



COMMUNITY LAW PROGRAM

Celebrating 21 Years!



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The mission of the St. Petersburg Bar Association is to serve the legal community, to strengthen the noble calling of the practice of law, and to foster excellence in the profession.

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The views expressed in the Paraclete are those of the authors and not necessarily those of the editors, executive committee or officers of the St. Petersburg Bar Association. No endorsement of those views should be inferred unless specifically identified as the official policy of the St. Petersburg Bar Association.

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President's Message



By John W. Biesinger, III

I Am Impressed!

Over the past few months, I have invited our membership to tell me a story about attorneys and law firms who donate their free time and efforts to volunteerism within our greater St. Petersburg community. I have asked your Section and Committee Chairs to poll their groups to identify opportunities for non-legal public service and projects. We have even created a new section in our Paraclete devoted to highlighting volunteer accomplishments by our Community Champion membership as well as identifying some upcoming opportunities for service. And let me tell you, I AM IMPRESSED....

I have been approached by lawyers and Judges, even at parties, to share a story about the good deeds of a fellow lawyer or firm. Stories about someone spending hours every week as a youth baseball coach or as a role model for some youngsters in trouble. Tales about lawyers hammering nails and pouring concrete to build or repair a home for some family in need. My wife Nancy and I attended the "Holidays in July" event and watched a hundred or so kids and foster families knock down bowling pins, and a LOT of hot dogs, before lining up to choose a special gift from an entire roomful of presents. All available through the efforts of a bunch of Young Lawyers with hearts as big as one of those bowling balls. There were miles of smiles that day from many kids who had

little reason to show any happiness before walking in that door. Next year, those of us "older and more experienced" attorneys need to learn a thing or two from those newly minted attorneys and Stetson Law students and help them out...with money, presents and time. I'll be there and I'm ashamed to say I haven't been there in past years. In any event, you'll be seeing a lot more about some professional friends who do some pretty remarkable things in their spare time.

And how about Frank McDermott's Law Dogs Pet Walk in October for the SPCA? Many of you have taken a walk with Frank or donated to the cause. It's hard to miss a bunch of lawyers on a 3K stroll through downtown St. Petersburg, accompanied by a whole bunch of real dogs. Sign up for next year and he may even have a spare "Law Dogs" tee shirt in your size!

Many of you also know the Bar and particularly our Bar Foundation have been exploring the purchase of our own office building as the time is certainly right to consider such a move since our current lease expires and property values are attractive on the buying side. By the time this is published, we may well be in the middle of a capital campaign to help this dream come true. Of course, we'll be asking you to give generously for this opportunity, but I'll also be out there to ask for help brushing some paint, tidying up the landscaping, moving some furniture

and equipment, and a few other things we have the talent to accomplish and save our Bar Association some much needed cash. I can't wait to see some long time friends with paint on their nose and dirt under their fingernails!

Also don't forget our annual St. Petersburg Bar Foundation "Heroes Among Us" event the end of this January. Be a sponsor and help get others to sponsor an event that was created to honor some very special lawyers and Judges who have made our community better by their service. Join us so we can see some new faces attending the social highlight of our year and be inspired by what others have done before us.

As we publish and celebrate the accomplishments of our professional sisters and brothers, please personally thank them for their volunteer service and commitment in our community. Let them know those deeds are especially appreciated by their fellow lawyers....and ask how you can help them in their cause. We have the capacity to generate many smiles in our community and I guarantee you will feel better about both yourself and your honorable profession. And if you've got a good idea, or story to tell, let me know. We're exploring a few really significant service opportunities in the coming months. Let's take it up a notch or two.

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From The Editor: Planting in the Fall



By Jowita L. Wysocka

Don't judge each day by the harvest you reap but by the seeds that you plant.

— Robert Louis Stevenson

While I'm not much of a gardener, my significant other, Eric, has developed an impressive green thumb since we moved south five years ago. He was delighted to discover that the subtropical climate offers not one but two growing seasons per year: one in the spring, and the other in the fall.

As the stifling, humid heat of summer recedes and the cooler, drier winds of fall set in, just as this is the perfect time to garden, it's also a chance to cultivate new and existing professional relationships with fellow colleagues at the St. Petersburg Bar Association.

In this issue—and in your inbox—you will find flyers and invitations for myriad exciting events presented by the St. Petersburg Bar this fall. These include monthly membership bar luncheons at the Lyceum, section meetings, mixers, and CLE programs such as the Bench & Bar-B-Que at Stetson on October 29, 2010.

One of the highlights of the season is Oktoberfest, scheduled for November 6,

2010, from 6:00 to 10:00 p.m. at the USF St. Petersburg campus. If you've never attended this outdoor event, I highly recommend it. There is live music along with an array of drinks and outstanding food (not limited to German fare) supplied by law firms and other sponsors. Organized by the St. Pete Bar Young Lawyers Division, Oktoberfest provides an enjoyable, informal way to connect with colleagues and judges, exchange stories from the front lines, and foster mutual referrals.

If you prefer a swankier setting while supporting a worthy cause, celebrate Community Law Program's 21st Anniversary on October 21, 2010, with dinner and an awards ceremony at the St. Petersburg Yacht Club. Following a reception at 6:00 p.m., dinner will be served at 7:00 p.m. The event will feature Jesse Diner and Adele Stone, immediate past presidents of The Florida Bar and The Florida Bar Foundation, respectively, as keynote speakers, along with the Honorable William Van Nortwick. CLP

has come a long way since its humble beginnings in 1989 as a small group of St. Petersburg Bar members who sought to giving a legal voice to the most vulnerable residents in South Pinellas County through advice clinics and pro bono representation.

