

FORUM 8

Volume 80, No. 1

Eighth Judicial Circuit Bar Association, Inc.

September 2020

President's Message

By Philip N. Kabler, Esq.



We in the Eighth Judicial Circuit enjoy a reputation and legacy of *collegiality* and *professionalism*. That status has not arisen accidentally, but rather as the outcome of concerted efforts by decades of leadership in our Circuit's Bench and Bar.

The most recent link in that legacy is Immediate Past President Cherie Fine. When Circuit Judge

Gloria Walker was elected and had to step-down as the EJCBA's President as a result, Cherie immediately 'went all-in' and served as our President for a full year and a half. During her extended term, Cherie *always* projected an attitude of optimism, gratitude, and - frankly - joy to all with whom she came in contact. Let us as a community of judges, judicial assistants, attorneys, legal assistants, and affiliated professionals, tender our sincere thanks to Cherie for all she did for us. When the history of our circuit is told in the future, Cherie will be a prominent example of who has been our best and brightest.

Now we turn to the future. Our circuit, in addition to being collegial and professional, has also shown itself to be *resilient* and *flexible*. Certainly we live and work in times which can be defined as unique. The COVID-19 pandemic has caused all in the public and private sectors of the law to conduct our work in new ways. Just the term 'Zoom' shows how far we have come quickly. From online court hearings and mediations (as guided by Chief Judge James Nilon, Trial Court Administrator Paul Silverman, and a supporting committee of local Bar leaders), to EJCBA member events, to Board and committee meetings, and even to the Zoom investiture of our current EJCBA Board of Directors and Officers, our circuit has adapted and evolved to meet the current practice environment.

The six counties in our circuit are urban, suburban, and rural in nature, and all merit attention to their specific challenges and needs. It is here that we as officers of the court must contribute to our members and to the communities we serve together. We must actively support the economic growth, public voice, inclusivity and diversity, and pursuit of equal justice under law¹ in our communities. Whether it is by participating in our long-standing 'Law in the Library' series, 'Ask A Lawyer' or other *pro bono* service opportunities, the Margaret Stack Holiday Project to benefit the Head Start schools program, or other creative ways, *all* of us *can* do something, and as members of a privileged profession we *all should* do so to remain true to our oath.

During this year one goal will be to add value for our members and local communities. Business lawyers are accustomed to applying a 'SWOT'² approach to matters as they emerge, and then to implementing outcomes and solutions intended to respond to those matters.

In that regard, we will work to uphold many of the beloved traditions our members enjoy. For example, at this time we plan to continue "The Gloria" golf tournament in support of the Circuit's Guardian ad Litem program, the Adkins Cedar Key get-together, the Professionalism Seminar, the Tomlinson Professionalism Award, the Leadership Forum, a festive holiday party, 'family friendly' socials, and monthly luncheons. We may, of course, have to reformat those events, depending upon the environment at the time, but we will do all we can to make the best of it. We have already done that with two Zoom-based events this past spring. And that is how we have shown ourselves as a legal community to actually be *resilient* and *flexible*.

We already have a calendar of local, statewide, and national guest speakers arranged to-date, including from business, the judiciary, the law, and our 'Town and Gown.'

Continued on page 8

¹ From the front entrance of the Supreme Court.

² Strengths, weaknesses, opportunities, and threats.

2020 - 2021 Board Officers

Philip N. Kabler
President
2700 NW 43rd St, Suite C
Gainesville, FL 32606
(352) 332-7688
pkabler@boginmunns.com

Robert E. Folsom
President-Elect Designate
220 S. Main Street
Gainesville, FL 32601
folsomr@circuit8.org

Dominique Lochridge-Gonzales
Secretary
1000 NE 16th Avenue, Bldg 1, Ste B
Gainesville, FL 32601
(352) 415-2324
dominique.lochridge-gonzales@trls.org

Evan Minton Gardiner
President-Elect
151 SW 2nd Ave
Gainesville, FL 32601
(352) 388-7385
gardinere@pdo8.org

Sharon T. Sperling
Treasurer
P.O. Box 358000
Gainesville, FL 32635
sharon@sharonsperling.com

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.

Members at Large

Jan Bendik
3600 SW 19th Ave, Apt 13
Gainesville, FL 32607
(352) 374-4122
prague@mindspring.com

Mikel Bradley
1000 NE 16th Avenue, Building I
Gainesville, FL 32601
(352) 415-2304
mikel.bradley@trls.org

Raymond F. Brady
2790 NW 43rd St, Ste 200
Gainesville, FL 32606
(352) 373-4141
rbrady1959@gmail.com

Jodi H. Cason
PO Drawer 340
Starke, FL 32091
(904) 966-6319
Casonj@circuit8.org

Allison Derek Folds
527 E. University Ave.
Gainesville, FL 32601
(352) 372-1282
derek@foldsandwalker.com

