



THE BRIEF

A Publication of the St. Lucie County Bar Association
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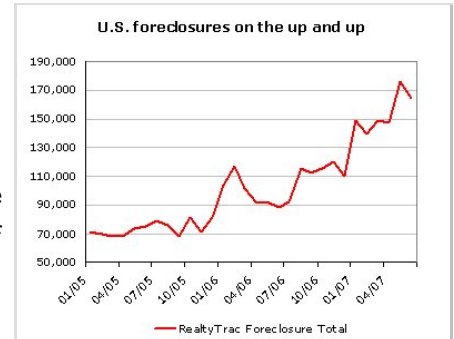
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New Members

The SLCBA is always recruiting new members to join the organization. If you wish to become a member, please join us for a new member mixer. The next one will be held on August 15th at 6:30 p.m. at the St. Lucie Draft House on U.S. Hwy 1 in PSL.

Clinics Scheduled to Address Consumers' Foreclosure Questions

As reported by Scripps Treasure Coast newspapers on Sunday, August 5th (a copy of which is available on www.slcb.org), the number of foreclosures in St. Lucie County has skyrocketed in the past few months, constituting nearly 80% of new civil court filings. Circuit Court Judge Ben L. Bryan, who hears foreclosure cases one week out of every month, says it is not uncommon for him to enter as many as 50 to 75 judgments per day during that week.



As a result of the significant increase in filings, Clerk of Court Ed Fry's office has been inundated with questions from consumers facing the foreclosure process. Unfortunately, his office cannot give legal advice, so he turned to the local bar for help in addressing consumers' concerns.

The SLCBA is preparing to respond to those concerns by organizing two foreclosure law clinics for the general public, during which local attorneys will be on hand to answer questions and offer guidance to homeowners dealing with the foreclosure process. The first clinic will be held on Wednesday, September 12th from 6:00 to 8:00 p.m. at IRCC's main campus (classroom TBD) in Ft. Pierce. The second clinic will take place on Saturday, September 29th from 10:00 a.m. to 2:00 p.m. at the PSL Community Center (Rooms C&D) on Airoso Blvd. All attorneys willing to volunteer their time for either seminar should contact Bar President, Jason Halliburton at jhalliburton@deanmead.com.

SLCBA Calendar of Events for August - October 2007

AUGUST 2007

8/15/07 - SLCBA Young Lawyers Division mixer at St. Lucie Draft House - 6:30 p.m.

8/31/07 - SLCBA Executive Board Meeting.

SEPTEMBER 2007

9/7/07 - General Bar meeting at Cobb's Landing in Ft. Pierce – noon to 1:00 p.m.

9/12/07 - Foreclosure law clinic at IRCC main campus in Ft. Pierce - 6:00 to 8:00 p.m.

9/28/07 - SLCBA Executive Board Meeting.

9/29/07 - Foreclosure Law Clinic at PSL Community Center - 10:00 a.m. to 2:00 p.m.

OCTOBER 2007

10/5/07 - General Bar meeting at Cobb's Landing in Ft. Pierce - noon to 1:00 p.m.

The Importance of a Public Library

*By James T. Walker

If you need the services of a law library in St. Lucie County, you're in luck. A facility with 30,000 volumes or more is located in downtown Fort Pierce - www.rjlawlibrary.org - and it's getting better. You may know that the Old Fort Pierce Courthouse was gutted and that interior renovation will begin by the end of the year to add additional courtrooms. But what you might not know is that our library will be moving into the refurbished structure where the library will then take over half of the basement, gaining an increase in floor area of about 33% as a result. That's a big plus. It will include a room for CLE seminars, computer work stations and a conference room or private study area. People needing quick access to a case or statute can get it mailed, faxed or e-mailed with a simple telephone request. Financially, the library's current income from traffic and criminal fines is sufficient to meet expenses, with enough left over to permit consideration of an increase in evening operating hours during the coming year. We are fortunate to enjoy the advantage of a solid research base here in St. Lucie County.

