

FORUM 8

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Eighth Judicial Circuit Bar Association, Inc.

May 2015

President's Message



The Final Stretch

By Ray Brady

Well, we are getting close to the end of the EJCBA's year, and my tenure as your President. It has been a pleasure to serve you this year. In my June column, perhaps I will summarize some of the new, and recurring, events and programs that the EJCBA achieved this year. This month, however, I will be brief for two reasons. One, there is less to write about. Two, I am very busy.

As you read this, there will be very little time left for you to help and contribute to the fundraiser to open the kitchen to benefit our homeless population at the GRACE Marketplace. The local doctors have issued an Ice Bucket Challenge that they will contribute more money to this very worthy cause than we, the local lawyers, will. The loser must endure the humiliation of having an ice bucket dumped over the head of their President by the members of the winning organization.

So please take a moment and go to the following link to make your tax-deductible donation: pitchinfortheKitchen.gracemarketplace.org. And please share this link with every colleague, family member, and friend you know. We are accepting help and donations from the entire community. The deadline for making donations is midnight on Sunday, May 10th. The bucket dumping event will occur on the morning of Saturday, May 23, 2015, in front of the building that will house the new kitchen at GRACE Marketplace.

Our goal is to raise \$50,000 total from the doctors and the lawyers, to fund the first-year operating costs of the kitchen. In addition, the City of Gainesville is donating \$77,000 worth of kitchen equipment. With our help, the kitchen will open by October of 2015.

Within 2 to 3 years, GRACE plans to use the kitchen for job training, and even catering services, which would provide jobs to the homeless and generate income to operate the kitchen and the job-training program. So please support this cause that will benefit our community and enable GRACE to serve hot and nutritious meals to 50,000 hungry and homeless people annually in our community.

Finally, a brief reminder of some of the EJCBA activities and events that are coming your way in May and June:

Law Day 2015 will be on May 1, 2015. The theme this year is "Magna Carta: Symbol of Freedom Under Law," to mark and celebrate the 800th anniversary of Magna Carta. Magna Carta has taken root as an international symbol of the rule of law and as an inspiration for many basic rights Americans hold dear today, including due process, habeas corpus, trial by jury, and the right to travel. The EJCBA's Law Week is chaired this year by Past President Nancy Baldwin, who has developed a number of outstanding programs to honor Magna Carta. For example, on **Friday, May 8th, at 7 p.m. at the U.F. Levin College of Law**, you are invited to attend the **2015 Law Week Magna Carta Ceremony**, in which you may join in the recognition and celebration of the contributions to the rule of law and to our community by attorneys who have practiced for fifty years, judges who have been on the bench for 25 years, and Levin College of Law professors who have taught for 60 years. A reception will follow.

Please join us on **Friday, May 8th, at 11:45 a.m., at The Woolly**, for the EJCBA's final monthly luncheon of the year. Our keynote speaker will be Jon Mills, U.F. Law Dean Emeritus and Director of the Center for Governmental Responsibility, who will be speaking on the topic of "Privacy in the New Media Age."

Continued on page 10

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Contribute to Your Newsletter!

From The Editor

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

About This Newsletter

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

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

News, articles, announcements, advertisements and Letters to the Editor should be submitted to the **Editor** or **Executive Director** by Email, 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.

Judy Padgett

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Deadline is the 5th of the preceding month

Wave of FLSA & FMLA Lawsuits Continues to Swell



By Laura Gross

FLSA (Fair Labor Standards Act) and FMLA (Family and Medical Leave Act) lawsuits are up again this year. FLSA claims are up nearly 20% since 2011 and have more than doubled since 2004. The figures released by the Administrative Office of the U.S. Courts show the highest annual number of FLSA filings in more than 20 years. Similarly, FMLA claims have tripled over the past three years.

The continuing increase in filings is generally attributed to the ambiguity and antiquity of the FLSA and related regulations, a shifting regulatory environment that is guided by politics, recoveries that are often more lucrative than actual damages,

and a greater awareness of rights by workers and enforcement by the government. The FMLA, which recently celebrated its 20th anniversary, has seen important expansions in its coverage over the past two years, most recently with the Department of Labor's application of its protections to married same-sex couples regardless of whether the state they live in recognizes their union. And, while collective actions have increased over the past several years, recent decisions striking down massive classes have led plaintiff's lawyers to break up filings into smaller actions which may contribute to the increase in the number of suits being filed.

This surge is expected to continue in 2015 due to publicity and awareness generated by the Department of Labor's expected proposed revisions, and for the previously mentioned reasons.



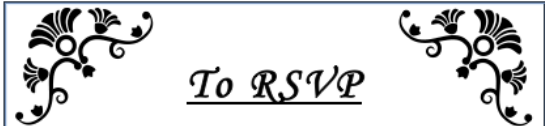
*The Eighth Judicial Circuit Bar Association
invites you and your guests to join us for our*

2015 Annual Dinner and Meeting

*Thursday, June 18, 2015,
6:00 pm until 8:30 pm
(Cocktails 6:00 pm – 6:30 pm)
at the
Sweetwater Branch Inn*

*The Cool Jazz band will entertain
us again this year*

*Reservations required
\$40 for members and non-lawyer guests
\$50 for non-members*



*You may RSVP for you and your
guest(s) at
[http://8jcba.dev.acceleration.
net/event-registration/2015-
annual-dinner/](http://8jcba.dev.acceleration.net/event-registration/2015-annual-dinner/)*

*When registering, you must make
a meal selection for
each guest.*

*The meal choices are
beef, chicken or vegetarian.*

*Reservations must be
received no later
than June 12th*

EJCBA Golf Tournament Raises \$11,000 for Guardian Ad Litem Foundation

The Eighth Judicial Circuit Bar Association hosted its annual Charity Golf Tournament on UF's Mark Bostick Golf Course Friday, March 20, 2015, benefitting the foundation supporting the Guardian ad Litem Program in our Circuit. The Guardian ad Litem program is a volunteer-based organization that provides representatives to children involved in court proceedings, primarily as a result of alleged abuse or neglect. With the help of all of the golfers in this two-person scramble tournament (a record 90 in total) and 28 incredible sponsors, the EJCBA was able to donate \$11,000 to the program, making this the most successful tournament yet. Our association was honored to present the proceeds check with EJCBA President Raymond F. Brady to the Past Immediate Chair of The Guardian Foundation, Inc., Carol Zegel, at the April 10 EJCBA Luncheon.