Norm D. Fugate
P.O. Box 98
Williston, FL 32696
(352) 528-0019
norm@normdfugatepa.com

Dean Galigani
317 NE 1st Street
Gainesville, FL 32601
(352) 375-0812
dean@galiganilaw.com

Alexis J. Giannasoli
151 SW 2nd Ave
Gainesville, FL 32601-6229
(352) 374-5277
giannasolia@pdo8.org

John "Eric" Hope
2135-B NW 40th Terrace
Gainesville, FL 32605
(352) 335-0400
ehope@smartbizlaw.com

Abby H. Ivey
1524 NW 12th Road
Gainesville, FL 32605
(786) 201-8955
abbyivey@outlook.com

Frank E. Maloney, Jr. - Historian
445 E. Macclenny Ave., Ste. 1
Macclenny, FL 32063-2217
(904) 259-3155
Frank@FrankMaloney.us

James H. McCarty, Jr. (Mac)
2630 NE 41st Street, Ste A
Gainesville, FL 32606-6666
(352) 538-1486
jhmccjr@gmail.com

George Nelson
81 N. 3rd Street
Macclenny, FL 32063
(904) 259-4245
nelsong@pdo8.org

Peg O'Connor
102 NW 2nd Avenue
Gainesville, FL 32601
(352) 372-4263
peg@toklegal.com

Lauren N. Richardson
2700 NW 43rd Street, Suite C
Gainesville, FL 32606
(352) 204-2224
lrichardson@boginmunns.com

Scott Schmidt
2957 SW 39th Ave
Gainesville, FL 32608
(352) 615-7229
scottschmidtesq@gmail.com

Dawn M. Vallejos-Nichols - Editor
2814 SW 13th Street
Gainesville, FL 32608
(352) 372-9999
dvallejos-nichols@avera.com

About this Newsletter

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

NOTE NEW MAILING ADDRESS

Eighth Judicial Circuit Bar Association, Inc.
P.O. Box 140893
Gainesville, FL 32614
Phone: (352) 380-0333
Fax: (866) 436-5944

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.

Judy Padgett
Executive Director
P.O. Box 140893
Gainesville, FL 32614
Phone: (352) 380-0333
Fax: (866) 436-5944
execdir@8jcba.org

Dawn M. Vallejos-Nichols
Editor
2814 SW 13th Street
Gainesville, FL 32608
(352) 372-9999
(352) 375-2526
dvallejos-nichols@avera.com

Deadline is the 5th of the preceding month

Alternative Dispute Resolution

By Chester B. Chance and Charles B. Carter



The Uncertain Status of Civil Trials

“A priest, a rabbi and an arbitrator walk into a bar. The priest and rabbi both agree that the arbitrator is going to hell when he dies. The arbitrator asks: is that binding or non-binding?”

The COVID-19 virus and steps taken to limit the spread of the virus have led to the Supreme Court of Florida precluding civil jury trials. As of the time of the preparation of this article, jury trials have been on hold for a period of approximately five months if not more.

Given the uncertainty of when civil jury trials will commence, and, the uncertainty regarding the size of the juror pool even when trials commence, we were contemplating possible viable alternatives to the unfortunate delays in civil trials.

That brings us to the topic of non-binding arbitration. Now, wait a minute: hear us out on this.

We are old enough to remember a time when there were no flat screen televisions, no I-phones and no court ordered mediation. Now a remarkable array of electronic devices is available and court ordered mediation is not only routine but required.

We even recall the opposition to mediation when it was first ordered. But, like airbags and laptop computers, mediation is now not only accepted but perhaps even a desired part of our everyday legal practice. The initial opposition to mediation is similar to what may be a current atmosphere of opposition to non-binding arbitration.

We ask you to give some reasoned and thoughtful consideration to non-binding arbitration as a viable way of dealing with the uncertain status of civil jury trials.

Pursuant to the applicable statute addressing non-binding arbitration (§ 44.103, *Fla. Stat.*) the court may refer a civil action for the non-binding arbitration process. That process is to be conducted informally. We suggest it is akin to a motion for summary judgment although we acknowledge there is a bit more factual flesh to put on the bones. Still, presentation of testimony and evidence is kept to a minimum and matters are presented to the arbitrator or arbitration panel primarily through the statements and arguments of counsel.



A non-binding proceeding can take as little as two to three hours and usually is no longer than four to six hours. There is no jury to select. It is much more user friendly than a trial.

The decision from the arbitrator or arbitration panel “shall be final” unless a request for a trial de novo is filed within a certain timeframe. If a request for a trial de novo is not made within the time limit, the arbitration decision is referred to the presiding judge in the case, who shall then enter whatever orders and judgments are required to carry out the terms of the arbitration decision.

Section 44.103, *Fla. Stat.* includes some “bite” if either party rejects the arbitration decision. The court may assess costs against the party requesting the trial de novo, including arbitration costs, court

costs, reasonable attorney’s fees and other costs described in the statute that occurred after the arbitration hearing and continuing through the trial of the case.