But, we are the exception. Of the 29 counties in Florida which possess a county library facility how many, for example, carry the National Reporter System, as does the Rupert J. Smith Law Library? (Hint: if you can count the fingers on one hand, you're close). The Miami-Dade courthouse law library faces closure. According to a recent article in *The*

Florida Bar News, the county commission there is facing a budget crisis and is preparing to cut a \$330,000 annual subsidy which keeps that library open. Law libraries are one of the first services local governments eliminate when they see the opportunity. In the struggle for money and space, libraries usually lose out when competing with other agencies such as the court clerk's office or Sheriff's department. If you don't believe that, try looking for the library the next time you're in Okeechobee County's new courthouse. You won't find one. Or inspect the pitiful remnant of what survives under the name of a "library" in Martin County's Judicial complex.

Law libraries are a good thing to have and deserve support - your support. There are lots of reasons. A depository of legal information readily accessible to the legal profession and general public is essential if we are to maintain our way of life in a free society. Thomas Jefferson said, "I know no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion." In Proverbs 29:18, this appears: "Without vision, the people perish." The first thing a dictator would do upon taking power is to close the public law libraries and then the courts.

Second, law libraries are the poor person's access to equal

justice under the law. The term "poor person" is defined in this instance as anyone unable to afford the cost of a lawyer for his or her legal problems. That includes a big piece of the middle class. Significantly, of the 2600 documented users of our library during the past 12 months, almost half were members of the general public, not lawyers. Typically the percentage of lay users varies from 40% to 50% of the total. For them, a library is especially crucial. When it works, a computer terminal backed up against the wall in a hallway is no substitute. They need a trained librarian to point them to the self-help materials and to guide their research efforts. If anyone tries to tell you that computerized databases are "user-friendly", easy for the lay person to use, understand and apply, be skeptical. They're selling an agenda. Without a library and the trained staff which comes with it, people who are unrepresented possess no practical means of protecting their rights.

Third, law books and electronic data searches are costly, too much so to be affordable to the laity and many solo practitioners. A single volume of Southern 2d. (Florida cases) can cost \$125. Its value is quickly lost if not kept current. Multiply that by up to 15 volumes a year to get an idea of the cost of keeping Florida cases current.

This does not include the cost of material on anything else such as statutes, ordinances, administrative rules or federal

law. An annual subscription to one popular, but very basic, computerized research package runs approximately \$3,000 annually per attorney. A large or medium-sized law firm accepts these expenses as a routine cost of doing business. But they are daunting to anyone else. In a world without law libraries, only government and the big law firms could afford unrestricted access to the law.

Fourth, law libraries are a forum for teaching. After the hurricanes in 2004 and 2005, a series of hurricane-related seminars for the public was hosted by our library. Research courses for the public are sponsored in the library. CLE seminars for attorneys take place there. When the RJS Law Library is relocated, "Smart Board" accessories will facilitate lectures and presentations. The law library is no mere warehouse for hoarding legal facts. It is a center of knowledge and learning. It is not something we can take for granted. Continued support is needed to maintain awareness of this resource and appreciation for its necessity. We need your help. You can give that by becoming an active member in the Friends of the Rupert J. Smith Law Library of St. Lucie County. Contact the library in the downtown Fort Pierce Courthouse at (772) 462-2370. The librarian will be glad to mail, fax or e-mail an application. If this is something you don't care about, you should. *

Justice Teaching Project Needs Volunteers in St. Lucie



Local attorneys are still needed to serve as volunteers to partner with local schools and serve as resource persons in St. Lucie County classrooms under the Justice Teaching program championed by Florida Supreme Court Chief Justice R. Fred Lewis.

If you enjoy working with students and helping teach about the courts, our governmental structure, and the Constitution, the Justice Teaching program would love to hear from you.

The goal of the program is to pair a legal professional with every elementary, middle, and high school in the state of Florida. The program aims to benefit students in the following ways: promote an understanding of Florida's justice system and our laws, develop critical thinking abilities and problem solving skills, and demonstrate the effective interaction of our courts within the constitutional structure.

Attorneys who participate in this program will be contributing to an ongoing exercise in democracy and helping our next generation become better prepared to understand, protect, and improve our institutions of democracy.

The project website (www.justiceteaching.org) provides additional useful information about the program, as well as an online application that enables you to sign up to participate by using your Florida Bar number to register for the program. Volunteers may select from a list of available schools in their area. A time commitment of no more than two hours a month will be needed. Activities and lessons will be provided via a secure web site.