Following a catered lunch by Zaxby's, the tournament golfers of ALL skill levels began with a shotgun start at 1 p.m., with six students walking

the course to provide enough carts for the rest of the players due to the overwhelming number of participants. The weather could not have been better for the tournament, allowing fellow lawyers and community members who support the Guardian Ad Litem Program to compete for gross, net and hole prizes while enjoying the beautiful Florida sunshine. It was a hot day with a high of 87 degrees, but there were plenty of refreshments available to help our players stay cool thanks to The Resolution Center, who graciously sponsored all of the on-course beverages. The post-round reception was provided abundant food by PDQ and adult beverages were provided by the Liquor and Wine Shoppe at Jonesville. Most importantly, the EJCBA and all of the participants were able to raise money for this great cause that benefits the children within our community.

P.S. The Guardian ad Lemonade stand raised a record-breaking \$276!!!



The Guardian ad Lemonade stand was a huge hit, raising \$276 by the end of the tournament

EJCBA Golf Tournament Event Sponsors and Contributors:

Dharma Endowment Foundation, Inc.
McCarty, Naim & Keeter, P.A.
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Zaxby's
PDQ
Capital City Bank Investments
Roberts Insurance, Inc. - Scott Roberts
The Liquor & Wine Shoppe at Jonesville
Folds & Walker, LLC
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Community State Bank
The Resolution Center
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UF Mark Bostick Golf Course
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Dan Sikes Attorney at Law
Donnelly + Gross
Stripling & Stripling Mediation
Jones Edmunds
Smith Asset Management Co., LLC



On behalf of the Guardian Foundation, Carole Zegel accepts a check in the amount of \$11,000 from EJCBA President Ray Brady, golf tournament student intern Claudia Stantzyk-Guzek and Golf Tournament Committee Chair Mac McCarty at the April luncheon.

2015 EJCBA Charity Golf Sponsors

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The Liquor & Wine Shoppe at Jonesville

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Silver

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Center

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Dan Sikes Attorney at Law

Special Thanks

UF Mark Bostick Golf Course

Donnelly + Gross

Stripling Mediation & Arbitration

Renaissance Printing

Thank you to all of the participants and volunteers. Your invaluable support helped make the 2015 tournament the most successful tournament to date.

A special thank you to volunteer photographer Lua Lepianka for all the photos taken on the day of the event.

2015 EJCBA Charity Golf
Signature Sponsor



People Dedicated to
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**"INDESCRIBABLY
GOOD FOR OVER
25 YEARS."**

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Foundation



Golfers from left to right: John Whitaker, Miles Kinsell, Dick Bradley, Judge Robert Groeb, Chris Conner and Judge Robert Roundtree.

**2015 EJCBA Charity Golf
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**2015 EJCBA Charity Golf
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Faulkner Realty, Inc.

**Susan Faulkner-O'Neal,
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Reserve Now for the EJCBA May 2015 Luncheon



WHEN: Friday, May 8, 2015 – 11:45 a.m.

WHERE: The Wooly – 20 N. Main Street, Gainesville, FL 32601

PROGRAM: Jon Mills, UF Law Dean Emeritus and Director of the Center for Governmental Responsibility — “Privacy in the New Media Age”

COST: **Members: \$17.00, Non-Members: \$25.00***

Chef’s choice luncheon buffet, including meat or vegetarian entrees, seasonal sides, and dessert

DEADLINE: Register on or before **Monday, May 4th at Noon at <http://8jcba.dev.acceleration.net/event-registration/may-2015-luncheon/>**

***\$20.00 for members and \$25.00 for non-members, not having made prior reservations.** If you are reserving at the last minute, or need to change your reservation, email Judy Padgett at execdir@8jcba.org or call **(352) 380-0333**. Note, however, that after the deadline, EJCBA is obligated to pay for your reserved meal and we make the same obligation of you. Thank you for your support.

Thank You!

Thank you to everyone who participated in the 2015 EJCBA Golf Tournament. YOUR participation made this year’s event another big success.

Annual Dinner and Meeting

2015 Annual Dinner
& Meeting
at Sweetwater Branch Inn
Thursday, June 18, 2015
Beginning at 6:00pm
Music will be provided

Make your reservations
today at
<http://8jcba.dev.acceleration.net/event-registration/2015-annual-dinner/>

Nominees Sought for 2015 James L. Tomlinson Professionalism Award

Nominees are being sought for the recipient of the 2015 James L. Tomlinson Professionalism Award. The award will be given to the Eighth Judicial Circuit lawyer who has demonstrated consistent dedication to the pursuit and practice of the highest ideals and tenets of the legal profession. The nominee must be a member in good standing of The Florida Bar who resides or regularly practices law within this circuit. If you wish to nominate someone, please complete a nomination form describing the nominee’s qualifications and achievements and submit it to Raymond F. Brady, Esq., 2790 NW 43rd Street, Suite 200, Gainesville, FL 32606. Nominations must be received in Mr. Brady’s office by Friday, May 8, 2015 in order to be considered. The award recipient will be selected by a committee comprised of leaders in the local voluntary bar association and practice sections.

James L. Tomlinson Professionalism Award Nomination Form

Name of Nominee: _____

Nominee’s Business Address: _____

County in which Nominee Resides: _____

The above named nominee exemplifies the ideals and goals of professionalism in the practice of law, reverence for the law, and adherence to honor, integrity, and fairness, as follows (attach additional pages as necessary):

Name of Nominator: _____

Signature: _____

Florida Family Law Practices Should go Beyond Requirements to Advocate for Children in Divorce

By Karen S. Yochim



Dissolution of marriage is typically a painful process for all involved and particularly on any children involved. Dissolution of marriage is confusing and can hurt adults much less a child. In the midst of conflict, parents can be so focused on their own pain, hurt or needs they lose perspective on their children's best interests and forget about the pain, stress and confusion that accompany this difficult transition for ones so young.

"The manner in which parents handle these sensitive issues with their kids can have a profound impact on the children for years to come," said Thomas N. Dikel, Ph.D., a Gainesville-based developmental psychologist and pediatric neuropsychologist. "It's enlightening for law firms to look at the issues involved in divorce and make a concerted effort to educate parents about resources that will help adults focus on the well-being of children, which can get lost in the animosity of divorce."

Parents should be educated and supported in setting aside differences in a healthy manner in order to make children's needs a priority during the divorce process, and on an ongoing basis. Regardless of whatever conflict may exist related to other issues in the divorce, parents must focus on trying to come to a consensus on what is best for their child even if they cannot agree on other issues. The fact that there is conflict alone between parents related to their children can create extreme long-term stress for the children. There may be occasions where parents have to put aside what they believe is best for their child in one, perhaps more minor, area in order to foster a spirit of cooperation or achieve an agreement on what that parent deems to be a more important issue.

What are Best Interests?

