

FORUM 8

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Eighth Judicial Circuit Bar Association, Inc.

October 2016

President's Message

By Stephanie M. Marchman



GROW.

At precisely 5:00 PM each day, Judge Hodges would walk into the Law Clerk Offices and ask, "Well Law Clerks, have you learned anything new today?" Inevitably we had (or we were just ready to go home) and we'd eagerly answer in the affirmative. The Judge would then declare, "Well then, I suppose it's quittin'

time!"

Of course, this was not the end of the conversation. We would then proceed to discuss what we had learned that day on our hour-long commute from the Ocala Courthouse back to Gainesville. But truth be told, our daily lessons at work paled in comparison to what we learned from the Judge during our car rides together. Judge Hodges would share tales about his nomination to the bench (in 1971!), most memorable cases, words of wisdom for young lawyers, and stories about old friends. And sometimes, we would simply sit quietly and listen to Jimmy Roselli croon about when your old wedding ring was new.

Some of my most memorable lessons learned from the Judge include:

Always tell the truth. Use candor about the facts even when it seems disadvantageous. Address your "bad facts" head on. To do so inspires confidence in your argument before the Court.

The concept of Benign Neglect. It means that after careful consideration, sometimes the best course of action is no action at all.

But beware, Benign Neglect should not be confused with putting off a hard decision. After discussing Benign Neglect, the Judge would ask, "Is it more important for the case to be decided rightly

or simply that it be decided?" The Judge would contend that instead of being paralyzed by two equally persuasive decisions and making no decision at all, it's often best just to decide the issue and move on. After all, the Eleventh Circuit will eventually tell you what they think. (This principle is also known as: Justice delayed is justice denied.)

Be kind. And not just to the Judge. Be kind to the Cleaning Crew, Courtroom Deputy, Secretary, Court Security Officer, Law Clerk, Opposing Counsel, Plaintiff, Defendant, Juror...Everyone.

Have fun and enjoy your life. Judge Hodges would often give Law Clerks (and the Eleventh Circuit) feedback on their work with smiley face stickers and stamps (some of which were not smiley faces!). He rarely misses a Gator sporting event, and he's home for dinner with his family the days he's not traveling. In his 70's, the Judge renewed his pilot's license and bought himself a Gator blue Cessna. I suspect the Judge himself learned this lesson – to regularly enjoy your family and your passions – after he had a heart attack at the age of 42.

I share my experience with you as federal law clerk to the Honorable Wm. Terrell Hodges, Senior United States District Judge in the Middle District of Florida, because he has had a profound impact on me as a person and a lawyer. During my clerkship, I had phenomenal opportunities to GROW. Given this, after my clerkship I kept seeking out work with experienced lawyers and judges, both at the office and through bar activities, so I could continue to GROW. Growing my competence as a lawyer was critical at first, but over time, I've learned that growing professional relationships is primarily what makes the practice of law so enjoyable (there are other good

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Contribute to Your Newsletter! From The Editor

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

About This Newsletter

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

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

News, articles, announcements, advertisements and Letters to the Editor should be submitted to the Editor or Executive Director by Email. Also please email a photograph to go with any article submission. Files should be saved in any version of MS Word, WordPerfect or ASCII text.

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Deadline is the 5th of the preceding month

Alternative Dispute Resolution

By Chester B. Chance and Charles B. Carter



Why do Male Lawyers Have Nipples?

Well, now that we have your attention, we will explain.

Several years ago a New York Times Bestseller had the title “Why Do Men Have Nipples?” The book is full of scientific tidbits. We thought we would adapt the items addressed

in the book to the legal scenario.

1. Why do male lawyers have nipples? As explained by the authors of the mentioned book, during embryonic development, all embryos follow a female growth pattern for about 6 weeks. Yes, we all start out as girls. That also explains why one of your authors wears nightshirts. At six weeks, male chromosomes kick-in and send us back down the evolutionary path. Male lawyers are thus no different than male plumbers, orthodontists or underwriters. The Florida Bar takes the position that male lawyers cannot increase the scheduled contingency fee rate because of this anatomical anomaly. Yes, someone asked.
2. Are left-handed lawyers smarter than right-handed lawyers? Your authors say yes, but, the authors of the referenced book say no. Left or right handedness has no link to intelligence, oral hygiene, depression, immune function, schizophrenia, bed wetting, language, allergies, or asthma (yes, medical literature has analyzed all those things, probably underwritten by gigantic government grants). Men are 1.5 times more likely to be left handed than women, which we respectfully suggest, in and of itself would indicate left handed lawyers are not smarter than right handed lawyers. Lawyers are also five times as likely to be left handed as non-lawyers. The word sinister is from the Italian word for left and indicates devious, nefarious inclinations which may explain why so many lawyers are left handed.
3. Does the kind of amnesia you see in the movies really exist? In the legal context our answer is ‘absolutely’ as many witnesses seem to forget just about everything.