Training for the program is held throughout the year at various locations, and, should there be a sufficient number of interested attorneys in St. Lucie County, a training session can be scheduled locally.

For more information, please e-mail justiceteaching@flcourts.org or call the Florida Supreme Court's Law Related Education and Outreach Coordinator, at **850-414-6106**.



“Our goal is to promote an understanding of Florida’s justice system and our laws, develop critical thinking abilities and problem-solving skills, and demonstrate the effective interaction of our courts within the constitutional structure.”

Summary of Florida Bar Board of Governors' Actions in 2006-07

As reported by Florida Bar Board of Governors' representative, Harold Melville, the following is a list of major actions taken by the Board in 2006-07:

- Established a “bright line” rule on using doctor of laws in lawyer advertising, allowing lawyers to use only the terms actually on their diplomas and not allowing translation of that wording into another language.
- Approved a joint Bar-judiciary committee to study a way to evaluate the performance of Florida's judges and communicate those evaluations to the public.
- Approved a recommendation that government lawyers be exempted from the new Bar rule requiring all Bar members to designate an inventory attorney pending Supreme Court adoption.
- Approved a modification of Ethics Opinion 77-30 which gives more leeway in identifying conflicts with a city or county attorney representing a single commission member in an ethics complaint before the state Ethics Commission. The revised opinion also provides more guidance on when any conflicts may be waived.
- Approved a proposal from the Equal Opportunities Law Section and Board of Legal Specialization and Education to include “bias elimination in the legal system” among the five mandatory CLE credits. Currently, Bar members must take five credits in ethics, professionalism, and/or substance abuse training as part of the 30-hour requirement.
- Endorsed the three-year cycle rules changes proposed by the Civil Procedure Rules Committee, the Probate Rules Committee, and the Small Claims Rules Committee.
- Received a report showing that the recommendations of the Special Commission on Lawyer Regulation have been referred to various board committees for review.
- Adopted a position in support of Amendment 3 requiring broader support for amending the Florida Constitution.
- Approved the creation of a Florida Registered Paralegal Program Committee for Supreme Court adoption.
- Declined to endorse a proposed rule of criminal procedure dealing with closing arguments promulgated to replace a rule the legislature repealed last session. The board voted to withhold its support for proposed criminal rules 3.250 and 3.851 – written by the Criminal Procedure Rules Committee – that would give the prosecution the closing argument in cases where the defense calls only the defendant to testify and no other witnesses. Instead, the board adopted the committee's minority report as its own. The rule will still be presented to the Supreme Court as drafted by the committee – but with the board's objection noted – for final action.
- Endorsed amendments offered by the Criminal Procedure Rules Committee to amend Rules 3.131 and 3.132, which concern pretrial release of defendants charge with violent crimes.
- Authorized the Public Interest Law Section and the Legal Needs of Children Committee to oppose the indiscriminate use of chains and shackles on juvenile defendants during court proceedings. The board also approved allowing the Legal Needs of Children Committee to advocate for legislation to require all children have a meaningful opportunity to consult with an attorney before waiving the right to counsel in a delinquency proceeding.
- Approved a recommendation to join the Supreme Court's Commission on Professionalism in asking the court to withdraw the commission's request for a Bar rule change that would allow judges to impose up to a \$500 fine and order attendance at a professionalism course for lawyers who show unprofessional conduct in court.
- Renewed several legislative positions from the 2004-06 biennium and adopted two new positions – opposing the indiscriminate shackling of juveniles when they appear in criminal cases and supporting a student loan repayment program for state government and legal aid attorneys.
- Heard Justice Peggy Quince, appearing on behalf of Chief Justice Fred Lewis, ask the Bar to continue supporting a pay equity plan for nonjudicial court employees and to support the chief's reconstitution of the Judicial Management Council which assists the court on a variety of upcoming issues including long-range planning.
- Heard Justice Barbara Pariente report that the number of lawyers performing pro bono work for the poor is declining, as are the hours and monetary contributions made by lawyers to legal aid programs. She and board members discussed several ways to reverse that trend.
- Approved a Bar legislative position supporting the Supreme Court's certification for the need of 37 new judges this year.
- Agreed to a request from the Criminal Law Section Executive Council that the Bar direct its legislative lobbyists to support improved funding for legal services for the indigent, and an early release of state funds in the current budget year allocated for those purposes because of a serious shortfall. The services affected include paying for court interpreters, court reporters, conflict public defenders and similar services.
- Approved a proposal from the Communications Committee to provide an easier way for Bar members to get a password to access secure areas of the Bar's Web site.

