferring property to the recipient spouse. Lump sum alimony is a fixed, vested amount, and is not subject to modification or termination. It may be paid in installments. It is still due and owing after both the payor's death and the recipient's death, and after the recipient's remarriage.

Some examples of factors or reasons why lump sum payment may be justified: To sever the relationship between acrimonious spouses; if there is a danger of dissipation of assets by the payor spouse; to provide security for the recipient where the payor has health problems or is elderly; where the payor has a lack of liquidity or present income,

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Family Law

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but does have capital assets; where the payor is unreliable, has demonstrated unwillingness to comply with court orders for temporary support, etc.

Lump sum alimony may be ordered to be paid out of non-marital assets. Alternatively, Fla. Stat. §61.08(3) authorizes a trial court to order the payor to obtain life insurance coverage. Generally, lump sum alimony is taxable to the recipient and deductible to the payor; although the trial court can designate otherwise. The award of lump sum alimony is a vested property right and should accrue interest if not paid when due; a trial court may also award interest on a lump sum alimony arrearage.

Finally, drafting the final judgment may be the most important step. A simple, clean, and straightforward way is to list the factors set out in Fla. Stat. § 61.08(2) and put some findings beside each one. (Obviously you need to be sure you have put on evidence about each one, so that the judge can make the findings.) As mentioned above, the list of factors should be a checklist for your trial preparation, and also for your preparation of the final judgment. Include date of first payment and the date of last payment (if applicable). If rehabilitative alimony is awarded, set out the rehabilitative plan in detail. Include an income deduction order if applicable, or state the payment shall be made through the depository if applicable (Fla. Stat. §61.08(9)). State who pays taxes on the alimony; one can also add that it is non-dischargeable in bankruptcy.

The trial court must make specific findings of fact in regard to the factors listed above. Failure to make those findings may allow the judgment to be reversed or at least remanded for the findings to be made. This will cost your client thousands of dollars in appellate fees, plus may actually delay the receipt of needed alimony. However, to preserve the issue of insufficient findings of fact for appellate review, you must file a written motion for rehearing to allow the trial judge the opportunity to correct the mistakes and to include such findings in the judgment.

The award of an appropriate amount of alimony can provide proper compliance with the Florida Supreme Court's admonition that neither party should pass from prosperity into poverty because of a divorce.

The Family Law Section meets on the third Tuesday of each month (even if I forget to send out a reminder email) at 4:00 pm in the Alachua County Civil and Family Justice Center. Hope to see you there.

FDUTPA Claim

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oral representation that forms the basis of the DTPA claim. *JMB Income Properties, Ltd.-X v. Big Al's, Inc.*, 1992 WL 48143 at 4 (Tex. App. 1992)

While it may be unreasonable in some circumstances to rely on an oral representation that is contradicted by a later statement, the rule applied in *Rosa, Mac-Gray,* and by the majority in *Dorestin*, appears to overly restrict the broad remedy intended by the legislature in enacting FDUTPA. As suggested by Judge Gross, this overly constrictive rule should be receded from in the appropriate case, and any contradiction between oral representations and a written contract should be just one factor in determining whether conduct is "likely to mislead" the consumer. *See id.* at 832.

Cedar Key Memories

By James G. Feiber, Jr. and Frank E. Maloney, Jr.

Our annual Jimmy C. Adkin's Cedar Key dinner began quite informally, but was established by the early 1950's. There were a number of factors that came together for a Fall Bar event: the beginning of the Fall Term of Court, stone crab season, hunting season, and football. After World War II the Florida Homecoming parade caused the closing of downtown Gainesville where the courthouse and law offices were located. Previously Levy County had held a social after the formal opening of the Fall Session of the Court. It seems the function just moved down the road to Cedar Key.

The social event grew slowly with the function moving to various venues. The male lawyers and judges would come straight from work and were dressed more formally with slacks and dress shirts being the norm. The lady lawyers were originally not included. As a result first the wives would all get together back in Gainesville and then Clara Gehen organized the counter-Cedar Key for the lady lawyers. We can only assume that event evolved to our dessert contest of today. The social could get to be a little rowdy with card playing, drinking and even fist fighting. Tradition has it that on one occasion a Circuit Judge and a Chief State Attorney physically settled their differences and on another a civil leader (who was a guest) and a future State Attorney for our circuit battled it out.

