

FORUM 8

Volume 76, No. 5

Eighth Judicial Circuit Bar Association, Inc.

January 2017

President's Message

By Stephanie M. Marchman



Happy New Year Eighth Judicial Circuit!

It's the time of year when we reflect upon the past, plan for the future, and renew our commitment to being the best we can be in the year ahead. As I reflect about the year ahead, Steve Jobs and his wise words as he was facing his own mortality come to mind:

"Your time is limited, so don't waste it living someone else's life. Don't be trapped by dogma - which is living with the results of other people's thinking. Don't let the noise of other's opinions drown out your own inner voice. And most important, have the courage to follow your heart and intuition. They somehow already know what you truly want to become. Everything else is secondary."

His reminder to follow our hearts and be all we are truly meant to be is not only applicable to us as individuals, but also the bar as a whole.

Between the monthly luncheons this past fall, the Cedar Key Dinner, Family Friendly Tailgate, Overton Lectures, Ask A Lawyer, Law in the Library, Holiday Project, and more, our committee chairs and members have poured their hearts into projects to serve you and the broader community, and they're ready to do even more in the New Year.

We will start the year with our January 20th luncheon, featuring our annual State of the Circuit address by our new Chief Judge, Toby S. Monaco. I surmise he'll touch upon changes facing our circuit, including the retirement of Judge Robert E. Roundtree on June 30th and the likely retirement of several other circuit judges in the next couple years.

In light of these judicial vacancies, our Judicial

Nominating Commission will be busy in 2017 and beyond. We encourage you to stay after the January luncheon for a free CLE to hear more about the JNC process. While you may not have an interest in serving on the JNC or applying for a judicial vacancy, it is critical for the entire bar to be engaged in this process to ensure we maintain the highest caliber judges on our circuit's bench. Perhaps you'll provide information to the JNC on an applicant. Or perhaps you will encourage a rock star in your office to apply for a judicial vacancy. Whatever your role may be, we hope Demystifying the JNC will prepare you well for it.

On February 10th, our Professionalism Seminar returns with legendary Jacksonville lawyer and Past Florida Bar President Hank Coxe as our keynote speaker. There's also the Golf Tournament on March 3rd benefitting the Guardian ad Litem Foundation, where we hope you'll come out and play (or socialize afterwards) to support a critical program in our legal community. Another opportunity to socialize (and hopefully enjoy the azaleas) includes our Spring Fling at the Thomas Center on April 5th.

The ever popular Leadership Roundtable will return on April 21st with keynote luncheon speaker Florida Supreme Court Justice Peggy A. Quince. Last year we learned about implicit bias – what it is, how we all have it, and how we must recognize it to improve diversity and inclusion in the legal profession. This year, we'll focus on learning simple, practical things we can do to change the unintentional micromessages we send everyday with scenario-based training provided by professional trainers.

Finally, we'll round out a year of exceptional monthly luncheons with Florida Basketball Coach

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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



The Coat of Many Buttons

We were listening to a CME in-service and the subject of 'pushing buttons' came up. What does 'pushing buttons' mean?

We all have buttons. And we are all susceptible to having our buttons pushed. When our buttons are pushed, how do we react? Typically, when somebody 'sets us off' we: get angry; get tense, get out of control; change how we say things; may shut down or even give up. We react with less logic and more emotion. Someone once said the reaction is like curglaff (first new word for the month, meaning the shock felt in bathing when one first plunges into cold water). And we do that whether we are engaged with another lawyer, with a client, with a spouse, with a friend, with a party, as a mediator, etc.

Why is the concept of button pushing important to ADR? For obvious reasons: if you are the mediator, your job, although you are human, is NOT to get your buttons pushed, or, at least minimize the times you react to having your buttons pushed. When you react you lose focus and you say things you probably should not have said to be a successful mediator. You turn away from an analytical role into a reacting, emotional role.

The lawyer who gets his/her buttons pushed also loses sight of their role as an advice giver and analyst and turns to reacting emotionally and often in a way detrimental to their client.