We feel non-binding arbitrations may eliminate the current uncertainty surrounding who, what, when and where with respect to jury trials in the foreseeable future. We suggest non-binding arbitration is especially efficacious when one party has unrealistic expectations about case value or about liability. A non-binding award may just be a dose of reality. We assure you that we have found in such situations that the non-binding arbitration result leads to serious reevaluation by a party who was arguably unrealistic. We have personally seen that happen numerous times.

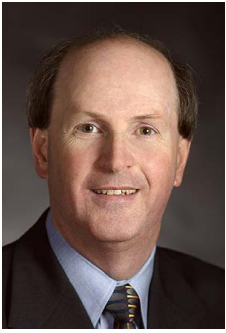
Unfortunately, our local initial experience with non-binding arbitration came in association with a plethora of “cigarette cases” which our circuit had to deal with in the mid-2000’s. We won’t go into the reasons or the details, but let us just say the cigarette cases were not well-suited for non-binding arbitration. Do not judge the efficacy of the process by any experience you might have had in smoking/tobacco/cigarette cases.



Continued on page 9

Criminal Law

By William Cervone



It figures that as I am drawing closer to a time when, frankly, I won't be bothering with Florida Law Weekly every week (if at all) things are taking a turn with opinions that, while they still make my head spin, at least make me think there is some sanity in the world. Today we address such an opinion, even though it was released months ago. Attribute the delay in my commenting, if you wish, to it taking a

while to get over my shock after an initial reading. Or maybe a Covid-filled summer of discontent.

Anyhow, we start with Arnold Knight. Arnold's current address is Blackwater Correctional in Milton, where he will be residing, as of my last check, until 2042. Although originally charged with attempted murder I, he was only convicted of attempted murder II, a crime he committed against his former girlfriend. To briefly summarize, she had kicked him out because he was abusive and threatening. Not just taking no for an answer to his "Take me back I won't do it again" pleas but also being offended at her temerity in serving him with a domestic violence protection injunction, he laid in wait for just the moment he knew she'd leave her home and proceeded to ambush and beat her senseless with a hydraulic jack handle. Although permanently injured, she lived to tell the tale and his jury of peers, loosely speaking, did not buy any of his defenses other, apparently, than that his crime was not sufficiently premeditated for attempted murder I but was indeed full of ill will, hatred, and so on for attempted murder II. The jury rejected, as well, attempted manslaughter: the next lower lesser included offense it could consider.

And now the point. The trial judge screwed up the attempted manslaughter instruction. The defense attorney didn't know the instruction was screwed up, or if he did he let it slide. The prosecutor, likewise, was clueless and in all fairness to all the screw up stemmed from a new manslaughter jury instruction released less than a month before Arnold's trial. Add to that the fact that attempted manslaughter is a nightmare to define or understand anyhow. Nonetheless, the jury convicted Arnold of attempted murder II, a crime for which the Supreme Court in its review of the case concluded there was more than sufficient evidence for and a correct instruction given. Time was when such a screw up would have gotten Arnold a new trial. Florida long required that result following a bad instruction for an offense one step lower than that of conviction; this was on the theory that the defendant was somehow denied a right to the jury deciding to pardon and find him guilty of a lesser crime

because they were not properly instructed on that lesser offense - here, attempted manslaughter. Confused yet? Well, no more, and now I will simply quote the Florida Supreme Court:

We erred by transforming the unreviewable pardon *power* of the jury into a fundamental *right*. And we further erred by treating the deprivation of the defendant's nonexistent right to the availability of a jury pardon as a structural defect that vitiates the fairness of a trial...A jury pardon remains a device without legal foundation and is essentially a not guilty verdict rendered contrary to the law and evidence and is an aberration...Contrary to the logic of the jury pardon doctrine, interference with an opportunity for the jury to carry out a partial jury nullification does not undermine the validity of the trial. No defendant has the right to a trial in which the judge facilitates the jury's acting in disregard of the law.

I hasten to add, and I stress, that by all accounts and according to the Supremes, Arnold was unquestionably guilty of attempted murder II, as he may have been for attempted murder I had the jury been so inclined, and there was no error in the instruction given for the crime he was convicted of. I should add as well that none of this impacts the sanctity of the jury room and what a jury might decide to do in that room all on its own, instructions, facts and laws quite aside. Rather, this was all about an error related to defining a crime (attempted manslaughter) that the jury did not convict him of anyhow. The concept that, until now, that could have set him free or at least granted him a new trial has always baffled and annoyed me. Other courts have frowned on the idea of a jury pardon, refusing to allow defense attorneys to directly argue for such a result contrary to facts and law. As well they should in a legal system intended to find the truth, not ignore it. Now, the Florida Supreme Court has, as it noted, aligned itself with both federal law and the vast majority of other states in ridding us of at least this contextual "how many angels can dance on the head of a pin" concept. The less said about jury pardons, at least in this setting and to me, the better and the closer to truth and justice we may be.