Because the event did not have one set location,

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Eighth Judicial Circuit Bar Association is 70 Years Old

The 1940's

By Frank Maloney, Jr.

Readers: This is a more complete version of the article published last month and the version that the author intended to have printed. – Ed.

The archives of your bar association now housed at the Matheson Museum in Gainesville began in 1941, although it is obvious the association was well established long before that year. The records refer to meetings in the 1920's.

The 1940's were a very challenging decade for the counties of the 8th Judicial Circuit and for our bar association. At the beginning the Depression was still underway. Our nation was at war half of the decade, and the home front had to deal with those issues. The end of the decade saw the return of our veteran lawyers and judges, with a huge influx of growth at the University of Florida and surrounding Gainesville area.

Even though our Bar is old enough to be forced to retire if it were a judge, many of the problems and issues of our earlier lawyers were similar to what our current members face: A depressed economy; services to our war veterans as well as active duty members; election and appointment of judges; providing adequate facilities for our courts (court houses); proper storage of public records; legal aid; continuing legal education; and, most importantly, social activities.

As the 1940's began we met at the Prim Rose Grill on University Avenue. Combined dues for our bar and the state bar were $5.00 a year. That included your monthly lunch until October 1941; later you had to pay for your own lunch. Joe Jenkins and Ira J. Carter were our 1941 delegates to the state bar convention and S.L. Scruggs and Parks Carmichael joined the association. The speakers were provided their lunches by the bar, and varied from Prison/Parole Board and the law librarian inviting local lawyers access to the law school law library.

From 1942 through early 1946 our country was focused on the War and its aftermath. They still met at the Prim Rose Grill but were never very happy with the lack of a private area to meet and eat. The first order of business was to exempt all active duty members from dues to this association. We joined with the Chamber of Commerce to obtain a recreation center for those soldiers stationed in the area, and that committee was chaired by Sigsbee Scruggs. Our speakers reflected the war times: Col. Joiner, U.S. Army, on Military law and trials; Professor Laird on "Civil Rights in War Time"; Lt. Lawlen of the Air Station (Gainesville Airport) on legal aid for soldiers stationed there; Maj. Garland Powell on legal aid to service members; Mr. Charles Yancy on Navy Recruiting; and returning Lt. Col. J. Lancelot (Lance) Lazonby on his service in the European theater.

The big excitement was Circuit Judge "Tom" H.L. Sebring (former Gator head coach) successfully running for the Florida Supreme Court and Governor Spessard Holland asking the bar association as a whole to sit as a nominating commission for his replacement. They recommended three prominent members: Sigsbee Scruggs, John A.H. Murphree and Joe Hill Williams. The governor selected Judge Murphree; they had served in the legislature together.

The Bar continued to grow slowly during the war: Jimmy Adkins, Jr., Ross Mowry, and Marcus Brown of Starke (he made our 29th active member). William Wade Hampton III, Winston S. Arnow, Harry C. Duncan, Braxton Douglas and Covington Johnson all returned from the war at about the same time, between February and April 1946. Beginning in February the meetings were held at the Lions Club, but later returned to the Prim Rose Grill.

With the end of the War the bar association had to quickly get into high gear. The Law School and the bar developed a very close relationship with continuing legal education, "legal institutes." Professor Frank E. Maloney began a long service as the Secretary and Treasurer, a position held by law faculty until the 1990s. Most of the rapidly growing law faculty joined and were active in the bar and Dean Henry Fenn was a frequent speaker. The Hotel Thomas served as the venue for our special social meetings. The Colonial Room of Arlington Hotel (at $1.00 a plate) took over for our regular meetings in 1947. In mid1948 the bar began meeting at the White House Hotel, which had the reputation for serving the best food in town. Our membership grew with what would become a veritable "who's who" of the profession: Henry Gray, Emery Cross, Richard Kime, George Kells, Mrs. Delphene Strickland, Richard Mills, H.O. Enwall, Stanley West, Osee Fagan, Jack Bates, Charles Stillman, Benmont

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Criminal Law

By William Cervone

I have been remiss in not bringing you the following information before now. After all, we lawyers are wordsmiths as much as anything else, even though I've seen plenty of reason to question how well we do at that. Nonetheless, this month I bring you the exciting news from the American Dialect Society as to its 2010 Word of the Year competition.