- Anybody testifying at a congressional hearing seems to exceed the display of amnesia seen in the movies. Scientifically, the answer is ‘no’, i.e., doctors do not see the movie type amnesia according to our reference book. “Amnesia rarely erases memory of all past events” say the book’s authors and add it is usually temporary and involves only a short time span of a person’s life. Your current authors experience such amnesia episodes after prolonged visits to the local pub.
4. Is a lawyer’s tongue the strongest muscle in their body? Speaking as lawyers: Hell yes. But, our reference book says “no.” The sartorius muscle which goes across the thigh-knee area is the longest muscle in the body. The masseter, used for chewing food, and the gluteus maximus (named after the famous Roman gladiator turned lawyer) are the two strongest. The tongue may be the strongest per size and studies show the average lawyer has a tongue 2.8 times larger than, say, the average carpenter or opera singer. However, very few lawyers are callipygian although many are steatopygic.
 5. Should lawyers, or, judges for that matter, insert cotton swabs in their ears? “No” based upon our authoritative reference book. The authors of said book say “The ears, for the most part, do not require any routine cleaning.” They also relate emergency room visits to remove the tip of a cotton swab from the inside of the ear. In law school we learned cotton swabbing the ear can affect how you speak. We once saw a lawyer stick a cotton swab in his ear prior to appellate argument and it caused him to sound exactly like Jerry Lewis (you know, the “Hey, Lady” voice) during the entire oral argument. See, some things you learn in law school are helpful.
 6. Can a toad get high from licking a lawyer? Surprisingly, “No.” But, the toad can get

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Criminal Law

By William Cervone



Can an entire country go senile at one time? Is it possible for a society to become collectively demented or schizophrenic? I am writing this as Hurricane Hermine approaches landfall and football season is about to begin, aspects of which have, I'm afraid, set me off.

First, hurricanes in particular and weather in general. Hermine is a relatively small and innocuous storm as such things go. Yet the weathermen are beating the drums of hysteria as if it was an apocalyptic event of unheard of proportions. Who knows, maybe I'll be swept or blown away, but probably not. What's more likely is that the malls will be crowded with people who aren't at work or school because government is closing right and left. We no longer know the difference between a real emergency and an inconvenience. If you grew up in Florida you know that this storm of the century wasn't that at all and warranted attention, but unless you were right under it, not much more. I suppose the weather is only following the lead of the news, where everything is now a BREAKING STORY!!! What I worry about is that when the next Hurricane Andrew approaches we will all have suffered such ennui over this constant fear mongering that a real disaster won't get the attention it needs. Crisis has become the most overused word in the English language.

Worse, we are scared of our own shadow, and that is apparently true even when that shadow is caused by a college team mascot. At the University of Iowa a professor is concerned that the Hawkeye mascot is too scary for the student body to be exposed to. Really? A piece of felt is too much for our best and brightest young people to handle? I kid you not, the professor says that the mascot, Herky, who is a big bird, and his "angry face" could lead to violence, depression, and a culture of suicide. The professor says that students need a mascot that displays a welcoming, nurturing, calm, accepting and happy message. Athletic department officials at Iowa responded that they are aware of the concern and are "formulating a response." Here's a response for you: It's a mascot, for goodness sake! Get over it!

Our colleges and universities have too often fallen into the deep end of political correctness. It has become common for invited speakers to be uninvited because of the protests of some student group

or other about the views being expressed or positions taken by those speakers. Professors and their classes are likewise condemned and boycotted, and the so-called trigger warnings that I've mentioned before are demanded because some topics might make students uncomfortable. Student conduct codes actually proscribe what students can and cannot say, down to the word. Duke University - Duke! - has added a "safe space" room to campus. Apparently this is a room where those who feel unhappy (maybe it's because of that scary Blue Devil mascot they have, but I doubt that because the devil has religious significance and we can't really allow anything to do with religion into the discussion) can go to "heal," and it will come complete with a social worker.

At least in academia, where some of the nation's most prestigious institutions quiver before any small but outraged group of kids, some are starting to strike back. The President of the University of Chicago recently informed the student body that the stifling of free speech being experienced elsewhere would not happen there and that freedom of expression did not mean the freedom to harass and threaten contrary views. What a shame that he would even have to warn students about such a thing.