Three Rivers Legal Services Welcomes Two New Attorneys to the Gainesville Office

By Marcia Green



Three Rivers Legal Services is pleased to announce the addition of two attorneys to the Gainesville office. With our client population facing greater challenges than ever, the ability to focus on new issues and specific needs is a huge benefit to our clients and our program.

Steven “Steve” McNamara joined the staff of Three Rivers to address COVID-19 issues, including such issues as Reemployment Assistance (unemployment benefits) and eviction. He brings a unique perspective to the program as a former law school professor at both American University in Beirut and UF Levin College of Law.

After graduation from Columbia Law School in 2003, McNamara practiced corporate and tax law in New York. He then moved overseas to teach, bringing opportunities to explore not only in the Middle East but also Australia and Mexico. With ties to Gainesville, he became a visiting professor at Levin College of Law from 2016-2018 and then a member of the Florida Bar in the fall of 2019. McNamara holds a PhD in Philosophy from Boston College.



McNamara enjoys everything North Florida, including nature, birds and wildlife, which is perfect since his work with Three Rivers involves providing services to clients throughout our 17-county service area. As an amateur musician, he’s looking forward to the re-opening of the local music scene.

Avery Vinson came to Three Rivers a few months after becoming a member of the Florida Bar in April. As an Elder Justice Fellow through Equal Justice Works, Vinson’s project assists and represents senior residents experiencing abuse, exploitation or other criminal conduct.



Vinson graduated from UF Levin College of Law where she served as a student intern with the Intimate Partner Violence Assistance Clinic. A native of Pensacola, she came to Gainesville for law school after receiving her undergraduate degree from FSU. She worked briefly with the Office of the Public Defender in Pensacola before

returning to Gainesville to work with Three Rivers. Vinson loves the outdoor offerings of Gainesville, including Depot Park and the Hawthorne Trail. She also looks forward to the resumption of movie catching at the Hippodrome Cinema and visiting local art galleries.

Changing jobs and joining the staff of Three Rivers in the midst of a pandemic certainly creates different challenges. Fortunately, technology allows staff members to get together regularly for video conference meetings in small subject areas, e.g., public benefits and housing, and/or all together to discuss program-wide issues such as safety protocols and updates on projects. Personally, I look forward to in-person meetings with both Steve and Avery and some of the newest members of our Jacksonville and Lake City offices.

Have you visited the **Three Rivers Legal Services** website recently? <https://www.trls.org/> Not only can clients apply for services on-line and obtain information about our Legal Helpline, there are short informal videos designed to address issues that affect our client base. The one to three minute presentations are also available on our Facebook page. Keeping our clients informed is a top priority for Three Rivers.

Information is also available on how you can become a volunteer or make a donation. Interested in participating as a **volunteer attorney**? There is so much need, especially now, and your assistance can provide legal help otherwise unavailable. Contact me at (352) 415-2327 or marcia.green@trls.org; check out our website at <https://www.trls.org/volunteer/>.

CELEBRATING FIFTY (Yes, that’s 50!) YEARS

Congratulations to the following members of the Class of 1970 – now part of The Florida Bar’s 50-Year-Members. The EJCBA celebrates your service to the profession and to the Eighth Judicial Circuit:

Charles M. Gadd, Jr.

Harvey L. Goldstein

Stephan P. Mickle

Alan R. Parlapiano

Larry G. Turner

WHAT TO DO WHEN AN EMPLOYEE TESTS POSITIVE FOR COVID-19?¹

Our colleagues at Donnelly + Gross have prepared the following outline for addressing COVID-19 in the workplace. We are grateful for their dedicated community-minded spirit.

This checklist for employers is based on recently issued guidance from CDC, OSHA, and EEOC on how to respond upon learning an employee is infected with COVID-19.

1. Maintain the employee's confidentiality.

- a. Do not identify to others the infected employee's name or other identifying information. Confidentiality is required by the ADA.

2. Send the employee home.

- a. Per CDC guidelines, the infected employee should not return to the workplace until they have met the criteria to discontinue home isolation and consulted with a healthcare provider and state or local health department.

3. Determine if the case must be recorded for OSHA.

- a. Under OSHA recordkeeping requirements, COVID-19 is a recordable illness if it is confirmed and work-related for employers in higher-risk industry classifications with more than 10 employees and for employers in certain lower-risk industries if OSHA has asked the employer in writing to keep injury and illness records.
- b. Use reasonable efforts to ascertain whether the infection is work-related. Generally ask the infected employee about how they believe they contracted COVID-19, what work and nonwork activities might have led to exposure, and whether COVID-19 exposure in the workplace was possible due to the employee's job duties, exposure to the public, or exposure to other employees who have tested positive. Avoid extensive medical inquiries. As new information develops, this investigation should be updated.
- c. Standardize this investigative process by using a prepared list of questions or points. Such records must be kept confidential.