Although a concrete standard of best interests cannot cover every situation, there are resources that aid the process of analyzing the individual situation. Florida Statute 61.13 outlines factors the court must use to evaluate the best interests and welfare of the child when creating or modifying a custody arrangement. Some of these include the

parent's moral fitness, demonstrated capacity of the parent to communicate with the other parent on issues and activities regarding the minor child, and the willingness of each parent to adopt a unified front on all major issues when dealing with the child. However, these factors are designed to allow a third-party to evaluate and decide what is in the child's best interest in a situation where the parents are in conflict. They are less helpful when resolving the actual, practical day-to-day issues that arise as conflicts in most time-sharing situations and provide no assistance in helping parents understand the impact unnecessary conflict can have on children in divorce. More guidance is needed for parents in this department, and their attorneys are in a unique position to be able to provide it to them.

Current State-Wide Efforts

Within the Florida Statutes that outline the process for establishing time-sharing, a Parenting Plan is required in order to detail the arrangement for time-sharing with minor children. This is an effective tool that provides a roadmap for the discussion and ensures that most common details and situations are noted; however, it is not flexible and does not allow for much variation. There are also some state-wide resources gaining momentum to complement the effort to reduce conflict on children in divorce. The State of Florida and The Florida Department of Children and Families (DCF) have addressed the need for increased education to minimize the emotional impact. Pursuant to Florida Statute 61.21, all parents of minor children are required to complete a DCF-approved, four-hour 'Parent Education and Family Stabilization' course before dissolution of marriage will be granted. While helpful, it has limits. The course adds costs, is typically completed online and occurs separately from the negotiations. Additionally, it is seen as a formality by most parents and the information provided in the class is not introduced to them by someone in whom they place trust and expect guidance like their own attorney or counselor.

Furthermore, the Florida Supreme Court has agreed that improved communication is needed for a successful family court system. Understanding that a model court concept should be tailored to and utilize the unique resources available in each community, the Florida Supreme Court mandated in

Continued on page 10

Family Law

Continued from page 9

2001 that each circuit create a Family Law Advisory Group (FLAG). Each circuit FLAG is open to court staff, judges, members of the bar, social service providers, local community leaders and any other interested persons or organizations to support and advise the family court. The goal is to enhance the communication between stakeholders in the judicial system and the community to realize a more effective family court.

Attorneys Going Above and Beyond

As counselors for our clients, family lawyers have a unique and important opportunity to support children caught in the middle of a child custody dispute. The basic requirements set out by the courts (mandated classes, etc.) can only take us so far. Since parents' actions often have significant influence, we should go beyond the minimum to ensure that, as family law professionals, we are doing our part to establish the best possible environment and parental communication structure to meet children's needs. Moreover, as judges expect parents to put the needs of their children first, it is our obligation as advocates to help guide our clients to put their child's best interests first to the extent we can without interfering with our obligation to advocate for our clients. This is especially true because of the bond and respect that most clients develop for a proficient family law attorney representing them.

The ultimate goal for all concerned should be the development and encouragement of the child's happiness, security and emotional and mental health into young adulthood. In order to accomplish this, family law practitioners should seek to provide a holistic approach to dissolution of marriage that complements the requirements set out by the state. At minimal or no cost to the firm and limited operational inconvenience, we can add value by building cooperative relationships, honing our own awareness to potential warning signs, and supplying parents with additional resources.

The first step for family law practices is to build relationships with licensed professional counselors, such as child psychologists and family therapists, and incorporate their services into divorce discussions. This will promote a coordinated effort between the state, parents, attorneys and counseling professionals to drive an increased focus on the short- and long-term well-being of the children. Next, we should take a customized approach and refine our individual skill-

set to closely listen to clients and become highly astute at identifying and addressing problematic circumstances, which can vary widely from case-to-case. Taking a child-centric approach entails providing proactive support ahead of time and particularly when it appears that one or both parents may be acting in a way that's unsuitable for their children.

A firm's internal operations should be adapted to place greater emphasis on expert referrals to counseling professionals to meet specialized needs. This will help ensure that families continue to refine important skills after the divorce has been finalized, such as post-divorce parental communication, which will assist children in coping with the difficult transition. Finally, clients can be provided basic suggestions and guidelines in written format for achieving the goal of always placing the child's best interest first. These suggestions will take on added significance for clients when presented as the attorney's own beliefs and expectations supported by appropriate mental health professionals.

Final Word

You have to accept that even in the most amicable of divorces, children are almost always affected in a negative manner, sometimes for years to come. How parents communicate with each other and handle raising their children during and after the dissolution of marriage will determine how significant an impact there is on the emotional health of the children. It is our responsibility to promote the welfare of children through this process so long as it does not impair our ability to advocate for our clients. In doing so, we are helping to create a better society by providing these children the best opportunity for a happy and healthy upbringing.

President's Message

Continued from page 1

The EJCBA Annual Dinner will be held on the evening of Thursday, June 18, 2015. We will hold the dinner again this year at the Sweetwater Branch Inn, which was a great success last year. Cap off our year with great food and beverages, live music, and socializing with your friends and colleagues.

If you would like to volunteer to assist with any of the programs and activities that remain this year, please contact either me, or any one of the EJCBA Officers or Directors. Thank you all for your ongoing support and participation in the EJCBA activities!

Alternative Dispute Resolution

History of Mediation: Magna Carta

By Chester B. Chance and Charles B. Carter



The year 2015 is the 800th Anniversary of Magna Carta. The event has been recognized by organizations around the world including the National Inns of Court.

Magna Carta, in a very real sense, is a very misunderstood document. There are many myths and misconceptions about its originality, effectiveness, duration, etc. The one consistent area of agreement about Magna Carta is that it was one of the most significant examples of mediation in recorded history. What happened in Runnymede, without any disagreement, was one of the most important mediations in world history.

The local Bennett Inn of Court presented a program on Magna Carta. What follows is one part of that program.

The part we have selected involves a panel discussion of rather distinguished individuals discussing both the importance and misconceptions of Magna Carta.



Rick Knellinger, Gloria Walker, Warren Rhea and Evan Malloy as Mount Rushmore

Magna Carta

ACT IV: Panel Discussion on the Legacy of Magna Carta

Narrator: We have brought together a distinguished panel to discuss the legacy of Magna Carta. First, do not say “the” Magna Carta. The article ‘the’ is not proper. Only Americans call it The Magna Carta. The document is simply Magna Carta. We may inject humor into this program, but, when it comes to Latin terms we demand accuracy.

Our distinguished panel includes the author of the Declaration of Independence, Thomas Jefferson. Also, the first president of the United States, George Washington. We are pleased to have former Presidents Abraham Lincoln and Theodore Roosevelt joining our panel discussion. This part

of the program could be termed “Mt. Rushmore meets Magna Carta.” Let’s begin.

Narrator: Gentlemen, we honor the anniversary of Magna Carta. We revere its legacy. We revere it as a document. What is its legacy to Americans and why this reverence?

Roosevelt: Well, I hesitate to throw water on the passionate fire of Magna Carta reverence, but, in large extent, Magna Carta as emperor may have no clothes. To some extent, its importance may be as exaggerated as its own duration was short lived.