Both lawyers and mediators often see a party who reacts viscerally to something the other party said or the other lawyer said. As lawyers and mediators we need to step in and help that party. We need to intercede and insulate a party from whoever is pushing their buttons. If someone is accidentally or unintentionally pushing somebody's button, we need to ameliorate the situation with both people involved. If we perceive that someone is intentionally being provocative, we need to deal with that and explain how it is unproductive. It may even be abusive. And abuse raises a whole new set of issues.

As we feel ourselves reacting, we need to ask ourselves: what is this person doing to get me emotional? What is this person doing to get another person emotional? What can we do to help

ourselves, or, what can we do to help someone else?

Sometimes at mediation a participant is unintentionally provocative when all they are doing is explaining their client's position. An attorney can minimize unintended provocation by their tone and by explaining they are sympathetic to the other side's position, but do need to explain and consider the legal issues, factual issues, etc.

Have you ever seen a mediator "lose it?" Well, we have lost it. And we appreciate some understanding and a gentle reminder when it happens. We hope it does not happen often. We are all peccable (second new vocabulary word for the month: capable of sinning).

Many clients want to hire an attorney who is aggressive and direct. Many clients want an attorney who pushes buttons. We remind those clients and those attorneys such an attitude and style is completely unproductive and ineffective whether at a mediation or in court, and we have the studies to prove it.

We have talked to mediators and asked them to describe what 'pushes their buttons.' Some say it is when someone constantly rolls their eyes or laughs at a mediation. Others say it is when a mediation participant is frustratingly illogical or dwells on irrelevant items. Others said (oddly) that physical characteristics such as piercings, tattoos or dyed hair sets them off. Note: if a mediator cannot get past body features, try another mediator.

Other mediators acknowledge they have to always be aware of bias. If they know an attorney, the mediator must overcome any feelings of dislike, like, etc. If there are two opposing lawyers at mediation and one is someone who uses the mediator often and the other is a stranger to the mediator, the familiarity with one lawyer cannot, repeat, cannot affect the process. Mediators need to be neutral even though they are in the business of providing services. Mediators are expected to provide resolution as a result, but, they have to fight to overcome business considerations, human feelings of like and dislike, and a host of other factors. Perhaps no one can overcome

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Criminal Law

By William Cervone



Back in December of 2015 I read a short newspaper story about a man who was found dead in Palm Bay, which is in Brevard County. He was a burglar and while going about his burglarious business he was spotted and chased by two deputies. He managed to get away but about 10 days later his body was found in a nearby lake

where, apparently, a resident 11' alligator had dragged and killed him. At least he had injuries consistent with that. Talk about capital punishment.

In any event, this has inspired me to do something I've thought about doing for years. And so, as we enter 2017, I present for your New Year's pleasure a new feature: the Absurdity of the Month. This month's absurdity is:

The American flag is ubiquitous in our country. It is everywhere. But not at Hampshire College, a small private liberal arts college in Amherst, Massachusetts. After last November's election, Hampshire College officials elected to fly the flag at half mast in order to "delve deeper into the meaning of the flag and its place on our campus." This apparently offended local citizens, especially veterans. In response, school officials decided to remove the flag altogether "to enable us to instead focus on addressing racist, misogynistic, Islamophobic, anti-immigrant, anti-Semitic, and anti-LGBTQ rhetoric and behaviors."

Now, at the risk of offending some of you, I have some thoughts. Isn't this rather like "I'm taking my ball and going home" because I didn't get to be the quarterback or pitcher? Does it strike anyone but me as ironic that the liberal, open-minded faction of our country, those who most loudly declare that all people should tolerate and accept all things, are the same people who are now protesting and decrying the unfairness of an election their candidate lost, unwilling, it would seem, to have the dialogue they profess to believe in? It was well and good to accuse one candidate of all sorts of horrible intentions when he was coy about accepting the election's results, but it appears to be quite another when that election doesn't turn out as expected and the shoe is on the other foot.

This plays hand in hand with another of my favorite contemporary idles, the Word of the Year. I haven't delved into the Word of the Year in a while

because, like so many pop culture things, imitators crept up to the original and diluted the idea too much for me. Who needs multiple words of the year? But for now I'll make an exception as one of the purveyors of words of the year, the Oxford Dictionaries, has named "post-truth" the international Word of the Year.