This, of course, all comes in the midst of election season, where there now seems to be a premium on the rhetoric of fear. He who can best call the opponent a liar, or worse, wins. How ironic is it that our college campuses, the theoretical training ground for adulthood, are churning out narrow-minded rejection of any discussion of conflicting views in the name of political correctness while at the other end of the spectrum our leaders are being chosen from among those who can best be narrow minded and offensive?

Someone I was talking to recently said that none of this foolishness was new. All that was new, she said, was that our age of instant communication gives everyone an immediate and loud voice, no matter how insane they are. She may be right. Or I may just be getting really old. It really does seem to me that we are at risk of becoming Rome, burning while we fiddle, and I really do hope that those of you who are becoming our leaders of the future can find a way to restore us to sanity, the common good, and respect for each other. If you don't, I fear that we will continue down the road to becoming a nation of wimps who pander to the basest and loudest among us.

If not, as the pharmaceutical industry continues

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The Fluctuating Workweek Alternative To The Flsa's Increased Salary Threshold

By Laura Gross



New Fair Labor Standards Act (FLSA) rules go into effect on December 1, 2016, expanding overtime eligibility to 5 million workers including nearly all salaried employees who earn up to \$47,476. That's right, currently exempt salaried employees who make less than \$47,476 are likely to be entitled to overtime under the

new rules. One alternative for employers seeking to avoid across-the-board salary increases for exempt employees is the fluctuating workweek method of pay.

The FLSA generally requires employers to keep track of the hours worked by an employee and pay the employee one and one-half times the employee's regular hourly rate for each hour worked over 40 in a workweek. Some employees are exempt from overtime pay with the most common exemptions being "white collar" exemptions for executive, administrative and professional employees. "White collar" employees must meet both the "duties" and "salary" tests. The biggest change going into effect is the new minimum salary threshold required for exempt employees. Today, the threshold is \$23,660, which is relatively low and easily met.

The new regulations raise the threshold to \$47,476 (\$913 per week). And, in an unprecedented step, that amount will be adjusted every three years beginning January 1, 2020, based on future wage growth. This means employers need to regularly review their exempt employees' salaries for compliance.

As to positions currently classified as exempt and paid less than \$47,476, what's an employer to do? The most obvious options are to increase the employee's salary to \$47,476 or to reclassify the employee as hourly nonexempt and pay overtime when worked. A less known alternative is the fluctuating workweek method which gives employees the security of a regular salary and allows employers to avoid the increased salary threshold and limit overtime costs.

Under the fluctuating workweek method, the employee's hours must fluctuate from week to week. The employer pays a fixed weekly salary for all hours worked, whether few or many, and the salary must be high enough to insure that the employee receives

at least minimum wage for all hours worked each week. In addition to the fixed salary, the employee receives a 50% overtime premium for all hours worked in excess of 40 per workweek. And, there must be a clear mutual understanding that this is the employee's method of pay.

Here is how the fluctuating workweek method works to control overtime costs. Assume the employee regularly works between 30 and 60 hours and receives a fixed salary of \$600 per week. When the employee works more than 40 hours in a workweek, the hourly rate for that week is determined by dividing the salary by the number of hours worked. This means the hourly rate will fluctuate from week to week based on the number of hours worked. When the employee works 50 hours, the \$600 salary is divided by 50 to equal \$12 per hour straight time, and an additional halftime rate, here \$6, is due for each of the 10 overtime hours, or \$60. When the employee works 60 hours, the hourly rate is \$10 per hour, and an additional halftime rate of \$5 is due for each of the 20 overtime hours, or \$100.

While the fluctuating workweek method is perfectly legal and recognized by the US Department of Labor and courts, it is imperative that employers seeking to take advantage of this method are in complete compliance with its requirements. The fixed salary must be fixed. The hours of work must fluctuate. And, any additional bonuses paid aside from the fixed salary and overtime must not be based on extra hours worked. Employers affected by the new salary threshold should thoughtfully consider this option now and implement any new practice by Thanksgiving, rather than waiting until the new rules take effect.

Criminal Law

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to churn out new pills faster than you can swallow them - the latest that I've seen promises to reduce that saggy skin under your chin - can I hope for a pill that will cure national insanity? I suppose, of course, that it will come with the usual list of side effects that ought to make any sane person throw it away but if we're all going insane anyway how to know?

OK, I'm done now and I feel better. Next month something arguably legal. I promise.