4. Determine if the infection is reportable to OSHA.

- a. All employers must promptly report to OSHA any work-related illness, including COVID-19, which results in in-patient hospitalization or death. As new information develops, reconsider this determination.

5. Initiate contact tracing to determine who else was potentially exposed.

- a. The CDC has determined that "potential exposure" risk begins when someone is within 6 feet of the

infected person for 15 minutes or more, noting the infected person can spread the virus for 48 hours before the onset of symptoms.

- b. The employer should identify who falls within this "6-15-48 rule" by questioning the infected employee and coworkers. When speaking with coworkers for purpose of contact tracing, the employer may give general information about where the exposure may have occurred—what shift, what job site, within what team of employees—but must not identify the infected employee.
 - c. Employers should standardize this investigative process by using a prepared list of questions or points. Such records must be kept confidential.
 - d. Follow up with these employees to see if any of them show symptoms or are diagnosed with COVID-19. If so, more contact tracing should occur to determine potential exposure.
- ## **6. Notify employees who were potentially exposed and send them home.**
- a. In doing so, do not identify the infected employee.
 - b. According to the CDC, potentially exposed persons should stay home and social distance for 14 days and self-monitor for symptoms. If symptoms develop, they should follow CDC recommended steps and contact their healthcare provider.
 - c. Potentially exposed employees should not return to the workplace until they have met the criteria to discontinue home isolation and consulted with a healthcare provider and state or local health department.
- ## **7. Clean the facility.**
- a. In most cases, there is no need to shut down the workplace.
 - b. Close off areas used for prolonged periods of time by the sick person. Wait 24 hours before cleaning and disinfecting to minimize potential for other employees being exposed to respiratory droplets. If waiting 24 hours is not feasible, wait as long as possible.
 - c. During this waiting period, open outside doors and windows to increase air circulation in these areas, if feasible.
 - d. Clean dirty surfaces with soap and water before disinfecting them. To disinfect surfaces, use products that meet EPA criteria for use against SARS-Cov-2 external, the virus that causes COVID-19, and are appropriate for the surface. Always wear gloves and gowns appropriate for the chemicals being used when you are cleaning and disinfecting.

Continued on page 7

¹This article is for general information only. It should not be relied upon as legal advice as the law related to each situation varies. Moreover, workplace law related to COVID-19 is dynamic and changing daily. The sharing of this information does not establish a client relationship.

WHAT TO DO WHEN AN EMPLOYEE TESTS POSITIVE FOR COVID-19?

Continued from page 6

8. Safely return employees back to work.

- a. If a previously infected employee is ready to return to work, the ADA allows the employer to require a physician's note certifying fitness for duty. The ADA also allows employers to administer COVID-19 testing to employees before they enter the workplace. Updated guidance from the EEOC, however, prohibits employers from requiring employees to take antibody or serology tests to determine.

9. Provide employees paid sick leave as required under the Families First Coronavirus Response Act.

- a. The Act requires covered employers to provide two weeks (up to 80 hours) of paid sick leave at the employee's regular rate of pay where the employee is unable to work and has tested positive.
- b. Leave is also required due to potential exposure where the employee has been advised to self-quarantine by a health care provider or is experiencing symptoms and seeking medical diagnosis.
- c. The Act generally applies to employers with less than 500 employees, and to their employees who have been employed at least 30 days.
- d. Covered employers qualify for dollar-for-dollar reimbursement through tax credits.
- e. Employers should standardize this process by using a form for the employee to request and provide sufficient documentation for such leave.

10. Follow industry-specific guidelines.

- a. Follow the rules and regulations of CDC, OSHA and other government agencies that may regulate your particular industry and report the infection to those agencies if required.

CHIEF ASSISTANT STATE ATTORNEY JEANNE SINGER WINS TOP NATIONAL AWARD

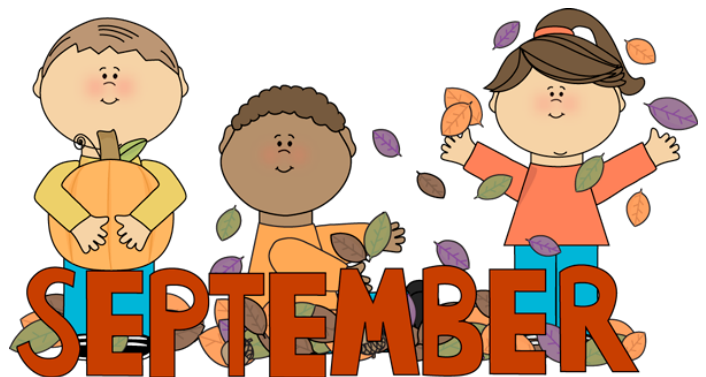
Jeanne Singer, the Eighth Judicial Circuit's Chief Assistant State Attorney and Chief of the Crimes Against Women and Families Division, was named the 2020 Distinguished Prosecutor from the National District Attorneys Association.