Without further ado, the winner and 2010 Word of the Year, at least according to the American Dialect Society is App. App, of course, is an application program for a phone or computer and it has indeed entered the lexicon in ways that a few years ago would have been unimaginable. Interestingly, App is already pleasing to the eye of my Spell-check, a sure sign that it is socially and linguistically acceptable.

App beat out several other contenders from various categories. In the Most Useful category, Nom was the, well, nominee. Nom apparently means something about eating pleasurably, but why that is a special concept or needs a new word is lost on me. I prefer one of the other losers in the Most Useful category, Vuvuzela. You know vuvuzela. It's those incredibly obnoxious noise makers from World Cup soccer. And a great Scrabble word.

Another loser, this one from the Most Creative category, was Spillion. This may be my favorite from 2010. It refers to an immense number, especially of gallons of oil in the Gulf of Mexico. An offshoot of spillion is spillionaire. I suppose The Donald strives to be a spillionaire.

From the Most Unnecessary category, the losing nominee was Refudiate. Blame Sarah Palin for this one as she famously, or perhaps infamously, managed to blend refute and repudiate into a creation of her own. Similar to Most Unnecessary is Most Outrageous, from which the nominee was Gate Rape. You got it: the invasive pat down procedures at airports that we are now subjected to. Less appealing and from the Most Euphemistic category is a synonym for Gate Rape: Enhanced Pat Down. Talk about lacking panache.

Most Likely To Succeed gave us suggestions like Trend and Telework. Who needs them? Least Likely To Succeed came up with Skyaking, which apparently is jumping from a plane in a kayak. I don't think so but you're welcome to if you want. Then there were Election Terms, from which we get Man Up. I kind of like this one although I never thought of it as a political term. To me, it's what us prosecutors snarl at whiney defendants who insist on protesting their innocence. Obamacare, of course, had to be included. Obamacare is so old news, though.

There are others but those are the highlights. Personally, I still prefer Truthiness from many years ago, which I am pleased has now also gained acceptability from Spell-check.

I trust that all of you will strive to work some or all of these new words into your next argument, motion or brief. It could only improve things.

Cedar Key

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Justice Jimmy Adkins hosted many at his townhouse. The EJCBA supplied the adult beverages, with local cooks preparing the meals. Young Jimmy Feiber and Steve Rappenecker were assigned to deliver the beverages and felt they were walking the plank as they carried cases out to Buren Brice's vacation spot out over the water to set up the bar. As the event grew, not only were the Levy County officials included, but also the Clerks of Court and Sheriffs of all six of our counties. Even as late as the 1980's the lawyers, judges, and county officials from Baker, Bradford and Union Counties would all pile into a RV with a deputy driving. Because of Justice Adkins' association, we always had a good turn out from the Supreme Court and the First District Court of Appeal.

When the venue for the event moved to the Captain's Table, the bar association continued to pay for the dinner and beer, but made those attending pay for their hard drinks. The local title company came to our rescue and issued two drink tickets per attendee, along with plastic cups, which became collector's items. Phil Beverly has a complete collection of cups.

Finally in 1985, under the tenure of President Rod McGalliard, the Bar had to start charging members. Our bar association had become just too large to fund the entire event. Sadly, the clerks and sheriffs stopped coming. At the same time DWI evolved into DUI and the consequences became much more serious. This, of course, means we all drink less and drive back more carefully. The EJCBA even experimented with renting Gainesville city buses to bring people down from the Oaks Mall, and some of the attendees even hired limos.

For us, it is an opportunity to see seasoned lawyers that we do not see very often and to meet new young lawyers. We try to attend every year and do enjoy it.

EJCBA is 70

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Tench, Bill Macdonald, Allen Crouch, Sallye Cooksey, W.C. O'Neal, A.J. Thomas of Starke and many more.

May of 1946 saw the famous Cross Creek trial of Marjorie Kinnan Rawlings at the Alachua County Court House, with Judge Murphree presiding and Sigsbee Scruggs defending Marjorie.

Hot button issues after the War were: Mandatory state bar membership to practice law - we were for; abolishing the diploma privilege to practice – we were for; new Alachua Courthouse – we were for; mandatory legal aid – badly split; microfilm all county public records – we were for; minimum fee schedule, we published one and gave to all the lawyers; five (5) day work week for law offices – tabled; advertising the legal profession – split; photograph gallery of all past judges – completed; a "Ladies Night" at the new Gainesville Golf and Country Club – held November 4, 1949.