With so many activities planned this season, you're bound to discover new and inspiring ways to be a part of the St. Petersburg Bar community and to reap its multifarious benefits. Happy planting!

Jowita Wysocka is the managing member of Artful Attorney, LLC. Her practice concentrates primarily on arts law, including contract disputes, copyright infringement, nonprofit formation, and general litigation, along with foreclosure defense litigation and freelance legal services. Jowita is also the founder of Florida Lawyers for the Arts, Inc. and serves on the board of Community Law Program. She may be reached at j@artfulattorney.com or 727.823.5809.

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Together we'll go far



Fueling the Safety Divide: The Debate Over Combustible Fluids Heats Up



By Henry "Hank" Didier

Automotive manufacturers concede that a vehicle occupant should not survive a car accident only to burn to death in a fire caused by the undesired release of fuel. Auto safety designers charged with addressing this fundamental fire safety concern have approached the risk of post-crash fuel-fed fires by focusing on the prevention of the release of the fuel itself, the elimination of inadvertent ignition sources, and the protection of the passenger compartment itself from fire.

When it comes to gasoline, the most effective approach to preventing post-accident fires has been the use of fuel system designs that focus on the containment and management of the gas inside of the tank and fuel lines to prevent undesired release. The failure to use proper designs and available fuel management safety devices can render such systems unreasonably dangerous and defective. While gasoline release cases have long been the focus of litigation, some post-crash fuel-fed fire incidents may not involve gasoline at all, but, rather, may be the result of the release of other "fuels" that are prevalent in all cars, namely the "combustible fluids" such as brake and transmission fluid, that can also leak and be ignited in an accident.

Rollovers, Side Impacts, Filler Necks and other Fire System Defects

According to the U.S. Fire Administration, 57% of fatal vehicle fires are the result of a collision. Rollover fires are more frequent than fires in rear collisions and about half as frequent as fires in frontal collisions. Moreover, most rollover fires occur when the vehicle remains on its side or roof. Consequently, vehicle orientation needs to be considered in a fire suppression system.¹ Also, because of the known frequency of rear impacts, tank locations close to the rear bumper or tanks at crumple points are intrinsically dangerous. Similarly, the fuel tank should not extend to the

side of the vehicle. Rather, it should be cradled between the rear wheels to protect it from side impacts. Moreover, the areas immediately surrounding the fuel tank should be strengthened to provide protection from penetrating objects in a crash, and the placement of bolts, brackets, springs, mounting straps, and flanges located or placed near the fuel tank should be evaluated because of their potential to compromise the tank and cause a post-crash fire. Lastly, the potential for component attachment failures must be addressed. Many times, fires occur because fuel has leaked from areas where components have become separated or detached. Most often this refers to the filler neck, or the tube that feeds fuel into the tank. The vulnerability of the filler neck arises from its placement, the ease of which it can detach, and the weak materials often used to create this fuel system component part. However, by using safety devices like check valves automotive designers can prevent gas leaks or siphoning during a collision.

As the brief discussion above illustrates, there are many safety issues that must be tackled when automotive designers confront the safety concerns raised by the release of gasoline in the post-crash environment. However, while efforts are undertaken by most manufacturers to ensure the safe storage and management of gasoline, the same considerations are not being made with respect to the other "fuels" on board.

Don't Forget about Combustible Fluids

In many instances, legitimate cases are being overlooked because they involve post-collision fires where no damage or compromise of the gas tank or gas lines is found. Usually, in such cases, non-gasoline fires are simply not pursued by attorneys or their experts as they do not fall within the well known theories surrounding "gasoline" fires. However, the very

analysis and effort that goes into gasoline fire prevention can be equally employed to prevent post-crash fires caused by the lack of containment and management of the combustible fluids. While not flammable, combustible liquids found in the engine compartment such as brake fluid, transmission oil, engine oil and radiator fluid, can and will ignite if exposed directly to a significant heat source.

In front-end accidents, engine manifolds can shift exposing extremely hot cylinder heads to the combustible fluids which are often stored in the engine compartment. When these storage reservoirs for the combustible liquids are compromised or broken in a crash, they can release their contents onto the exposed hot surfaces caused by the shifting of the manifold and cause a fire. That being true, in frontal crashes involving fires, all of the "fuel" systems must be considered to determine if reasonable steps were taken to prevent the injury or death that may have resulted.

Vehicle manufacturers are not yet doing enough to reduce the risk of post-collision fuel-fed fires when it comes to such combustible fluids, despite awareness of the risks posed by same. Although automotive technology has improved dramatically over the past 20 years, fuel system integrity with respect to combustibles has not kept pace with other advancements, and we as counsel must remain aware of the state-of-the-art when reviewing these matters.

Henry "Hank" Didier, founder of the Didier Law Firm, P.A., specializes in litigating cases involving automotive defect and crashworthiness claims, consumer and industrial products, heavy equipment, medical device and pharmaceutical drug defects. He can be reached at Didier@productsafetyattorneys.com.

¹ National Institute of Standards and Technology, Vehicle Fire Suppression Research Needs, Anthony Hamin, March 2007)

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Charles W. Ross, Esq. is a Florida Supreme Court certified mediator for circuit civil and federal mediations. Civil trial lawyer since 1979. Graduate of Harvard Law School Mediation Program (1999), and Harvard Law School Advanced Mediation Program for Lawyers (2001).

Mr. Ross has been recognized by his peers as one of Florida's leading mediators, with a Martindale-Hubbell rating of AV. He was selected by the Florida Trial Attorneys for membership in Florida's Legal Elite and Best Lawyers in America 2010. Member of The National Academy of Distinguished Neutrals.