Section 90.404(2)(a) Evidence in Civil Cases (Part I)

By Brad McVay



Section 90.404(2)(a), Florida Statutes (2016), allows for the introduction of similar fact evidence of other crimes, wrongs, or acts “when relevant to prove a material fact in issue, including, but not limited to, proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident...” Evidence which is admissible under §90.404(2)(a) is commonly referred to as “similar fact evidence” or “Williams rule evidence.” The admissibility of similar fact evidence is frequently a point of contention between the prosecution and defense in criminal proceedings. Not surprisingly, most of the Florida cases discussing the admissibility of similar fact evidence are criminal cases. There are, however, some Florida decisions that discuss §90.404(2)(a), in the context of a civil dispute. This article (which will conclude next month) explores several of those decisions.

Trees By and Through Trees v. K-Mart Corp., 467 So.2d 401 (Fla. 4th DCA 1985) is a malicious prosecution case. The case involved a shoplifter who was arrested at Ms. Trees’ place of employment. During police questioning the shoplifter implicated Ms. Trees in the scheme, and as a result Ms. Trees was arrested and led away by police in front of her co-workers. *Id.* at 402. Ms. Trees was charged with shoplifting but the charge was dropped after the shoplifter recanted her previous statement. *Id.* Ms. Trees then sued for false arrest and malicious prosecution seeking compensation for a stress disorder which, she claimed, was caused by the shoplifting arrest. *Id.* The case went to jury trial and ended with a defense verdict. *Id.* Ms. Trees appealed an adverse evidentiary ruling she received during the trial in which the trial judge admitted certain evidence under §90.404(2)(a).

The evidence admitted under §90.404(2)(a) consisted of an earlier, almost identical arrest for shoplifting by Ms. Trees. Trees argued that the admission of the collateral shoplifting crime was a “veiled method for introducing evidence of bad character.” *Id.* Defense argued that the

similarity between the two arrests, coupled with Ms. Trees’ admission that she had not suffered from any emotional problems as the result of the first arrest, tended to disprove the present damage claim. *Id.* The trial judge initially ruled the evidence was inadmissible under §90.404(2)(a); however, after hearing an extensive proffer of evidence from Ms. Trees, the trial judge allowed the defense to admit the evidence. *Id.*

On appeal the Fourth District Court outlined the framework for analyzing evidence offered under §90.404(2)(a). The court began by identifying the material fact in issue that the similar fact evidence was being offered to prove. *Id.* at 403 (“A material fact in issue in this case was whether Ms. Trees truly suffered from a stress disorder as a direct and proximate result of the second arrest.”). After identifying the material fact in issue, the court, under §90.401, *Fla. Stat.* (2016), determined that the fact Ms. Trees had undergone an earlier, identical arrest without experiencing significant emotional trauma had a logical tendency to disprove her present damage claim. *Id.* After finding the evidence logically relevant, the court conducted an analysis under §90.403, *Fla. Stat.* (2016), to determine whether the probative value of the evidence was substantially outweighed by the danger of unfair prejudice, confusion of the issues, misleading the jury, or needless presentation of cumulative evidence. *Id.* The Fourth District found that the trial court weighed the probative value against prejudicial impact before reaching its decision by “considering the similarity between the two events and Ms. Trees’ proffered testimony.” *Id.* As a result, the court noted, Ms. Trees failed to demonstrate an abuse of discretion. *Id.*

As evidenced by the Court’s analysis, §90.404(2)(a) is simply a special application of the general rule that all relevant evidence is admissible unless specifically excluded by a rule of evidence. *See id.* In Part II (November *Forum* 8), we will look at *Jacobs v. Atlantic Coast Refining, Inc.*, 165 So.3d 714 (Fla. 4th DCA 2015), a case that illustrates what can happen when a trial court fails to conduct the proper analysis and incorrectly admits evidence under §90.404(2)(a). We will also analyze a case that originated in this very circuit, so stay tuned.

Celebrate Pro Bono!

by Marcia Green

October is National Pro Bono Month and throughout the country, the culture and service of pro bono by attorneys, law students and other volunteers is being recognized. In the Eighth Judicial Circuit, we are so grateful and applaud the time and efforts given on behalf of low income clients and families.

The dedicated attorneys in the Eighth Judicial Circuit and students at the Levin College of Law, working with Three Rivers Legal Services and Southern Legal Counsel, have been stepping up to give their legal expertise to those in need in our community. Earlier this year, the EJCBA was recognized by the Florida Supreme Court for this work. Lives are definitely changed when those who are vulnerable are able to gain access to the legal system.