Narrator: What exactly do you mean?

Roosevelt: Well, the urban legend says Magna Carta was the first assertion of restrictions on the English monarchy. Not so at all. Actually, a large part of Magna Carta was lifted from the Charter of Liberties of 1100. In the Charter of Liberties, King Henry had conceded certain areas or principles where his powers would be limited. In that sense Magna Carta in large part merely repeated the earlier

charter from about 100 years earlier. So it was not new or novel.

Jefferson: You are absolutely correct. Magna Carta was not the first charter and was certainly not original in its concepts or principles. In a sense, it is Die Hard II.

Washington: Many would say it was the pilot of a television show which was cancelled.

Narrator: Can you explain that Mr. Washington.

Washington: Well, first of all, King John quickly voided Magna Carta and appealed to the Pope who also voided it within a few months. Thus, technically, the duration of the document was merely a few months. True, after John died, his son reinstated

Continued on page 12

Magna Carta

Continued from page 11

Magna Carta. But, interestingly, the vast majority of Magna Carta's provisions were repealed over the next 600 years or so. Only three of the original provisions are still part of English law. Three out of approximately 69.

Narrator: Mr. Jefferson, you have authored some great American documents. Who authored Magna Carta?

Jefferson: Interestingly, we do not know. Most suspect it was the Archbishop of Canterbury, Stephen Langton, but, the final version was the product of months of negotiation between the two sides and probably no one person wrote the document.

Lincoln: It is sometimes said we Americans revere the document more than the British. I find that odd. Not as odd as some of the food the British eat, but, still, odd.

Roosevelt: Yes, I think our friends Washington and Jefferson admired the principles of Magna Carta more than the words or laws themselves. The charisma of our founding fathers gave gravitas to Magna Carta as a restriction on monarchy and the idea that nobody was above the law.

Washington: In defense of Mr. Jefferson and our revolutionary brothers, I will defer to a Brit and note Winston Churchill said, and I quote: "... here is a law which is above the King and which even he must not break. This reaffirmation of a supreme law and its expression in a general charter is the great work of Magna Carta; and this alone justifies the respect in which men have held it."

Narrator: So, do you believe Magna Carta is more of a principle than a law?

Lincoln: Certainly, the principles of Magna Carta endure, as we already have said, the actual laws did not. Much of Magna Carta addressed things which do not concern us today.

Narrator: Like what?

Lincoln: For instance, part of Magna Carta addressed the role of Jewish moneylenders and the treatment of debts owed to them. The document called for removing fish farms known as weirs from English rivers. Other parts dealt with the size and role of royal forests.

Jefferson: And scutage, don't forget scutage.

Narrator: What is scutage?

Jefferson: It was a form of taxation. All knights and nobles owed military service to the Crown in return for their lands. Scutage was money which could be paid instead of showing up for military service. Other parts of Magna Carta dealt with the

return of hostages from Scotland and Wales.

Washington: Part of Magna Carta regulated the size of bolts of cloth used to make robes for monks. Something we decided did not need to be in our own Constitution.

Roosevelt: It also established standard measures for wine and ale, always a bully idea.

Narrator: But, certainly Magna Carta would not be revered for banning fish weirs and the size of bolts of cloth.

Lincoln: No, it is general principles that make it significant. The first principle, perhaps the most important, is that no person is above the law. That the concept of justice is greater than the concept of any one person. And, it should be noted, Magna Carta was not a concession given by the King to the barons. Magna Carta was forced on the King by the barons. That is a distinction with a difference. Ultimately, such an idea might be considered government of the people, by the people and for the people. As Churchill said, Magna Carta represents concepts of freedom and the rights of man and the idea of the supremacy of law. As George just remarked, Churchill thought that alone justifies the respect men hold for it.

Jefferson: Indeed, well said. When colonists in America stood up to the English King we did so in part to force recognition of liberties whose roots were in Magna Carta.

Narrator: Specifically, are there any concepts, liberties or rights from Magna Carta which found their way into our Constitution.

Roosevelt: I hate to add my thoughts with Washington and Jefferson sitting right here, but, I would like to answer that. Certainly, Clause 39 of Magna Carta is a concept found in our Bill of Rights. The Fifth Amendment states no person shall be deprived of life, liberty or property without due process of law.

Lincoln: The Englishman Edward Coke worshipped the provisions of Clause 39. He was Chief Justice of King's Bench who was removed from that position by King Charles when the king heard Coke was writing a book on Magna Carta. As Coke was dying, his chambers were ransacked by the King's men and his draft book was taken. After the English Revolution the books were recovered and published in 1642. Coke stressed Clause 39 and thought it was the foundation of due process, habeas corpus and trial by jury. Some important principles indeed. Perhaps this is why Coke once said in Parliament, "Magna Carta will have no sovereign."

Continued on page 13

Magna Carta

Continued from page 12

Washington: Yes, also Clause 28 of Magna Carta stated no constable shall take corn or chattels unless he pays for them. As you discussed, Clause 39 stated no free man could be imprisoned, stripped of his rights or possessions without due process being legally applied. Clause 45 required the King to appoint justices who knew the law. In fact, the only remaining ideas from Magna Carta still present in English law are: (1) the freedom of the English Church, (2) the guarantee of the customs and liberties of the city of London, and most importantly, (3) the forbidding of arbitrary arrest and the sale of justice.

Roosevelt: In 1687 William Penn published a book about English freedoms and his book contained the first copy of Magna Carta printed on American soil. Penn agreed with Coke that Magna Carta represented a fundamental assertion of law and justice. In fact, the original Virginia Charter of 1606 was largely drafted by Coke and asserted all colonists would have all liberties and immunities, as if they were born in England. So Magna Carta was alive and well in the early colonies.

Jefferson: The colony of Maryland in 1638 wanted to recognize Magna Carta as part of the law of Maryland but the request was denied by the King. Old frictions die hard. Die Hard 2 again.

Washington: Thomas, do you recall that just prior to our Revolution, the colony of Massachusetts adopted a new seal showing a militiaman with a sword in one hand and Magna Carta in the other hand. A picture worth a thousand words at the time.

Narrator: We thank all of you for your thoughts tonight. Americans honor the principles of Magna Carta together with their British cousins. I want you all to know that in 1957 The American Bar Association erected the Magna Carta Memorial at Runnymede. We are two countries separated by a common language but apparently joined by the concepts of Magna Carta. The Supreme Court of the United States has referred to Magna Carta in over a hundred decisions. A federal district judge in 1994, in the case by Paula Jones against President Clinton for sexual harassment, ruled against denying the suit during the President's term of office and said: It is contrary to our form of government, which asserts as did the English in Magna Carta and the Petition of Right, that even the sovereign is subject to God and the law.