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Non-Enforceable Civil Process: What Every Attorney in Pinellas County Needs to Know!

By Beau Charlet and Bruce Denson

We have all heard the old adage, "Don't shoot the messenger!" Most do not feel the impact of this sentiment more than the humble civil process server does. Most people hold a misconception that being served with civil process is a bad thing and most regret being served. However, without an opportunity to be served, one's right to due process is compromised. According to the United States Constitution, Amendment XIV:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The right to be heard is meaningless without notice. Service of process informs an individual that a legal matter has arisen in which they have an interest. By serving them with the documents, you are placing

them on notice of the action and their right to due process.

Service of process, the delivery of legal documents, is required before legal action may proceed in court. There are two types of service of process, enforceable and nonenforceable. Enforceable service of process involves a court order requiring the sheriff to take action such as eviction or seizure of property. Nonenforceable service of process is notice to a party that they must take action such as appear in court. Florida Statute 48.021, requires service of process be performed by the sheriff, except that nonenforceable service of process may be served by a special process server (appointed by the sheriff) or by a certified process server (appointed by the chief judge).

In Pinellas County, the duty of service of non-enforceable civil process has long been a function of the Pinellas County Sheriff's Office. Last year the Pinellas County Sheriff served over 100,000 non-enforceable documents. In a recent letter from Sheriff Coats, he issued the following statement:



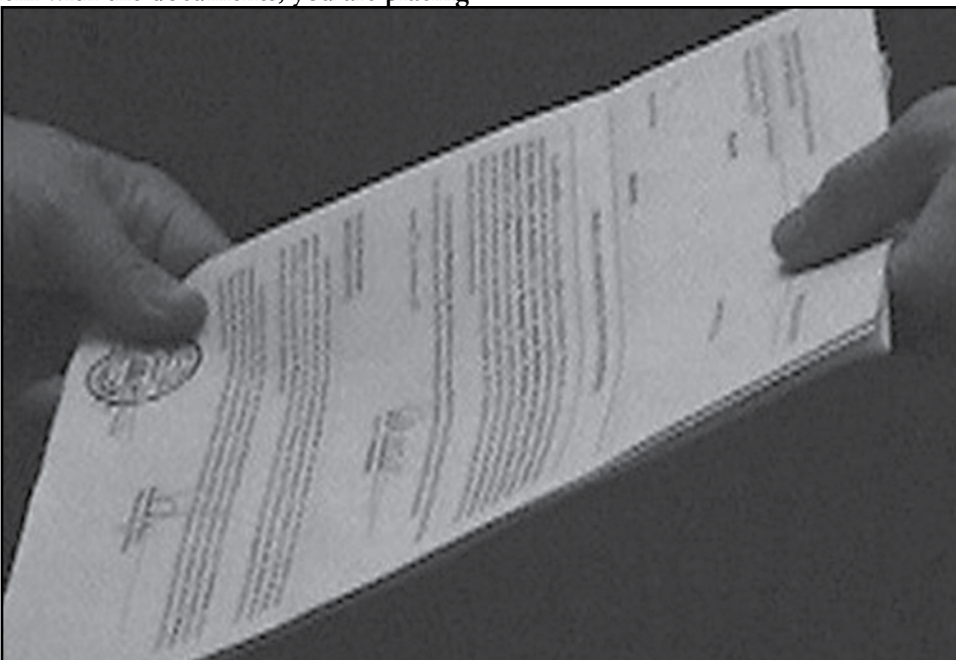
"Unfortunately, due to required budget reductions and recent reorganization within the Pinellas County Sheriff's Office, the Court Processing Unit has experienced an elimination of both clerical staff and deputies serving process. As a result of these personnel reductions, effective Tuesday, July 6, 2010, the Pinellas County Sheriff's Office will no longer serve non-enforceable civil process originated by private citizens or attorneys."

Unfortunately, as a result of this decision the Sheriff's Office eliminated the positions of 17 deputies and five clerks. However, this reorganization will save the County over two million dollars. Florida Statute 30.231, mandates that in civil cases sheriffs of all counties of the state shall charge fixed, nonrefundable fees for service of process. The schedule provided by Statute (set in 1994) does not cover the Sheriff's current costs of providing this service. However, private service companies have stepped into the void charging \$30-\$60 for nonenforceable service of process.

The last day the Pinellas County Sheriff's Office accepted non-enforceable civil process for service was July 2, 2010. Sheriff Coats has not left us without the help. The Sheriff has uploaded a PDF document to the PCSO website that lists all persons appointed by the Sheriff to serve non-enforceable civil process. Now, attorneys or private citizens have the ease of logging on to www.pcsoweb.com and selecting a server of their choice for non-enforceable civil process.

Beau Charlet, Owner and Founder of Accurate Serve, serves non-enforceable civil process in Pinellas County and its immediate surrounding areas. Mr. Charlet can be contacted at (863) 873-6691 for your service of process needs.

Bruce Denson is a criminal defense attorney in St. Petersburg who loves the due process of law.



Clerk's Corner

Pinellas County Clerk Begins Online Foreclosure and Tax Deed Sales



By Ken Burke, CPA, Clerk of the Circuit Court, Pinellas County, Florida

With more than 15,000 foreclosures filed in Pinellas County last year, and an average of 1,000 more filed each month this year to-date, Pinellas County Clerk of the Circuit Court, Ken Burke, recognized the need to find a more efficient method for holding mortgage foreclosure and tax deed auctions.

Recent changes to Florida Statutes have enabled Clerks of the Court to hold electronic sales. The Pinellas County Clerk's office has contracted with Realauction of Fort Lauderdale, Florida, to conduct the sales via two separate websites, <http://www.pinellas.realforeclose.com> for foreclosure sales and <http://www.pinellas.realtaxdeed.com> for tax deed sales, according to Burke.