Activities planned during pro bono month include an Advance Directives Clinic in Gilchrist County, Small Claims Clinics at Three Rivers and an Ask-A-Lawyer event at Grace Marketplace. Other events are planned, including many at UF Levin College of Law.

Here are some examples of how local attorneys have provided pro bono assistance in our community since the beginning of the year:

- represented a poor, disabled woman in her dissolution of marriage which resulted in an award of equitable distribution
- represented a woman to obtain guardian advocacy over her disabled adult daughter
- assisted a homeless client in obtaining a dismissal of his criminal trespass charges which prevented his use of the services at Grace Marketplace
- participated in more than 15 Small Claims Clinics at Three Rivers Legal Services and six Ask-A-Lawyer events for the homeless since January
- served dinner at Grace Marketplace to close to 200 homeless individuals
- assisted more than 25 clients with wills and/or advance directives
- helped individuals and families obtain clear title and home ownership through probate and/or summary administration

These are just a few examples of some of the work accomplished by local pro bono attorneys. Some cases take more time than others; some clients need only advice while others need an attorney to represent them in litigation. The result is that many individuals are able to obtain information, advice, needed legal documents, and/or representation in simple as well as complicated

legal matters.

With the good work and gracious donations of time provided by volunteer attorneys, we are able to expand services to a far greater number of low income members of our community and make an impact that truly makes a difference.

Thank you to our volunteer attorneys and law students. We are grateful to you and celebrate your work!!

FREE CLE

Alternatives to Incarceration for People with Mental Illness

Please join us in Courtroom 4A of the Civil Courthouse on October 10 from 1pm – 2:30pm as Judge Steven Leifman from Miami-Dade, FL and Judge Leon Evans from San Antonio, TX speak on alternatives to incarceration for those with mental illnesses. You will learn about the mental health system, the legal and medical history that led to America's mental health crisis, and the essential elements necessary to create an effective system of care that ultimately will transform the mental health and criminal justice systems – making jail the last option for people with serious mental illnesses, not the first. Attendants will be awarded CLE credit. Please contact Stephanie Hines at hiness@sao8.org with questions.

FREE CLE

Ben Overton Lecture in Florida Constitutional Laws

WHERE: Martin H. Levin Advocacy Center

Courtroom, UF Levin College of Law

WHEN: 9:00 a.m., Thursday, November 10, 2017

SPEAKER: Honorable Barbara Pariente, FL Supreme Court Justice

EJCBA attendees may receive one free CLE credit with their attendance. Additionally, EJCBA has arranged to have parking spaces available to members. Those attending will be required to park in a designated area in the green lot and must arrive by 9:15 am. Since spaces are limited, please RSVP with Meshon Rawls at rawls@law.ufl.edu by 5 pm on Nov. 9.

October Luncheon Speaker Florida Bar President William J. Schifino, Jr.



William J. Schifino, Jr., the President of the Florida Bar, is the speaker for the luncheon on October 7, 2016. His luncheon remarks will focus on professionalism and civility in the practice of law and will serve as introductory comments for the “Civility Matters” program hosted by the Federal Bar Association immediately following the luncheon.

President Schifino is managing partner in the Tampa office of Burr & Forman LLP and is a Board Certified specialist in business litigation. He focuses on litigation and trial practice, including securities litigation and arbitration, professional malpractice litigation, employment litigation and intellectual property litigation. He also is on the firm’s Executive Committee. President Schifino earned his J.D. degree from the University of Florida College of Law and his B.A. from Tulane University. After law school, he worked for Taub & Williams, P.A., then helped establish Williams, Schifino, Mangione & Steady, P.A., where he was a founding shareholder, president and then managing director before the firm combined with Burr & Forman in 2012. Schifino recently completed an eight-year term as a member and chairman of the Thirteenth Judicial Circuit Judicial Nominating Commission.

President Schifino has been active in Big Brothers/Big Sisters of Greater Tampa and as a director of the corporate board of the Boys & Girls Club of Tampa Bay, Inc. He is on the Board of Trustees for the University of Florida Levin College of Law. He also spent many years as a youth league softball and baseball coach. He and his wife, Paola, have two daughters and a son. Source: <http://www.floridabar.org/president>.

In addition to President Schifino, the following speakers have been confirmed for 2016-2017:

November 4: The Honorable Nikki Ann Clark, Retired Judge, First District Court of Appeals and member of FL Commission on Access to Civil Justice

December 16: Teresa Drake, UF Levin College of Law Professor and Dr. Nancy Hardt, UF College of Medicine, Co-Founders of Peace4Gainesville

January 20: The Honorable Toby S. Monaco, Eighth Judicial Circuit of Florida

April 21: The Honorable Peggy A. Quince, Florida Supreme Court

To register for the EJCBA Luncheon visit www.8jcba.org. Luncheon prices for 2016-2017 are: \$17 for EJCBA Members, \$25 for Members who do not register by the deadline, and \$25 for Non-Members.