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.

EJCBA Luncheon Policy

Please be reminded that the EJCBA is once again enforcing its long-standing policy that if you RSVP to the EJCBA luncheon, but do not attend, you must still pay for your lunch. You will receive a bill if you have not pre-paid. The EJCBA is obligated to pay for the lunches regardless of whether you attend or not and we will expect the same obligation of you.

In addition, we encourage you to RSVP, when possible. We welcome your attendance and always hope to have as many of you attend as are able, but we need your help in ensuring an accurate headcount, so that our lunches can continue to run smoothly. Thank you in advance for your cooperation!

Some Advance Notice from a Florida Bar Foundation Board Member

By Philip N. Kabler

The EJCBA is a thought-leader within our state's Bar. As I have shown in my pieces over the last couple (*yes…couple*) of years, our members are frequently at the forefront of developing and then successfully implementing projects to support our area's and Florida's overall legal services community, together with its economically needy clientele.

We are well aware that our counties (and almost all of the remaining counties to the Georgia and Alabama lines) are lesser populated counties relative to many of the "south of I-4" counties, and our legal community follows suit. Nevertheless, our lawyers (and their staffs, too) have shown themselves to be historically generous with their time, talent, and treasure.

In order to further increase participation in The Florida Bar Foundation and the grantees and clients served, you will soon see a specific Fellows campaign directed just to "us" in the northern part of the state.

Fellows are life members of The Florida Bar Foundation; core supporters who believe in the value of justice and the importance of the Foundation's leadership and charitable programs. Fellows make a pledge of $1,000 payable over five years – or over 10 years for nonprofit, government and young lawyers – to The Florida Bar Foundation Endowment Trust.

It is true that the large south Florida firms are able to recruit dozens to hundreds of Fellows even within single law firms. With rare exceptions, our law firms are small and spread out geographically. That does not mean as "a group" within our dozens of rural counties, though, that we cannot serve as a noticeable force in support of legal assistance for indigent children, adults, and families.

"Please stay tuned" over the coming months. And please seriously consider participating in the upcoming north Florida Fellows campaign.

If you have questions about The Florida Bar Foundation, please feel free to call me at (352) 332-4422. To get the latest news about the Foundation and its grantees, please become a "Fan" on Facebook by visiting www.facebook.com/TheFloridaBarFoundation. You can also visit www.floridabarfoundation.org.

Alternative Dispute Resolution

A Petunia By Any Other Name

By Chester B. Chance and Charles B. Carter

During the course of a mediation one or both parties may get frustrated or tired. At some point a party or counsel for a party looks at the mediator and says, "Declare an impasse" or "End this mediation and inform the Court there has been an impasse".

Section 44.404, Florida Statutes is entitled "Mediation; Duration". The Statute states a Court ordered mediation ends under a variety of circumstances including:

(a) A partial or complete settlement agreement, intended to resolve the dispute and end the mediation, is signed by the parties, and, if required by law, approved by the court;

(b) The mediator declares an impasse by reporting to the Court or the parties the lack of an agreement;

(c) The mediation is terminated by Court order, Court rule, or applicable law; or

(d) The mediation is terminated, after party compliance with the Court order to appear at mediation, by:

(1) Agreement of the parties; or

(2) One party given written notice to all other parties in a multi-party mediation that the one party is terminating its participation in the mediation. Under this circumstance, the termination is effective only for the withdrawing party.

The rule also addresses "all other mediation" and states a mediation ends under the similar circumstances as set forth for a court ordered mediation.

The Rule does not state that a mediator reports an "impasse" to the court; rather it states the mediator, after declaring an impasse at the mediation reports to the court the lack of an agreement. The parties, by agreement, may also agree to terminate the mediation.

The statute is consistent with the Rules of Civil Procedure as set forth in Rule 1.730, Florida Rules of Civil Procedure addressing "completion of mediation." Under the rule, if the parties do not reach an agreement as to any matter as a result of the mediation, the mediator shall report "the lack of agreement to the court" without comment or recommendation. The rule goes on to say that with the consent of the parties, the mediator's report may also identify any pending motions or outstanding legal issues, discovery process, or other action by any party, which, if resolved or completed, would facilitate the possibility of settlement.