"Realauction has designed the sites and the sales to ensure fairness to all bidders while increasing the number of potential buyers for each property or tax deed which benefits bidders and property owners alike," said Burke. "The Clerk's Office will save time with the new online process by uploading documents once so all bidders will have simultaneous access to complete information for each case."

Realauction will be supplying the

software, hosting the websites and providing customer service. The interactive websites will enable potential bidders to make deposits, place bids, monitor auctions and pay for winning bids from the convenience of their home, office or public terminals in the Clerk's office locations. Proxy bidding is enabled when bidders register in advance. Registration is free.

"The software will provide ease-of-use, enabling people to register for free, review property information and enter bids at any time until the auction closes," said Burke. "Once the auction closes, winning bidders can make payments by electronic wire transfer or certified funds directly to the Clerk's office through the Realauction websites."

The system also protects bidders from "sniping" or last-second bids intended to beat the clock in order to win the bid, according to Burke. Any late bids add time to the auction giving all bidders more time.

Pinellas County's online daily (Monday through Friday) foreclosure sales are set to begin on October 4, 2010, and the monthly tax deed sales are set to begin on October 20, 2010. Realauction will conduct training

and orientation sessions for bidders prior to the sale during September, with complete instructions on how to participate in online sales. Realauction also provides a toll free number to their customer service team to answer questions during a sale.

About Realauction

Realauction, www.Realauction.com, is a leading provider of technology solutions for government agencies. Realauction helps governments reduce costs by providing consultation, design and implementation for online auctions of tax lien sales, tax deed applications and foreclosure sales. With over 50 years of combined experience in the delinquent tax and real estate data transfer industry, Realauction is committed to providing the software and customer service to help governments succeed.

About the Clerk's Office

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William C. Kaleel, Jr.: Litigator Extraordinaire

By Charles M. Samaha

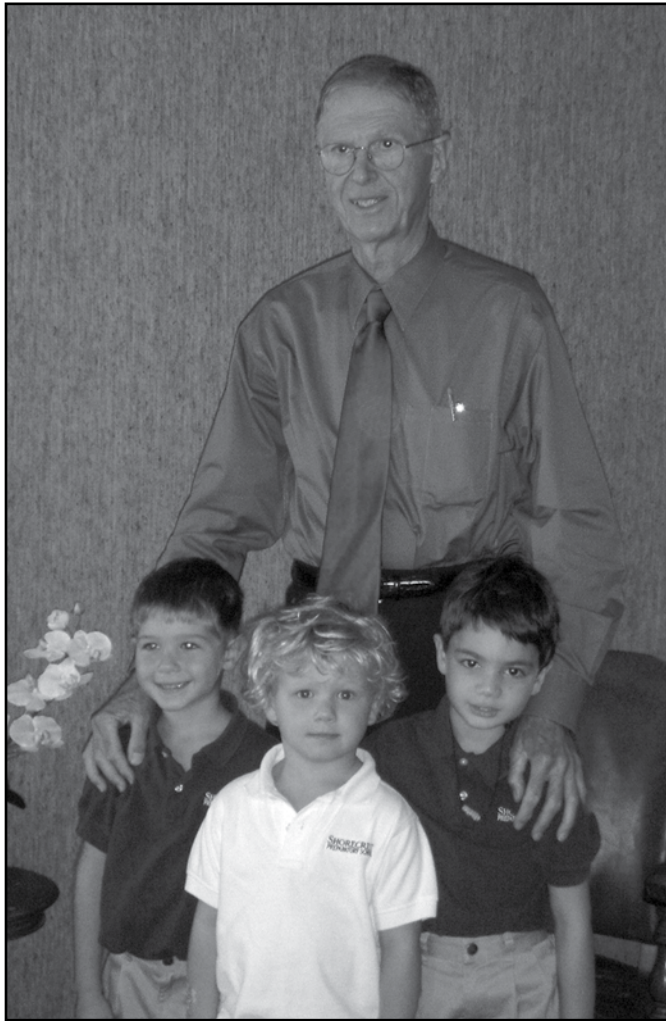
In June 2010, William “Bill” C. Kaleel, Jr. celebrated his 50th anniversary of practicing law.

Bill’s father, William Kaleel, Sr., was born in Torrington, Connecticut to the parents of Lebanese immigrants. William was an athlete and Golden Gloves boxer. Stetson University at DeLand recruited William due to his athleticism. While at Stetson, William met his wife, Louise Hoxie, who was of German heritage. Louise and William moved to St. Petersburg and he started practicing law in June 1931 at the southwest corner of 2nd Street and 2nd Avenue North (Palais Royal Building). William was one of the first attorneys of Lebanese origin to practice in Pinellas County. Also, he led the Democratic Party for Pinellas County and was one of the founders of the Al-Kareem Club, a Syrian/Lebanese Club in St. Petersburg.

In 1934, Bill was born to William and Louise at St. Anthony’s hospital. Bill attended North Ward Elementary and Mirror Lake Junior High in St. Petersburg. In 1952, he earned his high school diploma from St. Petersburg High along with 600 other students in his class. He followed in his parents’ footsteps and attended Stetson at DeLand, where he also met his wife, Lois. Bill was a talented athlete just like his father and played on the university’s golf team. He graduated with a bachelor’s degree in 1956.