FBA & ABOTA Present “Civility Matters” CLE

The North Central Florida Chapters of the Federal Bar Association (FBA) and the American Board of Trial Advocates (ABOTA) are proud to present “Civility Matters,” an effort to promote the Florida Bar’s mandate of ethics and professionalism in the practice of law and the first specific purpose in ABOTA’s constitution: “To elevate the standards of integrity, honor and courtesy in the legal profession.” The FBA and ABOTA hope you will join us for a 2 hour program immediately following the October 7, 2016 Bar luncheon at the Woolly for an exciting panel presentation to address difficult questions of civility and professionalism. We have an amazing panel, including federal Magistrate Judges Gary Jones and Phil Lammens; Chief Bankruptcy Judge Karen Specie; Senior District Judge Wm. Terrell Hodges; and practitioners Bill Schifino, Mark Avera and Robert Griscti. There will be a reception following the program. Cost is \$45 for members of FBA and ABOTA, \$90 for nonmembers. 2 hours of CLE credit (1 each of ethics and professionalism) have been applied for. To RSVP, please email Elliott Welker at Elliottw@salterlaw.net (352/416-0754) and send your check, made out to “North Central Florida Chapter FBA,” to Peg O’Connor, Turner, O’Connor and Kozlowski, 102 NW 2nd Ave, Gainesville, FL 32601.

Circuit Notes

Attorney (and EJCBA Board Member) Jamie White of Dell Graham recently celebrated her fifth straight appellate win in just over one year. Congratulations, Jamie!

Chief Judge Roundtree will be honored at the Second Annual Roast and Toast on the Coast at the Annual EJCBA Jimmy C. Adkins, Jr. Cedar Key Dinner on October 13. Chief Judge Roundtree will be stepping down as Chief Judge this December and we honor his service to the court and our legal community.

Judge Toby Monaco has been named to succeed Judge Roundtree as the Eighth Judicial Circuit’s Chief Judge. Congratulations Judge Monaco!

President's Message

Continued from page 1

parts too, but I'll save those for later).

Fortunately, under the leadership of Ray Brady (rbrady1959@gmail.com), who oversees all of EJCBA's GROW project chairs and committees, and the EJCBA's GROW project chairs, in conjunction with other local voluntary bar associations and UF Law, the EJCBA will provide everyone in our circuit with excellent opportunities to GROW in the year ahead.

Indeed, one of our first opportunities to GROW includes Judge Hodges. Immediately following the EJCBA luncheon at the Woolly on October 7, featuring Florida Bar President Bill Schifino, the North Central Florida Chapter of the Federal Bar Association (FBA) and the American Board of Trial Advocates (ABOTA) will host a two-hour program on "Civility Matters." During this program, a panel of exceptional local federal judges, including Judges Hodges, Jones, Lammens, and Specie, and experienced trial lawyers, including Mark Avera, Rob Griscti, and Bill Schifino, will address difficult questions of civility and professionalism (for more information about "Civility Matters", please contact Elliott Welker at Elliottw@salterlaw.net).

In addition, EJCBA members are invited to Courtroom 4A of the Civil Courthouse on October 10 from 1–2:30 for a free continuing legal education program featuring Judge Steven Leifman from Miami-Dade, Florida and Judge Leon Evans from San Antonio, Texas, both of whom will speak on alternatives to incarceration for those with mental illnesses (for more information about this mental health and diversion program, please contact Stephanie Hines at hiness@sao8.org).

And these opportunities to GROW are only the beginning. EJCBA President-Elect Meshon Rawls (rawls@law.ufl.edu) is planning monthly luncheons for October through January, all which we expect to garner you free continuing legal education credit, as well as working with UF Law to allow for EJCBA members to attend its Overton Lecture on November 10 featuring Florida Supreme Court Justice Barbara Pariente.

Finally, as you look forward to growing in the spring, be on the lookout for details about the Professionalism Seminar and Leadership Roundtable.

In the meantime, to gear up for your year of growth ahead, I hope you'll take a moment to step back, pull up YouTube, and treat yourself to a little Jimmy Roselli's When Your Old Wedding Ring Was New.