Major Board of Governors' Actions (Continued from Pg. 4)

- Approved that all future public reprimands be administered in front of the Board of Governors, unless waived by a two-thirds vote of the board.
- Voted to co-sponsor a New York State Bar resolution at the ABA House of Delegates critical of a recent Defense Department official's call for corporations to stop hiring lawyers doing pro bono representation of Guantanamo detainees. The board also directed the delegates it appoints to the House to support that resolution. Board members noted the resolution is consistent with long-standing Bar support of pro bono work by lawyers.
- Heard a report from the Board of Legal Education and Specialization that all but four certification areas have sections on ethics and professionalism in their certification exams. The BLSE adopted a motion requiring that all certification exams to include a segment on ethics and professionalism.
- Approved a proposed advertising rule amendment on attorney and law firm Web sites, pending Supreme Court approval. The rule requires the opening, or homepage, of a Web site comply with all advertising rules except that it be submitted for Bar review. Inside pages could also within guidelines use testimonials, references to past results, and statements characterizing the quality of the lawyer or law firm's work.
- Approved the Bar's 2007-08 budget, which has no change in Bar members' annual fees and projected revenues of \$36.9 million and expenses of \$36.3 million.
- Approved the Communications Committee's proposals for listing Bar members' 10-year disciplinary history on the Bar's Web site.
- Approved changes to Rule 4-8.4(i) on sexual conduct with clients. The amendment, which now goes to the Supreme Court, would create a rebuttable presumption that sexual conduct with a client initiated after the start of representation harms the client or the handling of the client's case.
- Endorsed several procedural amendments recommended by several rules committees relating to the Supreme Court's request for input on the recommendations from the Committee on Privacy and Court Records. The recommendations dealt with protecting Social Security numbers and other information that could be used to steal a party's identity.
- Endorsed a Criminal Procedure Rules Committee recommendation that no changes be made in the rule on speedy trials which the committee had been studying at the request of the Supreme Court.
- Nominated three lawyers for each upcoming vacancy on the state's 26 judicial nominating committees. The final appointments will be made by Gov. Charlie Crist.
- Heard Attorney General Bill McCollum discuss his office's operations and his two top priorities -- protecting children from Internet-enabled sexual exploitation and combating gang violence.
- Received a report from Supreme Court Justice Raoul Cantero, who is chair of the Supreme Court Commission on Professionalism, that the commission and President-elect Frank Angones are appointing a committee to explore having required mentoring for new Bar members.
- Approved the recommendations of the Attorney-Client Task Force, including adopting a five-part legislative position for The Florida Bar, generally opposing any impingement on the attorney-client relationship or work product protections made by government attorneys as part of investigations.
- Discussed reservations about the state's new regional conflict counsel plan, including concerns of whether the program, which begins October 1, is adequately funded and will provide effective representation.
- Approved final details for the merger of the Practice Management and Development Section to the General Practice, Solo and Small Firm Section.
- Reviewed details on how lawyers can add practice information to their bio page on the Bar's Web site, pursuant to a program put in place by the Communications Committee.
- Approved a rule change to clarify that lawyers cannot belong to a private lawyer referral service unless that service follows all Bar rules. Also passed was a new standing board policy to keep judges informed when they make a complaint about a lawyer's conduct to the disciplinary system.

Stewart to Serve on Board of Governors

Attorney John M. Stewart, of Vero Beach, was elected to serve a two-year term on The Florida Bar Board of Governors, Seat 1 in the Nineteenth Judicial Circuit, beginning June 29th. Stewart is a partner with Stewart & Evans, PA and was admitted to practice in the State of Florida in 1997. He replaces outgoing Board member Harold Melville.