Bill’s parents groomed him to become a lawyer throughout his childhood. Thus, after college, he started at Stetson Law School at Gulfport. Stetson had recently relocated to Gulfport and still lacked air conditioning and classrooms. He completed his first semester and then through the ROTC

he spent about five months at Ft. Knox where he trained as a combat tank platoon leader and then stationed at Ft. Jackson in the special services. (In 1955, he had completed basic training at Ft. Benning, Georgia.) He returned to Stetson, where he graduated in August 1959. He passed the bar examination in June 1960 and joined his father’s firm, (William) Kaleel & (Luke) Kaleel, P.A.



Bill with Grandsons (l to r) John Curtis, Luke, & Will

In the early days of practicing law, there were mainly two groups of lawyers. There were the attorneys who operated a general practice and handled a wide variety of cases and those who specialized in litigation.

Bill was in the latter group as his father was a litigator. They sometimes handled two to three jury trials a week, since they finished one trial each day as only a few people testified at the trial: the two parties, a police officer, and one doctor for each party. Everyone, including the jurors, all dressed to the nines. The doctors were usually paid \$75 for their trial attendance fee. Later, the trial attorneys were outraged when the doctors raised their fee to \$100 for the day! During a trial’s lunch break, Bill usually walked to the Open Air Post Office, retrieved the mail, completed his dictation at the office, and then returned to the courthouse to finish the trial.

Bill filed the cases at the old courthouse at 2nd Avenue and 5th Street and paid about \$15 for the filing fee. Also, attorneys selected the judge to whom the case was assigned. This was advantageous because most attorneys knew which judge was familiar with which types of cases and the judge would not need to be briefed on a particular subject.

The trial attorneys met annually in a courtroom at the old courthouse in Clearwater to set the trial calendar for the upcoming year. Most trials were on hiatus during the summer months of June through August. The attorneys and judges typically spent a full afternoon hammering out the schedule.

There were no Florida Bar guidelines on fees, but they were generally a third of any recovered verdict. Most agreements with clients were made with a handshake and everyone adhered to their commitment.

In St. Petersburg, Bill usually handled cases for plaintiffs and defendants. Outside of St. Petersburg, he typically performed

defense work. When handling plaintiffs' cases, Bill rarely sent a demand letter and instead immediately filed the lawsuit. He preferred to try the case and let the jury ascertain the amount due.

Also, he handled divorces before a master, which were always transcribed for the judges. After, when he read the transcriptions, he always felt they sounded better than what was actually said in court as the official reporter always knew the proper elements that needed to be stated in each transcript.

Bill was fortunate to have tried cases against many of the leading attorneys in the area, including Michael Kinney, Barney Masterson, George Meros, Joseph Bradham, Baya Harrison, William Tanney, William Castagna, Robert Beach, Guy Perenich, Frank Muscarella, Sam Mann, Jr., Edward Rood, and Henry Trawick. He learned tremendously from each of those lawyers, especially when he lost a particular case. All the attorneys remained good friends, even though they were often on opposing sides of a case.

Even though Bill worked very long hours, including evenings and weekends, he found time for sports and bar activities. He enjoyed jogging, which eliminated the daily headaches from which he suffered. He also played badminton at the YMCA with many of his fellow attorneys, such as Richard Eagle. He has been a long-time member of the St. Petersburg Bar Association (and recalls all the fun meetings at the Detroit Hotel when a firm sponsored the cocktail hour) and was a member of the Pinellas County Trial Lawyers Association (PCTA). The PCTA met at Mook's Tavern and experts in their field lectured on the latest developments.

Bill's career would have been impossible without the support and fealty of his wife, who raised their four children: Laura Louise, William III, Robert, and Andrew. Most of Bill's family members work with him at the firm. He also enjoys spending time with his six grandsons.

Hats off to you Bill Kaleel for your commitment to your profession and the community!

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October 2010

Bar and Court News

ST. PETERSBURG ASSOCIATION OF LEGAL SUPPORT SPECIALISTS

The St. Petersburg Association of Legal Support Specialists monthly meetings are held the first Tuesday of each month. The next meeting is:

Date/Time: Tuesday, November 2, 2010 – 5:45 p.m.
Topic: Annual ABC Auction (Art, Baked Goods and Crafts auction to benefit the SPALSS Scholarship for the St. Pete College Legal Assistant Program.)
Location: Orange Blossom Catering, 220 4th Street North, St. Petersburg

Date/Time: Tuesday, December 7, 2010 – 5:45 p.m.
Topic: To Be Announced
Location: Orange Blossom Catering, 220 4th Street North, St. Petersburg

Reservations are required. All legal support staff and attorneys are welcome too. Contact Susan Batchelder for more information at 727-502-8219

PINELLAS COUNTY PARALEGALS

The Pinellas County Chapter of the Paralegal Association of Florida, Inc. meets on the second Tuesday of each month. The next meetings are:

Date/Time: Tuesday, November 9, 2010 – 6:15 p.m.
Topic: Attorney Susan Hartman and PAF member, Jodi Johnston
Speaker: To Be Announced
Location: Antonio's Pasta Grille
2755 Ulmerton Rd., Clearwater

Date/Time: Tuesday, December 14, 2010 – 6:15 p.m.
Program: Holiday Event – Wine and Hors d'oeuvres to benefit CASA
Further details to be announced.
Location: Antonio's Pasta Grille
2755 Ulmerton Rd., Clearwater

Paralegals, student paralegals, non-members and attorneys are always welcome. For further information or to make reservations, please contact Cynthia Stephens at cynthiastephens7@aol.com no later than 5 days in advance of the meeting. For information on the local chapter contact Chrystal Lunsford at cll@thompsonsgoodis.com or visit the Paralegal Association of Florida website at www.pafinc.org.