ADR

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warts from licking certain lawyers, especially attorneys who specialize in class actions or who advertise on urinal cakes. Our reliable book says the type of toad known as Bufo has a psychedelic substance on its skin similar to LSD. One of your present authors licked a salamander but nothing happened. Just sayin'.

7. If you stick a sleeping judge's hand in warm water, will he/she wet their bed or bench? We have not been able to find a study which has tested sleeping judges by putting their hands in water. Well, there was one study but it is unreliable because it only tested one judge and he was retired. For the general population, there is no definitive medical or scientific proof. We are working on this although we could only get an administrative hearing officer and a bailiff to volunteer for our study.
8. Will researching in front of a fan or an open window cause a law clerk to get a stiff neck? No, it won't. And who cares?
9. Will using a cell phone give a lawyer a brain tumor? Our resource book says the answer is unknown for now. Most scientists think the radio waves would not, but, the jury is still out on this. Most of our staff spends 38 hours a day on a cell phone and all seem OK, so our study suggests no relationship.
10. Is it true a mediator must wait 30 minutes after eating before mediating? Ah, see, we did get to an ADR issue. And the answer is "No," but, you do have to wait 30 minutes after eating before attending a non-binding arbitration. The science on the latter is fuzzy, but one of your current authors ate several burritos and did not wait the suggested 30 minutes and the resulting arbitration was anything but binding. There is an old wives tale to wait 30 minutes before going swimming and the purpose is not to avoid cramps, but, to give you time to wipe off any mayonnaise that is stuck on your lips.

We feel obligated to apply studies which answer questions as applied to the general population, and then, apply those studies to the legal profession. We will update this article as more information is received.

ANNUAL EJCBA JIMMY C. ADKINS, JR CEDAR KEY DINNER



WHEN: Thursday, October 13, 2016 beginning at 6:00pm
WHERE: Steamers: 420 Dock Street, Cedar Key, Florida
COST: \$40.00*
DEADLINE: Please register on or before **Thursday, October 6, 2016**
REGISTER: <http://www.8jcba.org/event-registration/cedar-key-dinner-2016/>

*\$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, 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.

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. You may join/renew your EJCBA membership online at <http://www.8jcba.org/pay-dues/>

Get on board the Bus! EJCBA is providing free transportation to and from Cedar Key. Come mingle and relax with your fellow members. For more information or to register please contact Michael Hines at michael@galiganilaw.com. Space is limited and is first come first served. Hope to see you there!



Cocktail hour sponsored by Attorneys' Title Fund Services, LLC

Many thanks for its continued generosity

Bring a Dessert to Share

Please feel free to bring a dessert to share at the event. Your colleagues will thank you!

Reserve Now for the EJCBA October 2016 Luncheon

WHEN: Friday, October 7, 2016 – 11:45 a.m.
WHERE: The Woolly – 20 N. Main Street, Gainesville, FL 32601
PROGRAM: William Schifino, President, The Florida Bar
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, October 3rd at Noon at:**
<http://www.8jcba.org/event-registration/oct-2016-luncheon/>

*\$25.00 for members and 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.

Time to Join/Renew

You can now pay your dues online at <http://www.8jcba.org/pay-dues/>

James C. Adkins Cedar Key Dinner

October 13, 2016 Beginning at 6:00 p.m.

Register at: <http://www.8jcba.org/event-registration/cedar-key-dinner-2016/>



FBA/ABOTA Civility Matters Program Immediately Following October Luncheon

Admission is \$25 for Young Lawyers (5 Years or Less as Members of the Bar), \$45 for members of FBA and ABOTA and \$90 for nonmembers. 2 hours of CLE credit (1 each of ethics and professionalism) have been applied for.

RSVP to Elliott Welker at Elliottw@salterlaw.net and send your registration check, made out to "North Central Florida Chapter FBA," to Peg O'Connor at Turner, O'Connor and Kozlowski, 102 NW 2nd Ave, Gainesville, FL 32601

Invitation To Renew / Join The 2016-17 EJCBA

The Eighth Judicial Circuit Bar Association (EJCBA) cordially invites you to either renew your membership or join the EJCBA as a new member.

To join, please visit: 8jcba.org/pay-dues/ to pay online or return the below application, along with payment, to the EJCBA at PO Box 13924, Gainesville, FL 32604. The EJCBA is a voluntary association open to any Florida Bar member who lives in or regularly practices in Alachua, Baker, Bradford, Gilchrist, Levy or Union counties.

Remember, only current EJCBA members can access a printable version of the complete member directory, edit their own information online, post photos and a website link, and be listed on results for searches by areas of practice. Additionally, our Forum 8 Newsletter, event invitations, and updates are all sent electronically, so please ensure we have your current email address on file and add execdir@8jcba.org to your email address book and/or safe senders list.