Singer, who graduated from the University of Florida College of Law in 1977, prosecuted cases in the Eighth Circuit until leaving in 1985 for private practice. She returned to the State Attorney's Office in 1993 at then-State Attorney Rod Smith's request to assist with the prosecution of Danny Rolling in the Gainesville student murders case, and she's been there ever since.

Nominated for this prestigious award by State Attorney Bill Cervone, Singer was recognized not only for her prosecutorial skill, but also her ability to connect with victims coping with the aftermath of serious crimes. Singer's division handles cases of sexual battery, domestic violence and child abuse. Ms. Singer has also served as a popular mentor and guide to young attorneys - especially women - just beginning their legal careers. Ms. Singer has plans to retire at the end of this year.

Office Suite Available

Professional private office suite available for 1-2 person firm on second floor in the Meridien Centre, 2750 NW 43rd St. Plenty of office parking; furnished suite includes telephone system, two separate offices overlooking office park, conference room, lobby/waiting room, copy room, kitchenette, bathroom, large common staff work area staged for 2-4 employees. Office has many built-in cabinets and other finished woodwork. Call Scott Krueger at (352) 376-3090 for more information.



Presidents Message

Continued from page 1

For example, from the business sector we will welcome John Spence, a noted (and local) thought leader, writer, and consultant, and Perianne Boring, the Founder and President of the Chamber of Digital Commerce (and a University of Florida alumna). From the legal sector we will visit with Florida Bar President Dori Foster-Morales, incoming Chief Judge Mark Moseley, and Chief Justice Charles Canady. In addition, acclaimed author Stacey Steinberg from the Levin College of Law will speak with us, as well as UF President Kent Fuchs. Also in the works are 'off calendar' events by local entrepreneur Sean McIntosh, Levin College of Law Professor Mary Adkins, and others. Please be on the lookout for program announcements.

There will also be efforts to develop and implement new programs. For example, Zoom and Facebook Live open houses. (We already had a group-watch of "Hamilton" with ongoing comments and discussion.) And at the first instance the pandemic environment permits group gatherings, please expect social calls to *all* the counties in our Circuit. Simply put, each member of our Circuit needs to know face-to-face they are appreciated as significant toward the full functioning of our Bench and Bar. This is how we earned our reputation for civility, and this is how our reputation will be sustained.

A second focus area will be on our U.S. and Florida Constitutions. Not necessarily *expected* areas of interest for a business/real estate/banking practitioner, but ones which directly impact our communities *and* our responsibilities as lawyers to them. Here, then, are 'free' links to the U.S. Constitution and Amendments (<https://constitution.congress.gov/constitution/>) and to the Florida Constitution (<https://tinyurl.com/FloridaConstitution>), so we all have those central documents readily available.

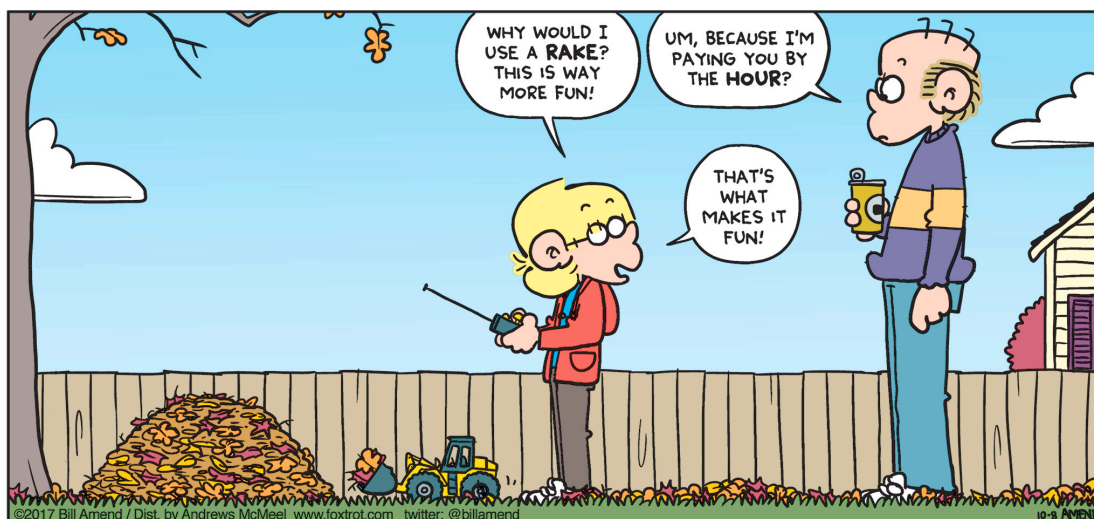
A third focus area will be on voting, as related to the constitutional focus and given this period's proximity to the upcoming general elections. As we know a core principle of our republican democracy is participation by its constituents. Our role as members of the Bench and Bar, in turn, is to facilitate that participation.