ASSOCIATION OF LEGAL ADMINISTRATORS – SUNCOAST CHAPTER

The Association of Legal Administrators - Suncoast Chapter meets the second Wednesday of the month unless otherwise noted. The next meetings are:

Date/Time: Wednesday, November 10, 2010 – 11:45 a.m.
Program: Presentation by Tribridge
Location: Centre Club, 123 S. Westshore Blvd., Tampa

Date/Time: Wednesday, October 13, 2010 – 11:45 a.m.
Program: Holiday Event
Location: To Be Announced

For more information please contact Eric Hinote at eric@bcylaw.com or visit the ALA website at <http://www.alasuncoast.org/> for more information.

Sign up now!

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Sponsorships remain. Contact Oktoberfest Chair, Shawna Mucario (727-710-1412) or email: smucario@mucariolaw.com. Visit Oktoberfest on the website calendar at www.stpetebar.com to sign up or to download a registration form.

*This event is intended for adults 21 and older.

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Unsecured Creditors Obtain a Victory with the Eleventh Circuit's "Tennyson" Decision

By Camille J. Iurillo and Sabrina C. Beavens

Generally speaking, a Chapter 13 bankruptcy is reorganization for individuals or small proprietary business owners (not corporations or partnerships) who meet certain income and debt criteria. It allows a reduction of unsecured debt through a payment plan while retaining certain assets which may otherwise be liquidated by a Chapter 7 trustee. In addition, Chapter 13 is an attractive choice for debtors who have fallen into arrears on their mortgages, real estate taxes or car loans as it allows debtors to force a repayment plan on creditors to repay those arrearages over time. Income tax debt may also be repaid similarly. Debtors propose a repayment plan which typically allows for payment of on-going secured debt obligations such as a mortgage or car loan, payments to bring arrearages current and payments to unsecured creditors of an amount equal to the debtor's "disposable income".

One of the most common questions we are asked by our clients is "How long must I stay in Chapter 13?" For most people, the answer is straightforward – the "applicable commitment period" is 3 to 5 years depending on the debtor's income.

However, what happens when a debtor does not have "disposable income" to pay unsecured creditors but falls into the 5 year commitment period? Can a plan with a shorter commitment period be confirmed because the debtor does not have disposable income to pay unsecured creditors? This issue was recently resolved by the 11th Circuit Court of Appeals in *In re Tennyson*, No. 09-14628, 2010 WL 2793941 (11th Cir. July 16, 2010).

Mr. Tennyson was an "above median" debtor under 11 U.S.C. § 1325(b)(4)(A)(ii)(I) meaning his income was greater than the median income for his state. He was required to calculate his "disposable income" pursuant to 11 U.S.C. § 1326(b)(3)(A) using a predetermined set of expenses found in 11 U.S.C. § 707(b)(2)(A) and (B). Mr. Tennyson's "disposable income" was negative \$349.30 and he proposed a repayment plan of 3 years which did not repay his unsecured creditors in full. *Id.* at *1. The Chapter 13 trustee objected, arguing that "above median" debtors like Mr. Tennyson had to propose a 5 year repayment plan, unless unsecured creditors were paid in full.



The term "applicable commitment period" was added with the 2005 amendments to the Bankruptcy Code, specifically § 1325. It is defined in § 1325(b)(4) in pertinent part as follows:

(4) For purposes of this subsection, the "applicable commitment period" –

(A) subject to subparagraph (B), shall be –

(i) 3 years; or

(ii) not less than 5 years, if the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than –

(I) the case of a debtor in a house of 1 person, the median family income of the applicable State for 1 earner;

(B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), but only if the plan provides for payment in full of all allowed unsecured claims over a shorter period.

As to Mr. Tennyson, the Chapter 13 trustee argued that because he was an above median debtor, the "applicable commitment period" was 5 years, without regard to whether he had disposable income, unless

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he paid his unsecured creditors in full. Id. at *2.

In contrast, the bankruptcy court expanded the analysis of the issue and considered the use of the term “applicable commitment period” under § 1325(b)(1) which provides that

(b)(1) If the trustee or the holder of an allowed unsecured claim objects to the confirmation of the plan, then the court may not approve the plan unless...

(A) the value of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or

(B) the plan provides that all of the debtor’s projected disposable income to be received in the applicable commitment period beginning on the date that the first payment is due under the plan will be applied to make payments to unsecured creditors under the plan.

Analyzing this provision, the bankruptcy court adopted the “monetary view” and held that the statute only requires a debtor to use the applicable commitment period as a multiplier for disposable monthly

income to calculate the minimum amount due to unsecured creditors. When the disposable income is zero (or negative), the projected disposable income is also zero. Accordingly, the length of the plan or “applicable commitment period” is inconsequential. Id. at *2.

The opposing majority view, adopted by the 11th Circuit, takes a “temporal view” of the term “applicable commitment period” and concludes that the “applicable commitment period” is a fixed number of years, not a multiplier of months. Rejecting Mr. Tennyson’s argument, the Court stated “[I]f we were to interpret ‘applicable commitment period’ as Tennyson advocates, as a multiplier that exists only for § 1325(b)(1), then § 1325(b)(4)(B) would be rendered meaningless and superfluous...We find that the plain reading of § 1325(b)(4) defines ‘applicable commitment period’ as a temporal requirement independent of the § 1325(b)(1)(B) calculation.” Id. at *4.

Initially one may ask “If a debtor does not have disposable income from which to pay unsecured creditors, why does it matter whether the plan is 3 years or 5

years?” The problem is that after a plan has been confirmed and the debtor has made all of his/her required payments, the debtor receives a discharge and the unsecured creditors can no longer ask the Court to modify the plan to require payments to unsecured creditors based on an increase in the debtor’s income under § 1329. If a plan continues for an additional period of time, the unsecured creditors’ ability to exercise their rights under 11 U.S.C. § 1329 would also continue.