Under the above cited statutes and rules, it appears the only thing reported to the court in a disposition report by the mediator is the lack of agreement rather than "the parties impassed." This may be a difference without a distinction; however, by reading the rule and statute together, it appears the mediator may reach the opinion that things are at an impasse, based on that determination declare an impasse, and, then report to the court the parties did not reach an agreement.

Of course, mediation procedures set forth in Rule 1.720(c) permit adjournments of the mediation rather than termination.

> The mediator may adjourn the mediation conference at any time and may set times for reconvening the adjourned conference notwithstanding Rule 1.710(a).

Rule 1.710(a) requires a mediation to be completed within 45 days of the first mediation conference unless extended by order of the Court or by stipulation of the parties.

This article cites and analyzes the Rules and Statutes in a technical perspective. Arguably, a mediator merely reports to the Court whether an agreement was reached or not unless the parties allow the mediator to identify any motions, legal issues or other actions which would facilitate the possibility of settlement. Mediators don't technically advise the Court there was an "impasse."

Why the above discussion? Because often mediators are asked to report an "impasse" as if that carries a more sinister message to the Court than the mere lack of an agreement. If you believe mediators should use the specific word "impasse" when reporting to the Court, let us know by emailing us at cdpa@bellsouth.net and advise us of the rule or statutory authority. We appreciate and enjoy your input.

The Florida Bar Board of Governor's Report

By Carl Schwait

At its July 29, 2011 meeting in Palm Beach, The Florida Bar Board of Governors:

▪ Heard from Bar President Scott Hawkins that Gov. Rick Scott had rejected two of the 26 slates of judicial nomination commission candidates submitted by the Bar in May. Scott rejected the slates for the 17th Circuit JNC (although he appointed one nominee on the 2011 slate to a 2010 position) and the Fourth District Court of Appeal JNC. Hawkins said the governor's general counsel did not give a reason for the rejection but did note F.S. §43.291 gives the governor authority to reject a Bar-nominated slate. Hawkins said the Bar would advertise for new applicants and the Executive Committee would select another slate for those two JNCs.

▪ Heard Supreme Court Justice Charles Canady warn that the courts still face money shortfalls because funding remains heavily reliant on foreclosure filing fees. He said foreclosures have increased slightly from earlier in the year but not enough to meet the revenue projections that legislators used in setting the courts budget. Without a further significant increase in those filings, the courts will have to go back to lawmakers and the governor for additional loans to make it through the 2011-12 fiscal year, which began with a $54 million loan from the state. "This is an intolerable situation for our branch and we have got to in this next session of the Legislature get . . . a funding arrangement that is reliable," the chief justice told the board.

▪ Approved, upon the recommendation of the Legislation Committee, allowing the Legal Needs of Children Committee to advocate for legislation allowing children sentenced in adult criminal court for more than 10 years to have a meaningful opportunity for early release based on demonstrated maturity and rehabilitation.

▪ Approved, upon the recommendation of the Board Review Committee on Professional Ethics, our expressing concerns to the ABA on changes to two preliminary proposals from the ABA Commission on Ethics 2020 affecting outsourcing of legal services and on technology, largely because the suggested changes were less strict than current Supreme Court rules. Upon recommendation of the Standing Committee on the Unlicensed Practice of Law the board voted to object to three proposed changes from the ABA ethics commission. Those are to allow attorneys from other states to practice for a certain amount of time, to be determined by the Supreme Court, either as attorneys or authorized house counsel while their petition to join The Florida Bar or to become an authorized house counsel is pending; to allow a lawyer licensed in another country to appear pro hac vice in Florida; and to allow attorneys licensed in other countries to become authorized house counsel in Florida. The board, on the recommendation of the Standing Committee on UPL, voted to support the ABA ethics commission's recommendation that attorneys from other countries can engage in limited and temporary practice in Florida, since that tracks the Supreme Court's rule on multijurisdictional practice.

▪ Heard Florida Bar Foundation President Michele Cummings' report that Florida IOTA income has declined 88 percent because of low interest rates, with little improvement expected until late next year at the soonest. The Foundation has used most of its reserves set aside for difficult economic times, she said, and is now exploring working with banks and capital markets on getting a loan to help continue funding legal aid programs, with the loan to be repaid when interest rates recover.