Thank you for reading this excerpt from the American Inns of Court program on Magna Carta. We hope you were both entertained and enlightened.

Criminal Law



By William Cervone

The law can truly be magnificent in its terminology and sweep. And the reading of advance sheets can provide many a lesson in what is possible in the law.

First, before exposing my ignorance, I would remind all of you that we criminal practitioners don't know a tort from a, well, torte. Next, let me express my surprise and delight at learning that there is a tort of Outrage in Florida. Outrage has elements, of course, and I won't go into them all because I assume that my fellow criminal practitioners won't really care and that you civil practitioners are already yawning knowingly. Suffice it to say that Outrage involves behavior that goes beyond all bounds of decency and is regarded as odious and utterly intolerable in a civilized community. I could sarcastically say that there is nothing so unconstitutionally vague about those terms so as to bother anyone, but that would be to digress.

Outrage came to my attention as I was skimming through a recent Florida Law Weekly, intending only to look at the criminal cases, but finding my eye caught by a headnote in a decidedly uncivil civil case that fairly screamed "THIS IS AN OUTRAGE!" at me.

Briefly, it seems that a woman whose mother died in a hospital in Winter Haven requested an autopsy. Apparently being convinced that her mother was in perfect health and that her death must have been someone's fault despite resultant findings of morbid obesity, interstitial pneumonia, pulmonary hemorrhage and assorted other problems secondary to smoking, and not liking those findings, she asked for a second autopsy.

And thus began the outrage, for she then learned that many of her mother's organs had been disposed of by means of incineration as medical waste after the first autopsy instead of being turned over to the funeral home for burial with the body itself. The peak of her outrage was that her mother's wishes had been

Continued on page 14

for burial, not cremation.

Suffice it to say that a lawsuit against many people followed, a trial was held, and a million and a half dollars in compensatory and punitive damages was awarded. One assumes that that sum would assuage at least some of the outrage, but we do not know that for sure since the verdict was overturned on appeal for various reasons, many of which make for interesting reading even for a criminal practitioner. The final chapter awaits the proverbial further proceedings that follow a remand for a new trial.

So, in terms of my obligation to write a criminal law column, let me go forward with how this applies to criminal law. First and foremost, I am outraged that there is no crime of Outrage somewhere in all those pages of criminal violations. Surely there is room for a felony level crime of Outrage. In fact, I'm pretty sure that I've seen criminal jury instructions that use the word "outrageous" with a definition that is every bit as vague as is the tortious element mentioned above. It seems a simple and logical step to legislate outrageous behavior into existence as the crime of Outrage.

Think of the possibilities. "Your Honor, the State has charged the defendant with one count of Murder and a second count of Outrage for this intolerable act." Or better yet, "Your Honor, the State demands five years consecutive to the defendant's life sentence for Murder for his contemporaneous conviction for Outrage." It's all so perfect.

I've often longed for a criminal charge of Stupid. If I could add a count of Stupid to every case we file I would likely have close to a 100% conviction rate. "Ladies and gentlemen of the jury, the State asks that you convict the defendant of being stupid." Why, it's practically *Res Ipsa Loquitur* or whatever that phrase I learned in law school was. In the absence of Stupid, I'll settle for Outrage.

By the way, if you want to know more about why incinerating organs after an autopsy isn't really cremation, the pivotal point in the case, and so on see *Winter Haven Hospital, Inc. v Liles*, 148 So3d 507 (Fla. 2d DCA 2014). And, I should add, I mean no disrespect to Ms. Liles or her situation. That would indeed be an outrage.

The Florida Bar Board of Governors Report

By Carl Schwait



[The Florida Bar Board of Governors](#) met on March 27, 2015. The major actions of the board and reports received included:

The [Vision 2016](#) Access to Legal Services Committee recommended amendments to the civil rules of procedure and rules of judicial administration

to allow lawyers to provide some unbundled legal services, also known as limited scope representation or limited appearance representation, in civil cases. This is a practice currently available in some other types of court cases. The recommendations now go to appropriate procedural rules committees for review. The [Florida Commission on Access to Civil Justice](#) is also studying how unbundled legal services could increase access to civil justice.

The [Vision 2016](#) Technology Committee is working on a number of proposals, including: establishing a Standing Committee on Technology to study and advise on law practice technology applications and a board committee to liaison with the Florida Courts Technology Commission; developing referral and document services to help lawyers gain new clients and to provide legal services for the 60% of Floridians who do not qualify for legal aid but cannot afford traditional legal services; and increasing continuing legal education and other requirements to include technology competence.

The [2015-16 budget was approved](#), keeping annual membership fees at \$265 for active members and \$175 for inactive members. Bar revenues are projected to be \$41.3 million and expenses at \$44.2 million including \$19.8 million for the regulation of the practice of law. The budget is being submitted to the Florida Supreme Court for approval. The Bar's fiscal year begins July 1.

The [Young Lawyers Division has designated May 2015 as "The Florida Bar YLD Health & Wellness Month"](#) to coincide with National Mental Health Awareness Month and to start conversations on strategies for improving lives. YLD will be posting easy mental health and wellness challenges daily on social media with specific tips, video clips, and relevant articles. The main platforms

Continued on page 16

Probate Section Report



By Larry E. Ciesla

The Probate Section continues to meet on the second Wednesday of every month beginning at 4:30 p.m. in the 4th Floor Meeting Room of the Alachua County Family/Civil Justice Center at 201 East University Avenue. Following are

some issues discussed during recent meetings, in no particular order.

JUDGES MONACO, HULSLANDER and KEIM attended the April meeting and announced that, effective April 20, 2015, JUDGE KEIM will take over all PROBATE and GUARDIANSHIP cases in Alachua County. No changes are being made in the remaining counties of our circuit. The probate and guardianship group welcomes Judge Keim to the bench and looks forward to working together for a smooth transition in the coming months.

Judge Keim's background is as a civil litigation specialist doing primarily insurance defense work, initially with Dell Graham in Gainesville and then with the Bice Cole Law Firm in Ocala and Alachua. Judge Keim is wrapping up her obligations with Bice Cole, and her first day on the job as our newest judge will be April 20th. Her investiture is scheduled for May 7th. Judge Keim indicated during the meeting that she anticipates making no changes to the current system for handling probate and guardianship cases. All papers filed will continue to be reviewed by the staff attorneys, David Altman for probate and Theresa Murphy for guardianship.

Judge Keim's Judicial Assistant will be Theresa Hall. Their office will be in Room 304 of the Civil Courthouse, and it is anticipated that their e-mail addresses will be KeimD@circuit8.org and HallT@circuit8.org.

In addition to all probate and guardianship cases, Judge Keim has been assigned to receive 25% of all family law cases, as well as duties such as supervising mental health and child support enforcement cases.