Post-truth is apparently an adjective "related to or denoting circumstances in which objective facts are less influential in shaping public opinion than appeals to emotion and personal belief." Use of post-truth as a word, according to Oxford Dictionaries, has increased by 2000% since 2015. Put another way, I suppose post-truth simply means believe what you want regardless of reality. I can't help but harken back to 2006 and Merriam-Webster's Word of the Year, truthiness. You'll recall that truthiness means believing something is true from the gut, or preferring concepts or facts one wishes to be true over concepts or facts known to be true.

To be honest with you, I rather prefer one of the shortlist losers from this year's Oxford Dictionaries' competition: *adulthood*. Adulthood is the practice of behaving in a way characteristic of a responsible adult, especially in the accomplishing of mundane but necessary tasks. Sadly, my spellcheck is fine with truthiness and post-truth but red lines adulthood. Seems to me that what we need is more adulthood and less political truthiness and post-truth.

In any event, I don't think that anyone can say that 2017 doesn't promise to be interesting. In a truthiness or post-truth sort of way. Happy New Year!

President's Message

Continued from page 1

Mike White on May 19th. Hopes are high for Coach White and the Gators in the newly renovated O'Dome and he'll be at the Woolly to tell you all about the season and what it's like to be a Gator. To support Coach White and the Gators, we hope you'll wear your favorite Gator gear to the luncheon. That's right, no suits for the last luncheon of the year (unless of course you own a suit that is Gator orange! Or you have to go to Court). So for those of you who enjoy a casual Friday, this is your time to shine!

Your bar association has much in store for you in 2017 – we hope you'll join us so we can be the best we are meant to be in the year ahead together.

Clerk's Corner: by Buddy Irby



As I come to the end of my term as Clerk of the Court, I thank the Judiciary and the Bar for working so well with me and the Clerk's staff over all the years. We have seen tremendous changes in the court system since I arrived such as going from paper documents to the state court portal and electronic images. It's been quite a ride!

As I head down the trail, I can hardly believe it has been twenty four years. I am truly grateful for the friendships, kind words, good dialog, and encouragement along the way.

Clerk's Corner: by J. K. "Jess" Irby



I am looking forward to working with the Bar and the Judiciary as your Clerk of the Circuit Court. As an attorney, I bring to the Clerk's office a decade of experience working in the courtrooms and the courthouses of the Eighth Judicial Circuit so I plan to hit the ground running. You can be sure I will work my absolute hardest as we strive to be the best and most efficient Clerk's office in the state.

Please know, if you have a question, problem, or concern regarding the Clerk's office I am as close as your phone. Please stop in to see me when you are at the courthouse. The door is always open.

EJCBA Charity Golf Tournament Named in Honor of Gloria Fletcher

By: EJCBA Charity Golf Tournament Committee

The EJCBA Charity Golf Tournament benefitting The Guardian Foundation, Inc. will be named in honor of Gloria Fletcher. While the names of Professional Golf Association tournaments, such as "The Masters," are synonymous with the best in the field, Gloria Fletcher's name, and her legacy, represents the pinnacle for children's advocacy. Gloria was a dedicated champion for vulnerable children in our circuit and beyond. The EJCBA tournament bears Gloria's name to ensure her example, passion, and work on behalf of abused, neglected, and abandoned children will continue.

The tournament is scheduled for Friday, March 3, 2017. Golfer registration is now open and can be accessed here: <http://www.guardian8foundation.org/2017-ejcba-charity-golf-tournament-registration/>

8th Circuit JNC Announces Circuit Court Vacancy

The Eighth Circuit Judicial Nominating Commission announces a Circuit Court vacancy following the retirement of Chief Judge Robert Roundtree. An applicant must have been a member of the Florida Bar for the preceding five years, a registered voter and a resident of the territorial jurisdiction of the court at the time of assuming office. Anyone interested in applying must deliver a complete application and one copy (by mail or hand delivery) to: 8th Judicial Nominating Commission
c/o Brian S. Kramer
8th Circuit State Attorney's Office
120 W. University Ave.
Gainesville, FL 32601

Each applicant also must submit two copies of the application in PDF format via email to norm@normdfugatepa.com. One of the PDF copies should be submitted in redacted format and one in non-redacted format. Redacted format means that the document is submitted with redactions of all information that is confidential and/or exempt from the public right of access under Article I, Section 24(a) of the Florida Constitution. (For more information, refer to the 2016 Sunshine Manual, <http://www.myfloridalegal.com/sun.nsf/sunmanual>) The deadline for submitting an application is Wednesday, Jan. 4, 2017, by 4 p.m. EST.

