

The Brief

Newsletter of the Saint Lucie County Bar



Officers for 2005-2006:

Joel C. Zwemer, President
Kevin Griffin, President—Elect
Richard E. Gitlen, Secretary
Brad Gould, Treasurer

Next Meeting

**Friday April 14 at Norris's
Restaurant U.S. 1 and
Kitterman Rd. Joint Mtg
With PSL Bar**

APRIL 14 JMEETING AGENDA

1. By laws adoption
2. Law Week Schedule
3. Judicial Center Resolution

Law Week: Separation of Powers

- Peoples Law School Mon-Wed
- Student Art & Poster Reception
- Law Week Luncheon
Federal Judge William Hoevler

Florida Immigrant Advocacy Center ("FIAC") 10 Years Service

This year, the Florida Immigrant Advocacy Center ("FIAC"), a non-profit legal service organization, is celebrating its 10-year anniversary. FIAC was established in January 1996 in response to new federal restrictions that prevented Legal Services Corporation (LSC) agencies from serving most immigrants, unless they were U.S. citizens or already legal permanent residents. What began with only 10 employees, is now a culturally diverse, multilingual staff of some 45 attorneys, paralegals and administrative personnel, many of whom are immigrants themselves. FIAC's main office is located in Miami, and its outreach office is located at 131-B North 2nd Street in downtown Ft. Pierce. With a mission to protect and promote the basic human rights of immigrants of all nationalities at the local, state and national levels, FIAC has represented tens of thousands of clients from around the world.

In the Ft. Pierce office, which houses one attorney and two paralegals, the annual case load stands between 900 and 1300. Immigrants from nearly 50 countries have come to this office to request assistance and representation in order to gain legal status and protection from deportation. In addition to providing direct services to the most vulnerable and poor immigrants in St. Lucie, Martin, Okeechobee, and Indian River counties, the Ft. Pierce office also provides technical support to numerous government, social service and legal service agencies throughout Florida. Its core caseload now consists of persons who have medical disabilities, unaccompanied minors who have been abandoned, abused and/or neglected, victims of violent crimes, trafficking and/or domestic abuse, and large families seeking to be reunited.

Due to the demand for services and limited resources locally, FIAC Ft. Pierce coordinates its work between various agencies and pro bono attorneys. The services it provides are completely free of charge, and its priorities are determined by the clients' emergent needs, the number of family members affected and their level of poverty.

FIAC's 10-year celebration dinner was held in Miami earlier this month. Honorees at this year's dinner included two law enforcement officers from St. Lucie County, FBI Special Agent Alex Rivas, and St. Lucie County Sheriff's Victim Assistant, Lissette Maldonado, who have coordinated their efforts with our office to fight violence, abuse and the trafficking of immigrant women and children.

We also recognize the work of several local attorneys, who have provided invaluable pro bono representation and assistance - Carla Dudeck, Keith Pickering, Nathaniel Burke, William Hess, Richard Gitlen, Eula Clarke and Anne Ketover-Watkins. If you are interested in learning about pro bono opportunities to help needy immigrant children and families, please contact Angelina Castro at ACastro@FIACfla.org.

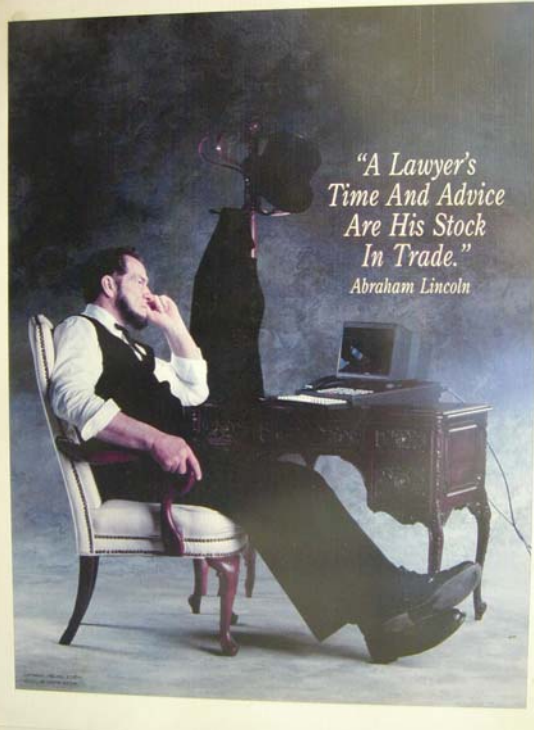
FIAC Ft. Pierce is also an active member of the Victim's Rights Coalition, the Domestic Violence Task Force of the 19th Judicial Circuit, and the Regional Design Team designated by the Florida Bar Foundation to collaboratively address the legal needs of the poor in 13 counties, including those of the 19th Judicial Circuit, as well as the counties of Polk, Hardee, Highlands, De Soto, Charlotte, Lee, Hendry, Glades and Palm Beach.



The FIAC office is Located in downtown Fort Pierce at 131 N. 2d Street

Law Week Volunteers Needed For Peoples Law School Seminars

Here is an opportunity for you to sharpen your communication skills and provide a service to the local community. You have the knowledge, you have the expertise, and we need your to participate in this law week event. Judge Burton Conner has graciously volunteered to speak one evening on the subject of Jury Duty. We need your help and presence too. Your point of contact is Jason C. Halliburton, of Dean, Mead, Minton & Zwemer. You can reach Jason at 464-7700 Ext. 6705 or jhalliburton@deanmead.com



SLCBA YOUNG LAWYERS SATURDAY COMMUNITY PROJECT

If you have been in practice for 5 years or less here is an opportunity to perform a good deed for the community. On Saturday April 8 your physical help is needed for two hours to help an elderly woman with yard work, and some painting. Seasoned attorneys are invited too. Contact Kevin Griffin for more information 489-7776.