Practitioners with hearings in probate and guardianship cases presently scheduled for a date on or after April 20, 2015 before Judge Hulslander or Judge Monaco should check to verify that all such hearings will be held by Judge Keim.

Jean Sperbeck led a discussion during the April meeting regarding amendments to Chapter 744 effective July 1, 2014, which confer upon the clerk of court discretionary authority to perform more detailed

investigations into guardianship accountings and inventories in an attempt to prevent or uncover abuses such as theft by guardians. Jean indicated that, in some counties such as Palm Beach, the clerks are actively coordinating with the State Attorney's Office in bringing criminal charges against selected guardians.

In Alachua County, guardianship accountings and inventories are audited primarily by Deputy Clerk Laura Hess. The audits will move from what has in the past consisted mainly of a "desk audit," where the clerk's office looks primarily to see that all of the numbers add up and are supported by the bank and brokerage statements, to a more in-depth audit of the substantive matters contained in the accountings and inventories.

When a particular entry is seen as a possible problem, Ms. Hess will typically ask for further documentation and/or explanation. This request will be e-filed with the court, and a copy provided to counsel. If the request is not complied with, the judge will be alerted, and the next step would likely involve the judge scheduling a hearing for a face-to-face meeting. In some cases, the clerk's office will turn to the staff attorney, Ms. Murphy, who will independently review the issue in an attempt to resolve the matter without involving the judge. If those efforts are unsuccessful, the matter will then be handed off to the judge for further consideration.

A brief discussion was held during the March meeting regarding recent changes to the LLC statutes, including the elimination of the position of "member manager" and the new requirements regarding "certificate of authority." Kris Lier volunteered to give a more detailed presentation on this subject during the May meeting.

Another brief discussion was held during the March meeting regarding a little-known estate planning tool involving ownership of life insurance policies. As we know, every policy has an owner, and the owner, in turn, has the authority to name the beneficiary or beneficiaries, as well as the authority to cash in a policy and receive the cash proceeds for policies having a cash value.

Occasionally, the owner will die before the insured. The issue then is, who becomes the new owner of the policy? For example, Wife is the owner of a policy insuring Husband's life. Wife names herself as beneficiary. Wife dies. Husband is still alive. The life insurance company's position has traditionally been that the policy is an asset in Wife's estate, requiring probate in order to change ownership. Life insurance

Continued on page 16

Board of Governors *Continued from page 14*

for communication will be the YLD's [Facebook](#), [LinkedIn](#), and [Twitter](#). Members are encouraged to post photos or comments related to the May initiative hashtagged with #livewell. In addition, YLD affiliates will be sponsoring local quality of life activities. The Florida Bar is [tracking hundreds of bills of interest to the legal profession](#) and is advocating for court system funding matters. Florida Bar, section and committee legislative positions [are posted on the website](#) along with weekly session updates, bill tracking reports and other legislative session information.

The [2015 Annual Convention](#) will feature a [one-day legal technology and innovation seminar on June 24 powered by Clio](#), one of the leaders in cloud based practice management software and a Florida Bar member benefit provider. The program, "InSession: Transforming Practice Through Technology," will provide the latest on law and technology issues presented by world-class speakers, with the keynote address provided by legal futurist Richard Suskind and topics including: practicing in the post-information age; video technology; technology trends for law firms; virtual communication and collaboration; the paperless firm; digital marketing for law firms; entrepreneurship in law; and content marketing for lawyers, among others.

The following appointments were made: Dwight O. Slater of Tallahassee for a two-year term on the Supreme Court Bar Admissions Committee; Frank A. Ashton of Jacksonville Beach, Thomas E. Glick of North Miami, and Maria T. Fabre of Orlando for four-year terms on the Statewide Nominating Commission for Judges of Compensation Claims; and Craig A. Dennis of Tallahassee for a four-year term on the Florida Patient's Compensation Fund.

I continue to appreciate the honor of representing the Eighth Judicial Circuit on the Board of Governors.



FSU Law Professor Larry Krieger explained "What Makes Lawyers Happy" at the April luncheon



*You are cordially invited to attend
the Investiture of the*

Honorable

Donna M. Keim

Eighth Judicial Circuit Judge

Thursday, May 7, 2015

4:00 p.m.

Alachua County Criminal Justice Center

Courtroom 1B

220 South Main Street

Gainesville, Florida 32601

Reception immediately following



Probate Section *Continued from page 15*

companies are now offering what appears to be a new feature whereby Wife, while alive, can name an "alternate owner," similar to the long-utilized procedure for naming an alternate beneficiary which, if properly employed, will avoid the necessity of the policy going through the probate process.

Katie Floyd, an associate at Salter Feiber, attended the February meeting. In addition to practicing real estate law, Katie is attending LLM classes and is considered one of Gainesville's foremost experts on all things related to Mac computers. The group welcomes Katie and looks forward to what we hope will be a lot of Mac operating tips going forward. In addition, as most readers are aware, Jennifer Lester and Jack Bovay joined Salter Feiber on March 1st. Jennifer will continue to handle fiduciary litigation cases, and Jack will continue his estate planning practice.

All interested parties are invited to participate in Probate Section meetings. There are no dues and no obligations to attend future meetings. Please contact Jackie Hall (jhall@larryciesla-law.com) if you wish to be added to the e-mail list to receive advance notice of the monthly meetings.

Revocation of Acceptance Under the UCC

By Siegel Hughes & Ross

Chapter 672, *Fla. Stat.*, contains Florida's adoption of the Uniform Commercial Code ("UCC") governing the sale of goods. Under the UCC, a buyer of non-conforming goods has the option either to claim the difference in value between what she should have received and what she actually received or, in certain situations, to cancel the deal and get a refund. As stated in *Jauregui v. Bobb's Piano Sales & Serv., Inc.*, 922 So.2d 303, 304 (Fla. 3rd DCA 2006), "this principle is based on the common sense idea that the purchaser is entitled to receive what he wanted to buy and pay for and that the seller is not free to supply any non-conforming item she wishes just so long as the deviant goods are worth just as much."

Section 672.608, *Fla. Stat.*, sets forth the circumstances in which a buyer of goods may revoke acceptance of a lot or commercial unit. One important factor to note is that revocation of acceptance under the UCC is essentially the codification of the equitable remedy of rescission. *Pepler v. Kasual Kreations, Inc.*, 416 So.2d 864, 865 (Fla. 3rd DCA 1982). As such, the *Pepler* Court held that the equitable powers of the circuit court may be invoked to enforce the relief requested, even where the damages are less than \$15,000.00. *Id.* However, while the statute itself is fairly brief and appears straightforward, it does contain certain traps for the unwary buyer.