Thus, unsecured creditors received a “victory” with the Tennyson decision. Whether in practice it results in a measurable benefit to unsecured creditors in most cases is unlikely, however the diligent unsecured creditor may find the ability to modify a plan in later years valuable in certain cases.

Iurillo & Associates, P.A., located in downtown St. Petersburg, is comprised of Camille J. Iurillo, Shareholder, Gina M. Pellegrino, Associate and Sabrina C. Beavens, Associate. The primary areas of practice of Iurillo & Associates, P.A. are Commercial and Bankruptcy Litigation, Debtors’ and Creditors’ Rights, and Foreclosures/Workouts.

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Read All About It!



By Gay L. Inskeep

“Raised by the Courts: One Judge’s Insight Into Juvenile Justice”

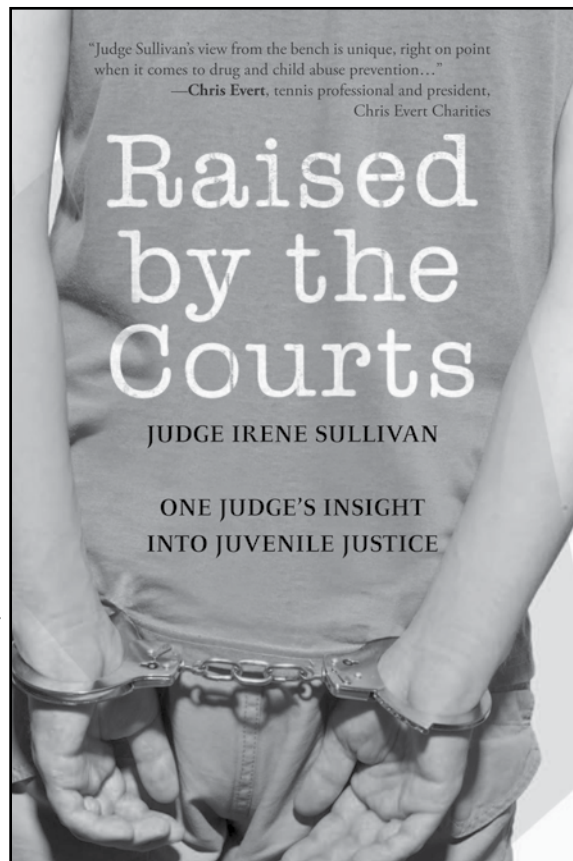
A boy throws an egg at a car and is charged with a felony for throwing a “deadly missile.” A girl is charged with a felony, “robbery by sudden snatching,” for grabbing her friend’s cell phone out of her hand at a bus stop. Another boy picks up a felony battery charge for flicking an eraser and striking a teacher. All of these fairly typical impulsive youthful acts are bad behavior, to be sure. But should these kinds of behaviors be criminalized? It is a question asked by many who work in the juvenile justice system today: “When did misbehavior turn into misdemeanor?”

Judge Irene Sullivan, a circuit judge who presides in the Sixth Circuit’s Unified Family Court in Pinellas County, tackles this question and many other timely topics in her soon to be released book, *Raised by the Courts: One Judge’s Insight Into Juvenile Justice*.

In her book, Judge Sullivan draws upon her more than 9 years in the Unified Family Court, the first one of its kind in the nation to truly integrate all case types relating to one child before a single judge. In this role, she deals with juveniles charged with delinquent acts and children in the child protective system, as well as their families who are dealing with related legal issues such as paternity, divorce, child support, and domestic violence. As such, she is in a unique position to observe the many factors that may lead a child to exhibit acting out behavior – such as snatching a cell phone or tossing an eraser – that later results in a criminal charge.

The chapter titles hint at the types of topics Judge Sullivan covers in *Raised by the*

Courts, including “The Night Swimmers,” “Crossover Killer,” “Keeping Kids Out of Courts,” “Truancy: Where Most Problem Behaviors Begin,” and “Public Safety: Why We Lock Up Kids, and What Are Our Alternatives?” Judge Sullivan’s insightful book is not just a series of anecdotes. It involved extensive research, including



the latest science on teenage brain development, and the most recent U.S. Supreme Court opinion on sentencing juvenile offenders. I was fortunate to have the opportunity to read advance versions of two chapters: “The Teen Brain: They’re Still Just Kids” and “Among the Worst Offenders: The Supreme Court Bans Life Without Parole for Many Young Offenders.” In “The Teen Brain,” Judge

Sullivan consults experts to explain how the teen brain is truly a “work in progress,” and the fact that attributing to a teen the ability to think rationally like an adult is not supported by research. In “Among the Worst Offenders,” Judge Sullivan analyzes the U.S. Supreme Court’s decision earlier this year that sentencing a juvenile to life without parole for any crime other than murder is a violation of the 8th Amendment’s prohibition against cruel and unusual punishment.

Judge Sullivan also quotes local juvenile justice luminaries such as State Attorney Bernie McCabe and Public Defender Bob Dillinger, fellow circuit Judges Raymond O. Gross, Frank Quesada, Dee Anna Farnell, and Lynn Tepper, all veterans of the juvenile bench, and a host of other local and national figures from the current Secretary of Juvenile Justice in Florida, Frank Peterman, to President Obama.

Raised by the Courts is scheduled to be published in November, and promises to be an intriguing, inside look at the juvenile justice system, as well as a thought-provoking exercise for those who are interested in ideas for future reforms.