Applications submitted after the deadline will not be considered. Incomplete applications will not be considered. Applications may be downloaded from [The Florida Bar's JNC webpage](#).

The inclusion of a photograph is encouraged. Applicants should be aware that, if selected for an interview, the commission has set a tentative date of Feb. 1, 2017, for interviews.

A list of the members of the Eighth Circuit Judicial Nominating Commission is available from [The Florida Bar's website](#).

Save The Date -- Event With The Alachua County Medical Society

The EJCBA and the Alachua County Medical Society are participating in a joint dinner and panel discussion to be held on the evening of Tuesday, March 14, 2017, from approximately 6 to 8:30 p.m. The anticipated topic for the evening is:

"Collaborating to Meet the Legal and Medical Needs of Our Local Under-Served Populations"

Watch the *Forum 8* and your email for further information. Questions may be directed to the EJCBA Medical-Legal Committee chairman, Ray Brady, at 373-4141.

Nationwide Injunction Issued Against DOL Rule

By Laura Gross



During the week of Thanksgiving, we were busy fielding inquiries from employers about the impending implementation of the Department of Labor's new rule requiring employers to raise the salary of most currently exempt employees to \$47,476 (\$913 per week) or pay these employees overtime pay for hours worked over 40

per week. This rule, which was set to go in effect on December 1, would have automatically escalated the minimum salary every three years.

The day before Thanksgiving, November 23, the salary increase was blocked when a federal district court judge in Texas issued a nationwide injunction against implementation of the rule. The judge found the department was not authorized by Congress to establish a salary-threshold test, despite the existence of this rule for many years with a much lower salary-threshold. Instead, the judge concluded that Congress had intended the white collar exemption to be based on an employee's duties rather than the employee's pay.

The DOL filed a notice of its appeal, but did not file a motion to stay or suspend the injunction during the appeal which could have made the rule applicable, at least for now. The department did, however, move to expedite the proceedings, stating that millions of workers were being denied the extra pay to which they were entitled. The department pointed to precedent that emphasized the secretary's "broad latitude" to define which workers qualify as exempt white collar employees, and argued that the proposed new salary level is comparable to the salary level back in 1938 when the overtime law was implemented, as in both cases the salary level is about three times the minimum wage for a 40-hour week.

Unless the motion to expedite is granted, it is unlikely that appellate briefs will be filed before Inauguration Day on January 20. If the appeal is pending at that time, there is no certainty that the new administration would continue to pursue it. Meanwhile, the nationwide injunction may further erode employees' rights to overtime by giving employers the footing to argue that white collar exemptions are based solely on duties and the department's current rule on a minimum salary-threshold of \$455 per week cannot be enforced for the same reasons the new rule cannot be enforced – the rule is not authorized and is arbitrary and capricious, according to the judge in Texas.

NFAREA Membership/Renewal Applications Available - Local Real Estate and Other Interested Lawyers Invited to Join.

by Philip N. Kabler, NFAREA President

The North Florida Association of Real Estate Attorneys is a voluntary bar association serving the real estate practitioner community throughout and beyond the Eighth Judicial Circuit. NFAREA is focused on fostering the education of and collegiality among North Florida's real estate legal community. In that regard NFAREA has recently sent out its annual renewal/membership applications. (Other interested lawyers, such as those with estate planning and probate practices are welcome to join, as well.) Additionally, NFAREA is organizing its schedule of its 2017 "Happy Half Hour" education meetings. To join NFAREA, please visit our website (<http://flarecs.com/local-recs/north-florida-association-of-real-estate-attorneys>) and click on the "Become a Member" button (<http://flarecs.com/become-a-member>), or contact any of our officers.

Phil Kabler - President (Bogin, Munns & Munns, P.A.)

Julie Naim – Vice President (McCarty, Naim, Focks & Keeter, P.A.)