▪ Heard a report that the committee is closely monitoring federal debt ceiling extension negotiations because of the potential impacts a deadlock could have on Bar investments. It was also reported that the Bar's investment funds, after another positive quarter ending in June, are at an all time high.

▪ Recommended the Supreme Court approve expedited amendments from the Civil Procedure Rules Committee. The rules are the first codification in Florida procedural rules for handling electronic discovery and are based, with some changes, on federal rules. The board also recommended approval of three-year cycle rules amendments for Juvenile Procedure Rules, Traffic Court Rules, and Criminal Procedure rules.

▪ Heard a lunchtime address from Prof. Thomas Morgan of the George Washington College of Law on changes in the legal profession. He said the rapid growth in the number of lawyers, a difficult economy, technology, and the lack of control by bar associations over the legal marketplace are combining to put new pressures on the practice and also leading to rapid changes. Lawyers are likely to have to become more specialized to deal with those changes and be expected to deliver "Wal-Mart efficiency with a Neiman-Marcus feel."

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Board of Governors *Continued from page 14*

▪ Heard a report that the Program Evaluation Committee would be examining in the coming year a designated seat for government lawyers on the Board of Governors or an alternative way of bringing government lawyers into the operations of the Bar and board. Other committee projects are a review of the Lawyer Referral Service Committee, study of what is being done to help the perception of lawyers and judges including relating to next year's merit retention elections, renaming the Judicial Independence Committee, and looking at the role of the procedural rule committees.

▪ Heard a Communications Committee report that the committee is working at improving all levels of Bar communications. It was also noted that President Hawkins has sent a short video to all Bar members and which is also posted on the Bar's website. A similar video is planned quarterly. The committee is looking at how to effectively communicate both with Bar members and board members during legislative sessions, and with Bar committees, sections, and divisions and with local bars. The committee also will be looking at how technology is affecting the practice of law. The committee also recommended and the board approved adding two new areas to the profiles members can post on their member page on the Bar's website. One is to allow lawyers to list their certification in civil and/or family law by the National Board of Trial Advocacy and their status as a civil law notary, which allows lawyers to assist in Hague Convention issues worldwide.

▪ Heard a Disciplinary Procedure Committee report that the committee will be recommending a change to trust accounting regulations to require law firms to have written policies spelling out who in the firm is responsible for trust accounts and the duties of other partners and associates. The Committee is soliciting sample policies from lawyer and law firms so one can be included in the rules. The change recognizes the reality that in many firms, especially large firms, associates and some partners have little effective control or oversight of trust funds.

▪ Heard Executive Director John F. Harkness, Jr., report that 3,500 people – the largest number ever – were taking the next bar exam. He said typically 75 to 78 percent pass and become Bar members. He added that the Bar used to get around 2,000 new members annually, but that is now running 2,500 and is combined with another trend of fewer older lawyers choosing to retire, leading to a rapid growth in Bar membership.

Thank you again for allowing me to serve as your representative on the Board of Governors.

RESERVE NOW FOR THE ANNUAL EJCBA JIMMY ADKINS CEDAR KEY DINNER

WHEN: Thursday, November 3, 2011 beginning at 6:00 p.m.

WHERE: Steamers: 420 Dock Street, Cedar Key, Florida

COST: $40.00*

DEADLINE: Please register on or before Thursday, October 27, 2011

REMIT TO: EIGHTH JUDICIAL CIRCUIT BAR ASSOCIATION, INC.
P .O. Box 13924
Gainesville, FL 32604

*$45.00 at the door for attendees not having made prior reservations. If you are reserving at the last minute, or need to change your reservation, please contact Judy via fax at (866) 436-5944, email jpadgett@8jcba.org, or call (352) 380-0333.

The Fund

Cocktail hour sponsored by

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Many thanks for its continued generosity

NAME(s): _____

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PAID: Dinner: _____ Dues: _____ TOTAL: _____

NOTE: Attendance is limited to current members of the EJCBA and attorneys who are members' guests, but only if the guest attorney(s) would not otherwise be eligible for membership in the EJCBA. Visit http://www.8jcba.org/join.aspx for dues information and include your current dues, if not yet paid.

Eighth Judicial Circuit Bar Association, Inc.