A final note. The EJCBA has a Board of Directors that operates efficiently and transparently. Service to our members is a principal function of the Board and Officers, and timely communication is an element of discharging that service. Accordingly, if 'you' as a member have suggestions for programs, this is an open invitation to bring them forward. Please do so by sending those ideas to pnkejcba@gmail.com. And for updates, please regularly visit our website (www.8jcba.org) and consider joining our Eighth Judicial Circuit Bar Association Facebook page.

Here is looking forward to a creative and productive year together, when we as our own community continue our legacy of collegiality and professionalism.

With best wishes to all,
Phil

Three additional 'footnotes' of consequence. Thank you to Judy Padgett, our Executive Director (execdir@8jcba.org), who quietly keeps our 'train running on time.' To Dawn Vallejos-Nichols, Esq. who publishes our monthly *Forum 8* online newsletter as a 'labor of love.' And to Aerial Lane (aerielanephoto@gmail.com) for the 'headshot' photograph.



EIGHTH JUDICIAL CIRCUIT BAR MEMBER NAMED EXECUTIVE DIRECTOR OF DISABILITY RIGHTS FLORIDA



Disability Rights Florida (DRF), the State's designated protection and advocacy system for individuals with disabilities, announced the appointment of Eighth Judicial Circuit Bar member and Gainesville resident Peter Sleasman as Executive Director.

Sleasman brings 35 years' experience in federal civil rights litigation and disability law, as well as a personal passion for equal justice and the attainment of basic human and civil rights to his new position. Although he joined the nonprofit in 2015, Sleasman collaborated with DRF for over 20 years. He previously served as the agency's director of investigations, legal director and interim executive director. He has also held staff attorney and legal management positions at Florida Legal Services, the Advocacy Center of Central Florida, Southern Legal Counsel, and Florida Institutional Legal Services.

DRF Board Chair, Alan Quiles said, "Mr. Sleasman has dedicated his career to the vision that all should have the opportunity to full and equal participation in society – including individuals with disabilities. With the enthusiastic support of the entire board, we look forward to entering this next chapter in our history under his capable leadership."

Sleasman received his bachelor's degree from Centre College in Danville, KY and J.D. from the University of Florida Levin College of Law. He is a member of the Florida Bar, United States District Court for the Northern, Middle, and Southern Districts of Florida, and the United States Court of Appeals for the Eleventh Circuit. He is also a member of the Public Interest Law Section of the Florida Bar and a past chair of the Disability Law Committee.

"Advocacy on behalf of individuals with disabilities, particularly for those confined in state institutions, has been the focus of my entire legal career," Sleasman said. "I look forward to working with the dedicated staff and board of DRF in carrying out our mission to protect and advocate for the rights of all persons with disabilities in Florida."

[Disability Rights Florida](#) was founded in 1977 as the statewide designated protection and advocacy system for individuals with disabilities in the State of Florida. DDRF provides free legal and advocacy services to people with disabilities through the authority and responsibility of nine federal grants. Disability Rights Florida advocates, educates, investigates and litigates to protect and advance the rights, dignity, equal opportunities, self-determination and choices for all people with disabilities.

ADR

Continued from page 3

For your consideration, we have found that when a non-binding arbitration process is selected by the parties (which believe it or not does occur), the parties often enter into a "high-low agreement" in conjunction with the non-binding process. We suggest you may want to consider that "high-low" aspect whether the parties voluntarily undergo non-binding arbitration or the court orders it.

If you have ever gone to mediation and the opposing attorney or party is unprepared, such lack of preparation may undermine the prospects for success at mediation. Lack of preparation is not a viable option in a non-binding arbitration. A party should be more prepared in all aspects of the case in order to present their case for non-binding arbitration and this in and of itself may eventually lead to a settlement before or after entry of a decision by the arbitrator or the panel.

Should there be a single arbitrator or a panel? Your initial reaction is that a panel may be too expensive. That is true: It costs three times as much. You are paying half of three arbitrators rather than half of one. But please consider that the process itself will not be very long in terms of hours. And, your client may feel a decision by a panel of three has more gravitas and impact and is more worthy of consideration. As stated above, the failure to accept a non-binding arbitration decision does have some risk in terms of fees and costs.