Judy Paul – Secretary (Law Office of Judith B. Paul, LLC)

Ryan Curtis – Treasurer (Curtis Law Firm LLC)

Ramona Chance – Founder & Emeritus Board Member (Law Office of Ramona M. Chance)

The Resolution Center is pleased to announce:

Kelly G. Hamer and Leonard E. Ireland have joined Marcia Davis, E.W. "Bill" Hoppe, Jr., James H. (Mac) McCarty, Jr., Shannon M. Miller and Bruce W. Robinson as available independent mediators.

Our resident mediators are **Charles B. Carter, Chester B. Chance, Pamela A. Schneider** and **Frederick D. Smith**.

The Resolution Center is located at 4719 NW 53rd Avenue, Gainesville, Florida 32653. (Phone: 352-381-9991).

Contact The Resolution Center for your A.D.R. needs in North Central Florida.

Enforcement of False Claims Act and Similar Whistleblower Actions

By Robert S. Griscti and Jake D. Huxtable*



Corporate and individual clients increasingly face enforcement actions under the federal False Claims Act (FCA)¹ and equivalent state law. Between 1986 and 2013, nearly \$40 billion was recovered under the FCA. Whistleblowers received over \$3 billion in *qui tam* awards, plus attorneys' fees and costs. From 2009 through 2015,

the Justice Department recovered over \$26.7 billion through FCA cases; \$16.8 billion of that amount was recovered in cases involving health care programs, such as Medicare, Medicaid, and Tricare.²



The government's emphasis on combatting health care fraud has been apparent locally. For example, this year, the U.S. Attorney's Office convicted a physician of 162 counts of health care fraud in Gainesville.³ The University of Florida and Shands Healthcare, also referred to as UF Health, have also negotiated civil resolutions of lengthy FCA

actions in recent years.⁴

Referred to as "Lincoln's Law," the federal FCA originally was signed in 1863 by President Lincoln during the Civil War. The U.S. Supreme Court has stated that the broad purpose of the FCA is "to protect funds and property of the government from fraudulent claims that might result in financial loss to the U.S."⁵ A false claim may take many forms, the most common being a claim for goods or services not performed or falsely certified (*i.e.*, health care claims certifying that services were medically necessary when they were not) or goods or services provided in violation of statute or regulation,⁶ such as "Anti-Kickback"⁷ and "Stark"⁸ laws.

The FCA allows a private citizen, called a "relator" or "whistleblower," to sue an individual or business allegedly defrauding the government and, if successful, recover funds on behalf of the U.S. Such a suit is known as a "*qui tam*" action. The *qui tam* complaint is initially filed under seal while the government investigates the allegations.⁹ The government then will either intervene and take over the action or decline to intervene, in which case the relator can proceed with the action individually.

If the government intervenes, a relator will receive not less than 15% and no more than 25% of the recovery. If the government does not intervene and a relator is successful in obtaining recovery, the relator will receive between 25% and 30%. Ultimately, the FCA leaves federal courts with discretion to determine relators' recovery within these statutory ranges.¹⁰

The relator must voluntarily provide a written disclosure statement to the government, containing all material evidence the relator possesses.¹¹ A relator need not have direct and independent knowledge of every element of an FCA violation, such as the "who, what, where, when and how" of the alleged fraud.¹² For example, knowledge of specific invoices that constitute alleged false claims can be sufficient.¹³

Relators are protected from "retaliatory conduct," such as being fired for "blowing the whistle," under federal¹⁴ and state¹⁵ law. Generally, the relator's identity and information they disclose are kept confidential during the investigatory stage.¹⁶ The relator's complaint is initially served only upon the U.S. Attorney General and U.S. Attorney in the federal district where suit is filed. Thus, Congress sought to ensure that a relator could freely bring such an action without fear of reprisal from the defendant, typically the relator's former or present employer.

To violate the FCA, a company or person must have submitted, or caused the submission of, false claims with "knowledge" of its falsity. That "knowledge" is defined as actual knowledge, deliberate ignorance, or reckless disregard of the truth or falsity of the information.¹⁷ Knowing conduct under the FCA therefore includes the "ostrich type situation where an individual has 'buried his head in the sand' and failed to make simple inquiries which would alert him that false claims [were] being submitted."¹⁸

Congress and state legislatures have universally recognized the crucial role relators serve, and are utilizing them extensively in civil and criminal enforcement actions to combat fraud. Corporate entities and individuals doing business with the government must be fully cognizant of these laws and take reasonable steps to ensure compliance and avoid investigation and litigation.