Section 672.608, *Fla. Stat.*, provides that a buyer can revoke acceptance of a lot or commercial unit whose **nonconformity substantially impairs** its value to him or her if he or she has accepted it on the reasonable assumption that its nonconformity would be cured, and it has not been seasonably cured or without discovery of such nonconformity if his or her acceptance was reasonably induced either by the difficulty of discovery before acceptance or by the seller's assurances. The statute goes on to state that revocation must occur within a **reasonable time** after the buyer discovers or should have discovered the grounds for it, and before there is any substantial change in condition of the goods which is not caused by their own defects. Revocation is not effective until the buyer notifies the seller of the same.

Several questions become apparent upon reading this statute: what constitutes "nonconformity"? What constitutes substantial impairment? How is "value" defined? What is a "reasonable time" after discovery of the nonconformity?

Rather than defining "nonconformity," §672.106, *Fla. Stat.*, instead sets forth when goods are considered

to be conforming: "Goods or conduct including any part of a performance are 'conforming' or conform to the contract when they are in accordance with the obligations under the contract." This then leads into the next question, of what constitutes substantial impairment. Substantial impairment is a subjective measurement, determined from the perspective of the buyer. *Barrington Homes of Florida, Inc. v. Kelley*, 320 So.2d 841, 843 (Fla. 2nd DCA 1975). However, the buyer's financial ability to cure the defects is not an appropriate consideration when determining if the impairment is "substantial." *Id.* The "value" to the buyer is to be measured by the essential purpose to be served by the buyer's purchase of the goods. *Id.* The Court then tied the various elements together, stating that if the buyer's essential purpose of the purchase is substantially frustrated or interfered with by the nonconformity, then the value of the good has been substantially impaired as to the buyer. *Id.*

Whether notice of the revocation is provided within a "reasonable time" must be decided on a case-by-case basis; there is no bright line to determine whether notice of revocation is timely or not. In *Central Florida Antenna Service, Inc. v. Crabtree*, 503 So.2d 1351, 1352 (Fla. 5th DCA 1987), after purchasing a home satellite system, the buyer made numerous complaints about the quality of the sound and picture. The seller made repairs during the year following the purchase, after which the buyer paid the remaining balance owed, indicated his satisfaction and ceased complaints for approximately eighteen (18) months. *Id.* Nearly a year and a half later, the buyer again complained that the system was not working properly and attempted to revoke acceptance. *Id.* The Court held that the buyer's delay of a year and a half was not reasonable and the buyer was precluded from the remedy of revocation. *Id.* at 1353. In *Bair v. A.E.G.I.S. Corp.*, 523 So.2d 1186, 1189 (Fla. 2nd DCA 1988), the Court distinguished the facts at hand from *Crabtree*. The buyer in *Bair* inspected the boat he had purchased soon after delivery, promptly advised the seller of a leakage problem and continued to complain about the problem for two years, during which time the seller led him to believe the problem would be repaired. *Id.* Only after two years of complaints and broken promises to repair did the buyer revoke acceptance. *Id.* The Court held that his delay was reasonable

Continued on page 18

under §672.608, *Fla. Stat.* Courts in other states, applying their own state's version of the UCC, have similarly held that a delay in notification that is due to a series of complaints and attempted repairs is not unreasonable. *Seekings v. Jimmy GMC of Tucson, Inc.*, 638 P.2d 210, 218 (Ariz. 1981) (citing *Conte v. Dwan Lincoln-Mercury, Inc.*, 374 A.2d 144 (Conn. 1976); *Murray v. Holiday Rambler, Inc.*, 265 N.W.2d 513 (Wis. 1978); J. White and R. Summers, Uniform Commercial Code s 8(3), at 262 (1972)). Clearly, as long as any delay is due to attempted repairs or other efforts to identify or correct the nonconformity, then it should not be deemed unreasonable.

Although it is well established how substantial impairment should be measured, courts have unfortunately not been uniform in their application of that measure. Decisions as to what level of nonconformities constitutes substantial impairment vary greatly. A pair of cases from the First District Court of Appeal illustrates the problem. In *Tom Bush Volkswagen, Inc., v. Kuntz*, 429 So.2d 398 (Fla. 1st DCA 1983), the buyer purchased a new Volkswagen Rabbit. The Rabbit required repairs eleven times over the course of a year and a half, with the buyer experiencing problems with the radio, air conditioning, windshield wipers, cruise control, tires and paint, among other more minor problems. *Id.* at 399. Despite the ongoing repairs, the buyer used the car "extensively" during the year and a half it was in his possession, driving approximately 25,000 miles. *Id.* The seller argued that the value of the Rabbit was not substantially impaired so as to allow the buyer to revoke acceptance. *Id.* The Court affirmed the revocation of acceptance, stating that there was competent substantial evidence that the value of the car was substantially impaired, based upon the buyer's testimony and the list of problems with the Rabbit. *Id.*

Two years later, the First District upheld a very different result in *Parsons v. Motor Homes of Am., Inc.*, 465 So.2d 1285, 1287 (Fla. 1st DCA 1985), in which the buyers had purchased a motor home and immediately faced problems with it, including water leaks, malfunctioning windshield wipers, non-functioning cruise control, water pump failure and a broken cabinet latch. Over the course of nine months, the buyers experienced numerous other problems with the motor home, each time returning the motor home to the seller for repairs, before finally revoking acceptance. *Id.* at 1287-1288. The trial court found there was no showing of a substantial impairment of

use or value and that the dealer was complying with the parties' contract by making repairs. *Id.* at 1289. The First District upheld the trial court's ruling on this point, noting that although an appellate court might have reached a different conclusion, there was record evidence sufficient to support the trial court's finding of a lack of impairment of value. *Id.* at 1293.

Furthermore, not all situations that would seem to give rise to the right to revoke acceptance actually qualify. In *Frank Griffin Volkswagen, Inc. v. Smith*, 610 So.2d 597 (Fla. 1st DCA 1992), the Court held that violation of Chapter 501, the Florida Deceptive and Unfair Trade Practices Act, is not in and of itself a sufficient basis for revocation of acceptance.

Another limitation on the right of revocation appears in *McCormick Mach., Inc. v. Julian E. Johnson & Sons, Inc.*, 523 So.2d 651 (Fla. 1st DCA 1988). In *McCormick*, the buyer purchased a used bulldozer which ultimately had a multitude of problems and required major repairs, greatly reducing the buyer's ability to use the bulldozer. *Id.* at 652. Citing out of state authority, the Court held that in order for a good to be nonconforming, there must be some warranty or provision in the contract to which the goods must conform. *Id.* at 656. The Court went on to state that this means where a seller has validly disclaimed all warranties, including the warranty of merchantability, there can be no remedy of revocation for nonconformity. *Id.* The Court did note that where the seller's oral representations are a part of the contract, they will not be negated by a written disclaimer. *Id.* But where a dealer or seller has disclaimed all warranties, his explanation of the manufacturer's warranties will not create a contractual or warranty obligation on the part of the seller. *Frank Griffin Volkswagen* at 599. Clearly, a buyer considering revocation of acceptance of nonconforming goods will want to examine the contract for any potential warranty disclaimers that could foreclose the right to bring the claim.