If you strongly believe you client is not liable or if you strongly believe the defendant has no defense to a claim, non-binding arbitration may reinforce either feeling in a better fashion than mediation. Studies show most cases that do not resolve at mediation involve a strong defense liability position. Psychologically, people are more willing to accept a decision than a compromise. Even in relatively small value cases, non-binding arbitration may be more cost effective than mediation. The process is conducted informally and can take less time and cost less money than a mediation if a single arbitrator is used. The cost of a three-member panel may not be much more expensive, if at all, than a lengthy mediation. Whether non-binding arbitration is appropriate for all cases or some cases is certainly an issue for debate. However, like a pair of new shoes, the process may need an adjustment period and initial opposition to this process may diminish the way similar early opposition to mediation also diminished. We merely ask you to consider it.

The Best Way to Help Our Clients Through the Pandemic

By Krista L.B. Collins



As I write this, COVID-19 is presenting this country, and all of us, with a challenge. Can we do what is needed to save lives, reopen schools, get our economy moving, and move forward together as a nation? By now, we have all read about the legal battles being fought all over the country related to challenges to public health measures. But these are not the only legal challenges arising from the pandemic. As litigators, we will all likely have to deal with some of the legal fallout from COVID-19. We had previously suggested that during social distancing downtime, we all spend some time thinking and trying to anticipate the coming legal issues. Now that we are a few months farther down the road, some of those issues are coming into focus.

Legal problems and claims on an unprecedented scale are coming: the looming eviction crisis; supply chain problems leading to contract claims; employers' responsibility for keeping their employees safe from the virus and employer liability for infection; changes in immigration status due to employment or school disruption; and what are sure to be numerous business closures and bankruptcies, just to name a few. And, to borrow a phrase, winter is coming: a time when the pandemic—and the associated legal issues—may grow even worse, especially as it combines with flu season.

So, we've identified some issues that we might be facing. That's great. Now what? We've been thinking, but now it's time to be proactive. We can assist corporate clients prepare policies and procedures to keep employees safe without jeopardizing the company's interests. We can ask those corporate clients if they have reviewed (or better yet, would like us to review) their insurance policies to see if they have coverage for losses due to COVID-19 (for instance, business interruption coverage or coverage for losses as a result of actions by civil authorities). In Florida, an estimated 51%(!) of renter households are at risk of eviction—there will be a need for pro bono attorneys to assist tenants who will be facing eviction when the moratorium expires.

Finally, we should all do our best to set a good example and show that we care about our fellow citizens. We should minimize our in-person contacts with clients, require masks at our offices, and use masks as needed as we go about our daily lives. For that may ultimately be the best way to help our clients: to be a part of the solution and show that we can get through this, responsibly – and together.

September 2020 Calendar

- 2 EJCBA Board of Directors Meeting, Gainesville Chamber of Commerce, 300 E. University Avenue (or via ZOOM), 5:30 p.m.
- 4 Deadline for submission to October Forum 8
- 5 UF Football v. Eastern Washington, TBA
- 7 Labor Day Holiday - County and Federal Courthouses closed
- 9 Probate Section Meeting, 4:30 p.m. via ZOOM
- 10 EJCBA Annual Welcome via ZOOM, 5:30pm
- 12 UF Football v. Kentucky, TBA
- 17 EJCBA Special Constitution Day Event, Professor Mary Adkins, Levin College of Law, "Our Shape-Shifting State Constitution," noon-1 p.m. via ZOOM link
- 19 UF Football v. South Alabama, TBA
- 25 EJCBA Luncheon, John Spence, "The Future of Business," Big Top Brewing Company, 11:45 a.m. (or via ZOOM)
- 26 UF Football at Tennessee, TBA
- 28 Yom Kippur – County Courthouses closed

October 2020 Calendar

- 1 Annual James C. Adkins, Jr. Cedar Key Dinner, sunset (if feasible)
- 3 UF Football v. South Carolina (Homecoming), TBA
- 5 Deadline for submission to November Forum 8
- 7 EJCBA Board of Directors Meeting, Gainesville Chamber of Commerce, 300 E. University Avenue (or via ZOOM), 5:30 p.m.
- 9 EJCBA Luncheon, Perianne Boring, founder and CEO of the Chamber of Digital Commerce, Big Top Brewing Company, 11:45 a.m. (or via ZOOM)
- 10 UF Football v. LSU, TBA
- 12 Columbus Day – Federal Courthouse closed
- 14 Probate Section Meeting, 4:30 p.m. via ZOOM
- 17 UF Football at Ole Miss, TBA
- 31 UF Football v. Georgia, Jacksonville, FL, TBA

INVITATION TO RENEW / JOIN THE 2020-21 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: www.8jcba.org to pay online or return the below application, along with payment, to the EJCBA at PO Box 140893, Gainesville, FL 32614. 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, 2020, you are an attorney in your first year licensed to practice law following law school graduation.

\$70.00 - If, as of July 1, 2020, 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, 2020, 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.

\$90.00 - All other attorneys and judiciary.

Optional – YLD Membership Dues (*in addition to your EJCBA dues above*):

\$35.00 - EJCBA Young Lawyers Division (eligible if, as of July 1, 2020, 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: 2020 - 2021

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