*Robert Griscti and Jake Huxtable have recently joined the business litigation team at the Gainesville law firm of Salter Feiber, P.A. as a partner and associate, respectively.

Footnotes to this article are available upon request from the editor (dvallejos-nichols@avera.com) or the authors (robertg@salterlaw.net; jakeh@salterlaw.net).

The Wisdom Of The Crowd

By Jack M. Ross

In our firm we have a saying that, "None of us is as smart as all of us." Now we have discovered there is data that proves we are right. Social science has confirmed that the aggregate opinion of a group of individuals often is superior even to an expert. The concept is called the wisdom of the crowd. As an example, in 1906 visitors at a county fair were asked to guess the weight of a slaughtered and dressed ox. The median of all guesses was 1207 pounds which was less than 1% from the actual weight of 1198 pounds. Galton, "Vox Populi," *Nature*, 3/7/1907.

It must be emphasized this is not a group decision, but an aggregate of numerous independent decisions. It requires, four factors:

1. Diversity of Opinion: Diversity brings different information.
2. Independence: Independence keeps the group from being swayed by single opinion leader.
3. Decentralization: Participants' errors tend to balance each other out.
4. Aggregation: The independent opinions must be combined.

The Wisdom of Crowds, James Surowiecki (Anchor Books, 2015).

In 1968 a U. S. submarine, *Scorpion*, disappeared. The Navy knew the sub's last reported position, but

had no knowledge of how far it traveled after last radio contact. The area the Navy had to search was twenty miles wide and thousands of feet deep, an almost impossible task given the technology of the time. One approach taken was to assemble a group of people with a wide range of knowledge. The group included mathematicians, submarine specialists, salvage men, and others. Rather than have the participants consult, the Navy asked each member to reach an opinion on the likely location of the submarine independently, and combined the estimates to obtain a collective judgment. None of the individuals predicted the location of the submarine, but when the *Scorpion* was found five months later, it was 220 yards from the spot the collective judgment had predicted.

Isn't the jury system another example of our faith in the wisdom of the crowd? Six (or twelve) diverse, independent people with no legal knowledge are expected to make a better decision than a single expert: the judge. Can we use this concept to evaluate our cases better by asking the opinion of a large number of diverse acquaintances rather than asking a few of our legally trained and experienced friends?

The Navy did this by the use of something called Bayes's theorem, of which, I am guessing, no one reading this article has ever heard. Certainly the author has not.

Reserve Now for the EJCBA January 2017 Luncheon & CLE

WHEN:	Friday, January 20, 2017 – 11:45 a.m.
WHERE:	The Woolly – 20 N. Main Street, Gainesville, FL 32601
PROGRAM:	Chief Judge Toby Monaco—State of the Circuit Address
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, January 16th at Noon at http://www.8jcba.org/event-registration/jan-2017-luncheon/
* \$25.00 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.	

Reserve for Upcoming Events

Professionalism Seminar—Friday, February 10, 2017 from 9:00am – 12:00pm.

(<http://www.8jcba.org/event-registration/2017-professionalism-seminar/>)

EJCBA Charity Golf Tournament benefiting the Guardian ad Litem Program—Friday March 3, 2017. Lunch and Registration at 11:30am and Tee Time at 12:30pm

(<http://www.guardian8foundation.org/2017-ejcba-charity-golf-tournament-registration/>)



Free CLE after the January EJCBA Luncheon

Immediately following the luncheon will be an informative CLE, "Demystifying the JNC." Current and Former Members of the JNC (Brian Kramer, Paul Donnelly, Scott Walker), the Honorable Robert K. Groeb, Circuit Court Judge, and Carl Schwait, Florida Bar Board of Governors Representative, will discuss the JNC process from becoming a member to applying for a judgeship and more.