Where do these conflicting decisions leave a buyer considering revoking acceptance? Such a buyer will want to carefully examine her situation to ensure she has complied with the requirements of §672.608, *Fla. Stat.*, and that the nonconformities of the goods are sufficient to rise to the level of "substantial impairment." Finally, a buyer would do well to remember, as the Court noted in *Peppler*, that seeking a remedy under the UCC does not alter her right to bring suit under the common law theory of rescission. *Peppler* at 865, n. 1.

Restrictive Covenants Can Impede Development Plans and Cost Landowners



By Jennifer B. Springfield

In addition to property inspections and verifying applicable land use designations and zoning regulations, anyone who is contemplating the purchase of land for development purposes should conduct a *thorough* review of the title records prior to purchase and early in the due diligence process to look for the existence of restrictive covenants (sometimes referred to as negative easements) and other easements, such as conservation easements. If such are found, consultation with an attorney concerning the impact of these on the potential purchaser's development plans for the property should be sought. Often, owners of large tracts of land (grantors) will record a set of covenants on the entire or a significant portion of their lands prior to subdivision and sale. Such deed restrictions are usually intended to benefit all future owners of the smaller parcels bought and sold (grantees). The protections afforded by such easements become a property right which is enforceable by any neighboring purchaser for whose benefit it was intended.¹

While it may seem odd that one property owner can enforce restrictions on another person's real property, the Second District Court of Appeal in *Hagan v. Sabal Palms, Inc.*, 186 So.2d 302 (Fla. 2nd DCA 1966) explains the reasoning behind this by quoting from a 1933 Florida Supreme Court opinion in *Osius v. Barton*, 147 So. 862, 865:

The general theory behind the right to enforce restrictive covenants is that the covenants must have been made with or for the benefit of the one seeking to enforce them. The violation of a restrictive covenant creating a negative easement may be restrained at the suit of one for whose benefit the restriction was established, irrespective of whether there is privity of estate or of contract between the parties, or whether an action at law is maintainable. The action of a court of equity in such cases is not limited by rules of legal liability and does not depend upon legal privity of estate, or require that

the parties invoking the aid of the court should come in under the covenant, if they are otherwise interested. The rule is well established that where a covenant in a deed provides against certain uses of the property conveyed which may be noxious or offensive to the neighborhood, inhabitants, those suffering from a breach of such covenant, though not parties to the deed, may be afforded relief in equity upon a showing that the covenant was for their benefit as owners of neighboring properties. At 865.

The courts have also held that while a grantor can reserve the right to amend deed restrictions, amendments must be reasonable.² Reasonable amendments are defined as amendments which do not destroy the general scheme or plan of development.³ A general scheme exists where a tract of land is divided into lots to be sold subject to uniform restrictions imposed thereon.⁴ An unreasonable change is one that creates an inconsistent scheme, alters the relationship of lot owners to one another, modifies the relative benefits as between the grantor and grantees, or changes the right of lot owners to individual control over their own property.⁵

Therefore, while it may be possible to alter restrictive covenants to facilitate a plan of development, it can be a time consuming and costly process to achieve. All of the property owners benefitting from the restrictions should be asked to approve any amendments to such covenants, and/or the purchaser/developer should be asked to hold harmless, defend and indemnify the lot owners who support an amendment which benefits a developer. No matter which approach is taken, all benefitted lot owners should be afforded due process - notice and the opportunity to be heard.

- 1 *Nelle v. Loch Haven Homeowners' Association, Inc.*, 413 So. 2d 28, 29 (Fla. 1982)
- 2 *Flamingo Ranch Estates, Inc. v. Sunshine Ranches Homeowners, Inc.*, 303 So.2d 665, 666 (Fla. 4th DCA 1974)
- 3 *Id* at 666.
- 4 *Carrigan & Boland, Inc. v. Worrock*, 402 So.2d 514, 517 (Fla. 5th DCA 1981)
- 5 *Klinow v. Island Court At Boca West Property Owners' Association, Inc.*, 64 So.3d 177, 180 (Fla. 4th DCA 2011)

It's that time again!

The Eighth Judicial Circuit Bar Association Nominations Committee is seeking members for EJCBA Board positions for 2015-2016. Please consider giving a little time back to your bar association. Please complete the application below and return the completed application to EJCBA. The deadline for completed applications is May 8, 2015.

Application for EJCBA Board Membership

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Office of Interest: (Check all that apply)

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<input type="checkbox"/> Law Week	<input type="checkbox"/> Medical - Legal	<input type="checkbox"/> Member Services
<input type="checkbox"/> Mentorship	<input type="checkbox"/> Oral History Project	<input type="checkbox"/> Policies & Bylaws
<input type="checkbox"/> Pro Bono	<input type="checkbox"/> Professionalism	<input type="checkbox"/> Social
<input type="checkbox"/> Sponsorships	<input type="checkbox"/> Website/Social Media	<input type="checkbox"/> Other (Describe Below)

Briefly describe your contributions, if any, to date to EJCBA.

What new goals would you like to explore for our association?

How many hours per week can you devote to your EJCBA goals?

Return to: EJCBA – Nominations Committee
P.O. Box 13924
Gainesville, FL 32604

Or email completed application to: execdir@8jcba.org

May 2015 Calendar

- 5 Deadline for submission of articles for June Forum 8
- 6 EJCBA Board of Directors Meeting – 5:30 p.m., Gaineswood Clubhouse
- 8 EJCBA Luncheon, Jon Mills, UF Law Dean Emeritus & Director of the Center for Governmental Responsibility, “Privacy in the New Media Age,” The Woolly, 11:45 a.m.
- 8 Myriads of Candles, A Celebration Honoring the Dedication of Attorneys, Judges & Professors, 7:00 pm, Levin College of Law (reception to follow)
- 13 Probate Section Meeting, 4:30 p.m., Chief Judge’s Conference Room, 4th Floor, Alachua County Family & Civil Justice Center
- 19 Family Law Section Meeting, 4:00 p.m., Chief Judge’s Conference Room, Alachua County Family & Civil Justice Center
- 25 Memorial Day, County & Federal Courthouses closed

June 2015 Calendar

- 10 Probate Section Meeting, 4:30 p.m., 3rd Floor Conference Room, Alachua County Criminal Justice Center
- 18 EJCBA Annual Dinner and Meeting, 6-8:30 p.m., Sweetwater Branch Inn
- 24-27 65th Annual Florida Bar Convention, Boca Raton Resort & Club

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



Golfers enjoy a pre-round lunch provided by Zaxby's.