Judicial Liaison Committee Needs You

Are you interested in the growth and development of the court system in Saint Lucie County?

Do you support physical separating the criminal courts from the law courts in Fort Pierce?

Do support all county judges hearing civil cases?

Should venue for county landlord tenant cases be in Fort Pierce

LAW WEEK 2006

The Three Branches of Government

A Balance of Powers

Events

- Peoples Law School
- Student Art & Poster Contest and Reception
- Law Week Luncheon at the Pelican Yacht Club

Guest, Federal District Judge, the Honorable William Hoevler

Appellate Attorney Barbara Green's February's Case Law Update

EVIDENCE – Hearsay – State of Mind Exception *Penalver v. State*, Case No. SC00-1602

Evidence that the defendant's roommate stated he was planning to travel to North Carolina for the weekend was not admissible to prove that the roommate actually went there, where there was no other evidence that he did so. Section 90.803(3) allows admission of a declarant's then-existing state of mind, including a statement of intent, where the statement is offered to prove or explain the declarant's subsequent conduct. However, the Supreme Court held that the statement was not admissible because such statements are admissible only if they "involve the state of mind of the declarant and there is evidence demonstrating that the declarant acted in accord with the state of mind or intent."

NEGLIGENCE-DUTY *Horton v. Freeman*, No. 4D04-2908 (Fla. 4th DCA Jan. 18, 2006)

The plaintiff alleged that the defendants undertook to take care of and supervise the plaintiff's son while the plaintiff tended to a family emergency, negligently allowed the use of illegal drugs, and failed to care for him when they discovered him on the floor suffering from a drug overdose, resulting in his death. Reversing dismissal of the complaint, the court held that one who undertakes to do something for the benefit of another, even gratuitously, must exercise reasonable care.

VOIR DIRE – Time Limits *Carver v. Niedermayer*, No. 4D04-2381 (Fla. 4th DCA Jan. 25, 2006)

The trial court abused its discretion in limiting voir dire to 30 minutes per side, even though the court itself questioned the jurors first, and even though the court then allowed an additional 15 minutes per side, where the total time allowed counsel only 2-3 minutes with each juror and counsel pointed out specific areas of questioning he needed to pursue, and was not repetitive in his questioning of the jurors. The fact that the court first questioned the jurors did not, by itself, make the allotted time adequate. The trial court also abused its discretion in waiting until the beginning of questioning to announce the time limit.

WORKERS COMP IMMUNITY *U.S. Holdings v. Belance*, No. 3D04-872 (Fla. 3d DCA Jan. 11, 2006)

Defendant wore three hats. It was the owner of the premises where the plaintiff was injured; a safety consultant for the plaintiff's employer, and the self-insured workers' comp carrier. The court held the defendant was immune for its actions as the safety consultant and as the comp carrier, but that the defendant was not immune for its actions in its role as premises owner. See 440.11(3), Florida Statutes.

NOTICE FOR TRIAL *Genuine Parts Co. v. Parsons*, 4D05-4638 (Fla. 4th DCA Jan. 11, 2006)

Due to the plaintiff's terminal illness, the trial court granted the plaintiff's motion to expedite the trial of this asbestos case involving 54 defendants. However, the plaintiff had never filed a notice for trial under Rule 1.440. The appellate court granted a writ of mandamus and reversed. The appellate court refused to treat the plaintiff's motion to expedite as a notice for trial. Compliance with Rule 1.440 is mandatory. The trial court also failed to comply with the Amended Omnibus Order on Trial Setting, Discovery and Product Identification in Personal Injury Asbestos Litigation, so that order could not provide an excuse for failure to comply with the rule.

INTEREST RATE The new interest rate on judgments pursuant to §55.03, Florida Statutes, is 9 percent.

<http://www.fldfs.com/aadir/interest.htm>

INVENTORY ATTORNEY: Rule 1-3.8 of the Rules Regulating the Florida Bar now requires each attorney to designate an Inventory Attorney to inventory his or her files and take actions to prevent prejudice to clients, in the event of the attorney's death, incapacity or other inability to practice. The designation does not require the person to serve, but allows the court to contact the person and find out if they wish to serve. More information and form for designating an inventory attorney can be found at <http://www.floridabar.org/tfb/TFBOrgan.nsf/043adb7797c8b9928525700a006b647f/99a4545140922815852570ea0049323b?OpenDocument>

St. Lucie County Bar Association online SLCBA.org

TAKE NOTICE the next SLCBA meeting is on **APRIL 14** at Norris's on U.S. 1 in Port St. Lucie. This is a Joint meeting with the Port Saint Lucie Bar Association. There is no meeting in March!

Your Legal Articles Wanted

SLCBA members submit your article via email for publication. Take a break write something of your own and be pleasantly surprised. Newsletter editor Kevin Griffin.



Our website www.slcb.org

SLCBA members your site is up and running stop by and check it out. Your written suggestions as to content and format of the web site are welcome. Log on and make your suggestions right on the web page contact section. You will get a response.

NOTICE

FAMILY LAW UPDATE

TO: ALL FAMILY ATTORNEYS

FROM: JUDGES CYNTHIA COX & BARBARA BRONIS

WHEN: Wednesday, April 26, 2006**

3:00 p.m - 4:40 p.m.

COURTROOM "J" of the

St. Lucie County Courthouse, Fort Pierce

**PLEASE MARK YOUR CALENDARS AND
PLAN TO ATTEND**

**THIS IMPORTANT AND INFORMATIVE
EVENT.**

****2.0 hours CLE credit applied for**