The 52-member Board of Governors has exclusive authority to formulate and adopt matters of policy concerning the activities of the Bar, subject to limitations imposed by the Rules Regulating The Florida Bar.

Should you need to contact Stewart, his office number is 772-231-3500.

Rupert J. Smith Law Library Offers CLE Seminars

The Rupert J. Smith Law Library of St. Lucie County is hosting the following CLE seminars. The seminars run from 8:30 a.m. until about 4:00 p.m. and are held in the Jury Room, 105, of the St. Lucie County Courthouse. Sign in is located in the Library, room 102, adjacent to the Jury Room.

Advance registration and additional information for these video replay seminars is available through The Florida Bar www.floridabar.org, 850-561-5831 and the Law Library, 772-462-2370. Registration is also available the day of each seminar in the Law Library.

8/31/07: Florida Law Update

10/19/07: Eminent Domain

11/2/07: Basic Appellate Practice

12/7/07: RPPTL Estate/Trust Planning

12/14/07: Basic Corporate Law

For more information about services at the law library, visit www.rjsslawlibrary.org.

Governor Appoints F. Shields McManus to Circuit Court Bench

Stuart attorney F. Shields McManus became the most recent addition to the Nineteenth Judicial Circuit Court on July 17, 2007, when he was appointed by Governor Charlie Crist to fill the post left vacant by retiring Judge Scott M. Kenney.

McManus obtained his law degree from Florida State University in 1972 and most recently worked as managing partner of the medical malpractice department at the law firm of Gary, Williams, Parenti, Finney, Lewis, McManus, Watson & Sperando, P.L.

McManus has been an active leader in the community, having been past President of the Martin County Bar Association and the Stuart-Martin County Chamber of Commerce.

McManus will start his judicial career in Okeechobee County, where he is scheduled to begin hearing cases in late August. Details regarding his investiture ceremony will follow in an email to bar members when arrangements have been finalized.

Pro Bono Corner From www.floridaprobono.org

Florida Rural Legal Services is in dire need of assistance from attorneys in the area of family law. Even if you have never taken on a family law case, FRLS can provide you with the written materials and forms on cd to assist you. If you do not wish to take on a case, FRLS will also provide you with the flexibility to do valuable consultation work. Any assistance you can offer will be helpful and appreciated, so please contact Pro Bono Coordinator Donna Graf at donna.graf@frls.org.

Attorney Ad Litem Appointments

Do you have an interest in being added to the Attorney Ad Litem list for civil cases in St. Lucie County? If so, please contact Circuit Court Judge Ben L. Bryan's judicial assistant, Anne Nelson, at anelson@stlucieco.gov for more information.

Judge Bryan routinely appoints attorneys from the list to cover a wide variety of cases. So, if you're looking to supplement your existing caseload, contact Anne to find out more about this opportunity.

Submissions for Future Newsletter Articles Welcome

Have a comment about *The Brief* or have an idea for a future article? If so, submit comments or proposed articles for possible inclusion in the newsletter to Bar President, Jason Halliburton at jhalliburton@deanmead.com. All articles of general interest to the membership of the St. Lucie Bar Association will be considered.

Note to Advertisers

Space is available for advertising in future issues of *The Brief*, as well as the St. Lucie County Bar Association's website www.slcbba.org. Advertising rates are affordable, so, if you wish to advertise your services in either *The Brief*, the website, or both, please contact Bar Secretary/Treasurer, Kim Cunzo at kcunzo@gmail.com for rates and information.

Administrative Office of the Courts Performance Survey

Nineteenth Judicial Circuit Trial Court Administrator, Thomas A. Genung, has requested that the St. Lucie County Bar Association distribute to county bar members a Court Performance Survey, the purpose of which is to evaluate the functionality and perception of the local court system.

A copy of the survey was distributed to all bar members with their annual bar dues invoices. Please return the surveys directly to Mr. Genung's office at the address listed on the survey.

All surveys should be submitted by August 17th, if possible.

Family Law Update With Judges Cox and Bronis

Nineteenth Judicial Circuit Court Judges Cynthia Cox and Barbara Bronis will be conducting another popular Family Law Update on August 22, 2007 at the St. Lucie County Courthouse in downtown Fort Pierce.