EJCBA Membership Dues:

Free - If, as of July 1, 2016, you are an attorney in your first year licensed to practice law following law school graduation.

\$55.00 - If, as of July 1, 2016, you are an attorney licensed to practice law for five (5) years or less following graduation from law school; or

If, as of July 1, 2016, you are a public service attorney licensed to practice law for less than ten (10) years following graduation from law school. A "public service attorney" is defined as an attorney employed as an Assistant State Attorney, or an Assistant Public Defender, or a full-time staff attorney with a legal aid or community legal services organization; or you are a Retired Member of the Florida Bar pursuant to Florida Bar Rule 1-3.5 (or any successor Rule), who resides within the Eighth Judicial Circuit.

\$75.00 - All other attorneys and judiciary.
Optional – YLD Membership Dues (in addition to your EJCBA dues above):

\$25.00 - EJCBA Young Lawyers Division (eligible if, as of July 1, 2016, you are an attorney under age 36 or a new Florida Bar member licensed to practice law for five (5) years or less)

* EJCBA voting membership is limited to Florida Bar members in good standing who reside or regularly practice law within the Eighth Judicial Circuit of Florida. EJCBA non-voting membership is limited to active and inactive members in good standing of the bar of any state or country who resides in the Eighth Judicial Circuit of Florida, and to UF College of Law faculty.

EJCBA Renewal/Application for Membership

Membership Year: 2016-2017

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

October 2016 Calendar

- 1 UF Football at Vanderbilt, TBA
- 3 Rosh Hashanah Holiday – County Courthouses closed
- 5 Deadline for submission to November Forum 8
- 5 EJCBA Board of Directors Meeting, Faculty Dining Room, UF Law, 5:30 p.m.
- 7 EJCBA Luncheon, Florida Bar President William J. Schifino, Jr., The Woolly, 11:45 a.m.
- 7 The North Central Florida Chapter of the Federal Bar Association, Civility Matters Program, CLE and Reception, 1-5 p.m., The Woolly
- 8 UF Football v. LSU Tigers, TBA
- 10 Columbus Day Holiday – Federal Courthouse closed
- 10 EJCBA Mental Health & Diversion Programs (CLE), Alternatives to Incarceration for Those with Mental Illness, 1:00 p.m. – 2:30 p.m., Courtroom 4A, Alachua County Family & Civil Justice Center
- 12 Yom Kippur – County Courthouses closed
- 12 Probate Section Meeting, 4:30 p.m., 4th Floor Meeting Room of the Alachua County Family/Civil Justice Center
- 13 Annual James C. Adkins, Jr. CEDAR KEY DINNER, sundown, Cedar Key
- 15 UF Football v. Missouri Tigers, TBA
- 18 Family Law Section Meeting, 4:00 p.m., Chief Judge's Conference Room, Alachua County Family & Civil Justice Center
- 24 Southern Legal Counsel fundraiser, "Love Letters," + pre-show reception and silent Auction, 5:30 p.m., Hippodrome Theatre, \$25
- 29 UF Football v. Georgia Bulldogs (Jacksonville), 3:30 p.m.

November 2016 Calendar

- 2 EJCBA Board of Directors Meeting, Faculty Dining Room, UF Law, 5:30 p.m.
- 4 EJCBA Luncheon, The Honorable Nikki Ann Clark, Retired Judge, First District Court of Appeal and member, FL Commission on Access to Civil Justice, The Woolly, 11:45 a.m.
- 5 Deadline for submission to December Forum 8
- 5 UF Football at Arkansas, TBA
- 9 Probate Section Meeting, 4:30 p.m., Chief Judge's Conference Room, 4th Floor, Alachua County Family & Civil Justice Center
- 10 Ben Overton Lectures in Florida Constitutional Law, Justice Barbara Pariente, 9:00 a.m., Martin H. Levin Advocacy Center Courtroom
- 11 Veteran's Day Holiday – County & Federal Courthouses closed
- 12 UF Football v. South Carolina, TBA
- 15 Family Law Section Meeting, 4:00 p.m., Chief Judge's Conference Room, Alachua County Family & Civil Justice Center
- 19 EJCBA Fall Family-Friendly Social Tailgate, TBA
- 19 UF Football v. Presbyterian, TBA
- 24 Thanksgiving Day – County & Federal Courthouses closed
- 25 Friday after Thanksgiving Holiday – County Courthouses closed
- 26 UF Football at FSU, TBA

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.