Mission Statement:

The mission of the Eighth Judicial Circuit Bar Association is to assist attorneys in the practice of law and in their service to the judicial system and to their clients and the community.

Please send a check payable to EJCBA in one of the following amounts:

- $55 For lawyers with less than 5 years experience; lawyers with the State Attorney's Office, Public Defender's Office and Legal Aid with 10 years of experience or less.
- $75 For all other lawyers and members of the Judiciary
- 1 year free membership for members in their first year of practice (in any jurisdiction). Free membership does NOT include cost of lunches.

Please send your check, along with your completed application to:

Eighth Judicial Circuit
Bar Association, Inc.
P. O. Box 13924
Gainesville, FL 32604
Email: execdir@8jcba.org;
padgej@shands.ufl.edu

Voting Members: This category is open to any active member in good standing of the Florida Bar who resides or regularly practices law within the Eighth Judicial Circuit of Florida.

Non Voting members: This category of membership is open to any active or inactive member in good standing of the Bar of any state or country who resides within the Eighth Judicial Circuit of Florida, or to any member of the faculty of the University of Florida College of Law.

EJCBA Renewal/Application for Membership

Membership Year: 2011 - 2012

Check one: Renewal __ New Membership __

First Name: _____ MI:_____

Last Name:_____

Firm Name: _____

Title: _____

Street Address: _____

City, State, Zip: _____

Eighth Judicial Circuit Bar Association, Inc.

Telephone No: (_____)_____-_____

Fax No: (_____)_____-_____

Email Address: _____

Bar Number:_____

List two (2) Areas of Practice:

_____

_____

Number of years in practice: _____

Are you interested in working on an EJCBA

Committee? ___Yes ___No

Eighth Judicial Circuit Bar Association, Inc.
Post Office Box 13924
Gainesville, FL 32604

October 2011 Calendar

1 UF Football v. Alabama, TBA
5 Deadline for submissions to November Forum 8
6 CGAWL meeting, Manuel's Vintage Room, 5:45 p.m.
8 UF Football at LSU (Baton Rouge), TBA
10 Columbus Day Holiday – Federal Courthouse closed
12 Probate Section Meeting, 4:30 p.m., 4th Floor, Family & Civil Courthouse
12 EJCBA Board of Directors Meeting; Ayers Medical Plaza, 720 SW 2d Avenue, North Tower, Third Floor – 5:30 p.m.
13 North Florida Area Real Estate Attorneys meeting, 5:30 p.m., 4703 NW 53rd Ave. (Law Office of Ramona Chance)
14 EJCBA Luncheon, Villa East, 11:45 a.m., Clerk of Court J.K. "Buddy" Irby, speaker
15 UF Football at Auburn, TBA
19 CGAWL lunch/business meeting, Fat Tuscan, 11:45 a.m.
25 Family Law Section Meeting, 4:00 p.m., Chief Judge's Conference Room, Alachua County Family & Civil Justice Center
29 UF Football v. Georgia (Jacksonville), 3:30 p.m.

November 2011 Calendar

3 Annual James C. Adkins Cedar Key Dinner, 6:00 p.m., Steamers
4 Deadline for submissions to December Forum 8
5 UF Football v. Vanderbilt (Homecoming), TBA
9 Probate Section Meeting, 4:30 p.m., 4th Floor, Family & Civil Courthouse
9 EJCBA Board of Directors Meeting; Ayers Medical Plaza, 720 SW 2d Avenue, North Tower, Third Floor – 5:30 p.m.
10 North Florida Area Real Estate Attorneys meeting, 5:30 p.m., TBA
11 Veteran's Day, County and Federal Courthouses closed
12 UF Football at South Carolina (Columbia, SC), TBA
16 CGAWL lunch/business meeting, Fat Tuscan, 11:45 a.m.
18 EJCBA Luncheon, Villa East, 11:45 a.m.
19 UF Football v. Furman, TBA
22 Family Law Section Meeting, 4:00 p.m., Chief Judge's Conference Room, Alachua County Family & Civil Justice Center
24 Thanksgiving Day, County and Federal Courthouses closed
25 Friday after Thanksgiving, County Courthouses closed
26 UF Football v. Florida State, TBA

Have an event coming up? Does your section or association hold monthly meetings? If so, please fax or email your meeting schedule 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.