The Family Law Update will take place from 2:00 to 4:05 p.m. in Courtroom "J", and attorneys Tom Sasser and Jorge Cestero will be participating on the panel. Attendees will be eligible for 2.5 hours of CLE credit, and all attorneys are welcome to attend.

Florida Bar Pro Bono Reporting Requirements

In June, all Florida Bar members with St. Lucie County addresses should have received a reporting form from Florida Rural Legal Services, Inc. that requested information concerning each attorney's involvement in pro bono activities, either through taking cases or submitting a monetary contribution of \$350.00 or more, in accordance with the Florida Bar's aspirational goal.

To date, fewer than 20% of attorneys have returned their forms. If you have not yet returned your form, please make an effort to do so as soon as possible. FRLS uses these forms to determine pro bono participation levels in St. Lucie County, and your attention to this matter is greatly appreciated.



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THE BRIEF

2007-08 Bar Dues Can Now Be Paid Online at www.SLCBA.org



Most of you will be receiving this edition of *The Brief* by mail, along with an invoice for your 2007-08 annual bar dues and a bar association survey.

While mailing the newsletter may be the most effective means of reaching all bar members, it is also a very expensive and time consuming production. Therefore, the SLCBA intends to utilize email as the primary means of distributing future issues of *The Brief* to its members. Accordingly, if you wish to continue to receive the newsletter, please be sure

to include a valid email address when you return your bar association dues form and survey. Members may also update their email addresses and profiles online at www.slcba.org.

One new feature available on the website this year is the option for bar members to pay their annual dues online. The SLCBA now accepts credit and debit cards as payment for dues through Paypal. The process is very easy. Simply go to www.slcba.org and click on the Paypal icon at the bottom of the home page. Follow the

link and supply your payment information through Paypal's secure network.

For those who aren't internet savvy, you may still submit dues by check, along with your updated contact information. The information will be included in the "Find A Lawyer" directory, where the public will be able to search for attorneys by practice area. Don't miss this opportunity to let the public know your areas of expertise. This is free advertising at its best, and you may get several referrals for your efforts!

REMINDER

Attorneys are needed to help with the two foreclosure law clinics on Sept 12th and 29th. The SLCBA needs a 1 to 2 hour time commitment from several attorneys to answer questions from consumers regarding the foreclosure process. See page 1 for more details.

Pro Bono Workshops Train Attorneys in Family/Consumer Law

Over 50 local attorneys participated in two workshops sponsored by the SLCBA in conjunction with the Florida Rural Legal Services, Inc. during the past two months.

In July, the bar association held a Family Law 101 workshop, in which attendees were provided basic information on how to handle dissolution of marriage cases, child support and custody issues, immigra-

tion law related issues and more. Judge Bronis and Magistrate Hooker were on hand to let practitioners know "what not to do!"

In August, the SLCBA conducted its Consumer Law 101 workshop, in which attorneys were educated on special issues dealing with foreclosure law, consumer bankruptcy issues, the fair debt collection practices act, and the decep-

tive and unfair trade practices act. Chief Judge Roby and Judge Bryan were on hand to participate in the discussions. Judge Bryan provided attorneys with some practical tips when handling foreclosure law cases.

If you have a topic in mind for future workshops, please contact President-Elect Mike McSoley at mike@rigpa.com.

Recent Nineteenth Judicial Circuit Administrative Orders

On May 1, 2007, Chief Judge Roby entered Administrative Order No. 2007-06, which provides for a uniform final judgment of mortgage foreclosure within the circuit. All attorneys handling mortgage foreclosure cases should become familiar with and use the form.

A copy of the final judgment form is available on Judge

Bryan's page on the Circuit Court's website - www.circuit19.org.

In addition, on June 25, 2007, Chief Judge Roby issued a memorandum to all attorneys in the Circuit, advising of the entry of Administrative Order No. 2007-08, which concerns the sealing of court records. Among other things, the administrative order directs that

no record shall be considered sealed unless the order directing such sealing contains proper directions to the clerk of court in compliance with Rule 2.420, Florida Rules of Judicial Administration.

Administrative Order No. 2007-08 was entered as a result of the Florida Supreme Court's April 2007 amendment to Rule 2.420.