January Luncheon: Chief Judge Toby S. Monaco & JNC Panel Discussion

The speaker for the January Luncheon is Chief Judge Toby S. Monaco. His assignment as Chief Judge began on January 1, 2017; however, he has served as a Circuit Judge since 2001. In addition to serving several terms as the Administrative Judge in the Family and Circuit Civil Divisions, he also serves on two statewide committees: Legislative Coordinating Committee of the Circuit Court Judge's Conference and Judicial Needs Assessment Committee.

In line with our tradition, Judge Monaco will give the "State of the Circuit Address" and immediately following the luncheon we will have an informative CLE, "Demystifying the JNC." Have you ever wondered how to become a member of the Judicial Nominating Commission? Have you wanted to know how the nominating process works? Panelists Brian Kramer, Eighth Circuit JNC Commissioner and Former Commission Chairperson, Paul Donnelly, Eighth Circuit JNC Former Commission Chairperson, Scott Walker, Eighth Circuit JNC Commissioner and the Honorable Robert K. Groeb, Circuit Court Judge, will discuss the JNC process from becoming a member to applying for a judgeship and more. The program will conclude with a question and answer segment.

Join us on January 20, 2017 for this timely discussion and mark your calendar for the remaining 2017 luncheons. The following speakers have been confirmed:

- February 17: Professor Paul Ortiz, Director of The Samuel Proctor Oral History Program
- March 17: Dr. Jackson Sasser, President of Santa Fe College
- April 21: The Honorable Peggy A. Quince, Florida Supreme Court
- May 19 : UF Basketball Head Coach Michael White

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.

Professionalism Seminar – REGISTER NOW!!

Inexpensive & Enlightening CLE Credits

Mark your calendars now and register for the annual Professionalism Seminar. This year the seminar will be held on Friday, February 10, 2017 from 8:30 AM until Noon at the Trinity United Methodist Church on NW 53rd Avenue. Our speaker will be Henry M. Coxe, III of Bedell, Dittmar, Devault, Pillans & Coxe, past President of The Florida Bar, speaking on "Civility, the Legal Profession and Public Perception – The Stakes are High."

We expect to be approved, once again, for 3.5 General CLE hours, which includes 2.0 ethics hours and 1.5 professionalism hours. The cost to register and attend is \$50 for EJCBA members and \$100 for non-members.

A registration card is available in this edition of Forum 8; a registration card will also arrive in your mail in early January. Questions may be directed to the EJCBA Professionalism Committee chairman, Ray Brady, Esq., at 373-4141.

Alternative Dispute Resolution

Continued from page 3

all these things, but, we can be aware and try to do so.

As lawyers and mediators we need to minimize button pushing and having our buttons pushed. Maybe as ordinary people we need to also do that.

Neutrality is a goal for mediators. Like most goals, we do not always reach the goal. Reacting to 'button pushing' dilutes neutrality. As a mediator it is always better to ask questions rather than to make comments, if at all possible.

The goal we associate with mediation is resolution. But, the process is actually more important than resolution. In other words, believe it or not: whether or not the parties resolve the dispute is of secondary importance compared to whether the process was fair, neutral, analytical, etc. Rule 10.200 of the Standards of Professional Conduct for Certified Mediators states that explicitly: "Whether the parties involved in a mediation choose to resolve their dispute is secondary in importance to whether the mediator conducts the mediation in accordance with these ethical standards."

The form is as important as the result.

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

By Marcia Green

As we enter 2017, I want to once again recognize and thank those attorneys and other advocates in our community who have provided services, made donations and otherwise supported Three Rivers Legal Services in the past year. We are so grateful to those who help us in accomplishing so much more than we could do on our own. It is such a pleasure to share with you this list of very special people.

The following attorneys (and other professionals in the community) have volunteered their time, shared their expertise and/or made donations to our program in the past year. Also listed are the Three Rivers staff attorneys and local attorney board members whose dedication and commitment over the years keep Three Rivers afloat! The low income residents of our community need access to our civil legal system and these attorneys recognize this and help make so much possible.

If you become a volunteer, we only refer cases to you in your area of expertise. We pre-screen the clients for financial eligibility and we can connect you with attorneys who are willing to mentor and/or discuss the case with you to share their legal expertise. We provide malpractice insurance coverage and litigation cost reimbursement (if feasible and available). As a volunteer, you can use our office to meet with your pro bono clients. We will try to make your experience positive while recognizing that our clients are often needy and confused with the legal system.

For those who donate money, we thank you for your kindness and generosity. As you are aware, funding for Three Rivers Legal Services is a constant challenge. Our federal funding fluctuates dramatically and we have had significant decreases in our support from the Florida Bar Foundation. Smaller grants from local and State agencies continue to shrink. Our program survives with good management, dedicated staff, generous donors and volunteers, and new grants from new sources.

Please check out www.FloridaProBono.org, a statewide website that seeks to encourage lawyers to take on pro bono cases, where you will find resources and training materials. Check us out at www.TRLS.org and take the opportunity to review some of our accomplishments in our Annual Report.

We look forward to working with you in 2017. Feel free to contact me if you would like to volunteer your services and time or make a donation to support our program. I can be reached at marcia.green@trls.org or 352-415-2327.

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Reserve Now for the 2017 Professionalism Seminar

<p>WHEN: Friday, February 10, 2017 – 9:00 a.m. – 12:00 NOON</p> <p>WHERE: Trinity United Methodist Church 4000 NW 53rd Avenue, Gainesville, FL 32653</p> <p>PROGRAM: Henry M. Coxe, III of Bedell, Dittmar, Devault, Pillans & Coxe, past President of The Florida Bar, speaking on “Civility, the Legal Profession and Public Perception—The Stakes are High”</p> <p>COST: EJCBA paid members: \$50, Non-Members: \$100</p> <p>CLE: 3.5 Hours of CLE is expected</p> <p>DEADLINE: Register on or before Monday, February 6, 2017 at: http://www.8jcba.org/event-registration/2017-professionalism-seminar/</p>	<p>When registering online, you will need to select your first and second choices for your area of specialty for small group discussions from the following four options:</p> <p>Family/Domestic Relations Law</p> <p>Criminal Law</p> <p>Civil Trial (e.g. Torts, Commercial & Government)</p> <p>Civil Non-Trial (e.g. Transactional, Estates and Trusts, & Real Estate)</p>
<p>Parking:</p> <p>Free parking is provided. Arrive early to allow sufficient time to check-in and find your seat.</p>	

January 2017 Calendar

- 2 New Year’s Day observed – County and Federal Courthouses closed
- 4 EJCBA Board of Directors Meeting, Faculty Dining Room, UF Law, 5:30 p.m.
- 5 Deadline for submission to February Forum 8
- 11 Probate Section Meeting, 4:30 p.m., Chief Judge’s Conference Room, 4th Floor, Alachua County Family & Civil Justice Center
- 16 Birthday of Martin Luther King, Jr. observed, County and Federal Courthouses closed
- 17 Family Law Section Meeting, 4:00 p.m., Chief Judge’s Conference Room, Alachua County Family & Civil Justice Center
- 20 EJCBA Luncheon, Chief Judge Toby S. Monaco, “The State of the Circuit,” The Woolly, 11:45 a.m.
- 20 EJCBA CLE Panel Discussion, “Demystifying the JNC,” The Woolly, 1:00 p.m.

February 2017 Calendar

- 1 EJCBA Board of Directors Meeting – Faculty Dining Room, UF Law, 5:30 p.m.
- 5 Deadline for submission to March Forum 8
- 10 EJCBA Professionalism Seminar, Henry M. Coxe, III of Bedell, Dittmar, Devault, Pillans & Coxe, past President of The Florida Bar, “Civility, the Legal Profession and Public Perception – The Stakes are High.” Trinity United Methodist Church, 9 a.m. – 12 noon.
- 14 *Valentine’s Day – show the love!*
- 14 Probate Section Meeting, 4:30 p.m., Chief Judge’s Conference Room, 4th Floor, Alachua County Family & Civil Justice Center
- 17 EJCBA Luncheon, Professor Paul Ortiz, Director of the Samuel Proctor Oral History Program, The Woolly, 11:45 a.m.
- 20 President’s Day Holiday – Federal Courthouse closed
- 21 Family Law Section Meeting, 4:00 p.m., Chief Judge’s Conference Room, Alachua County Family & Civil Justice Center
- 25 2017 Law & Justice Youth Conference, UF Levin College of Law, 9 a.m. – 3 p.m

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