Postscripts: Judge Sullivan will present *Raised by the Courts* as a featured author at the St. Petersburg Times Festival of Reading on Saturday, October 23rd.

There will be a book signing reception at Stetson from 5:30 to 7:30 p.m. on Wednesday, November 3, 2010 for anyone to attend, meet Irene, and purchase a signed copy of her book.

Gay Inskeep is the Trial Courts Administrator for the Sixth Judicial Circuit.

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Young Lawyers Corner

By Robyn M. Featherston



I am pleased to have been appointed for a second year as chair of the St. Pete Bar's Young Lawyer Section. The YLS is a diverse group of attorneys, mostly new to the practice of law or at least new to the practice of law in St. Petersburg. Chairing this group has allowed me to meet many people I might not otherwise have met and to be part of events that are fun and fulfilling. I invite you to become involved in the YLS and experience the same. Remember, the more active you are, the more benefits you'll receive.

Our group continues to be active in the communities, legal and non-legal, and the following is a summary of recent past events as well as upcoming events.

Holidays in July 2010: On July 31, the YLS hosted approximately 120 local children who are, in one way or another, in the "system" for lunch and Galactic Bowling at Sunrise Lanes. The children and their chaperones had a great time at the event! As chair of the event, I thank all of the volunteers, both lawyers and

non-lawyers who contribute time and or money to make this event a huge success – it would not have been the same without you. I also offer a special thank you and kudos on behalf of the YLS and the event attendees to the TAMPA BAY RAYS for the donation of approximately 400 tickets to the August 16 game against the Texas Rangers, Matt Garza bobble heads, and t-shirts to the participants of Holidays in July 2010! Also, thank you to Sunrise Lanes for offering the venue for this event!

YLS September Social: Thank you to Andrew Crawford for organizing – another great social. And thank you to Philthy Phil's in St. Pete Beach for providing the drink specials.

YLS Meet the Judges Lunch: Thank you to Joanna Bilgutay Ozkaya for chairing this event. The Fall Meet the Judges Lunch was held at the Criminal Justice Center and was well attended by judges, their assistants, and lawyers. Thank you to everybody who helped make this a great event!

October 20, 2010 YLS meeting: 6 p.m. at St. Pete Ale House (7901 Dr. MLK, Jr. St. North)

Oktoberfest 2010: Come out and mingle with your fellow bar members, enjoy live music and eat great food! Oktoberfest 2010, by popular demand, is scheduled for Saturday, November 6, 2010, from 6 p.m. to 10 p.m., along the waterfront at USE. Shawna Mucario is this year's chair. Please contact her at smucario@mucariolaw.com to sponsor this fun event. We hope to see you at this fun event – and in answer to the unasked question: Yes, we'll have a television again this year. Tickets purchased in advance are \$25 per person.

November 17, 2010 YLS meeting: 6 p.m. at Ceviche Tapas Bar & Restaurant (downstairs) in downtown St. Pete.

On behalf of the YLS invites you to get involved and make a difference – we are always looking for new faces and event ideas!

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Community Champions



By Heidi L. Hobbs

Public service is not new to Professor Cynthia H. DeBose (formerly Cynthia Hawkins-León), even in her career choices. After graduating from prestigious Wellesley College and Harvard Law School, she served 10 years with the government of the District of Columbia. In her final years of government service, Professor DeBose was an administrative law judge for the D.C. Contract Appeals Board – a quasi federal agency. She is a self described “government hack” at heart. Seven years ago, she was recruited to join the faculty at Stetson University College of Law where she is a tenured professor teaching family law and real property – with a specialty in adoption law. She created and currently serves as the Director of the Family Law Internship Program at Stetson.

Shortly after moving to St. Petersburg, Professor DeBose became an affiliate member of the St. Petersburg Bar Association. It was through one of the Bar’s e-blast messages in 2009 that she learned of the need for volunteer hearing masters at the St. Petersburg Housing Authority. Founded in 1937, the St. Petersburg Housing Authority is one of the oldest housing authorities (of 3,300 nationwide) and is continually rated by the U.S. Department of Housing and Urban Development (HUD) as a “High Performing” agency. Under federal guidelines, a person whose section 8 housing benefits are being terminated for any variety of reasons, has the right to request an informal hearing. The volunteer hearing master conducts the hearing which typically includes reviewing the file, receiving input from the staff and weighing the evidence in the form of documents and witness statements.

Based on information presented at the hearing, the hearing master then writes an order either affirming or reversing the termination. For these reasons, the St. Petersburg Housing Authority prefers to have practicing attorneys from the community as Hearing Officers. This gives the agency confidence that the hearing will be conducted in a highly professional manner by a neutral third party who has the legal experience to determine whether the person has in fact been terminated for just cause.



Cynthia Hawkins DeBose, Esq. (left) and LaShunda Battle, section 8 Counselor SPHA (right)

After receiving the e-blast, Professor DeBose answered the call, completed the training and has been actively volunteering ever since. In fact, the St. Petersburg Housing Authority identified her as a true “star” volunteer, who has gone above and beyond the call of duty on numerous occasions. As one staff member put it, “she is always eager to assist the Housing Authority in any way

possible.” She started off conducting 2-3 hearing sessions a month. At the present time, she hears six cases a month which consumes almost a full day (not including the time it takes to draft the order for each case). She believes it is important to create a good record so she puts a lot of thought and detail in drafting the orders. Given her background, she is particularly well suited for the role since she is very knowledgeable about the administrative hearing process. Even though the hearings at the St. Petersburg Housing Authority are less formal, they are no less important to the affected individuals since the outcome can mean the difference of whether a family continues to receive housing benefits or not. After a particularly controversial hearing, Professor DeBose suggested—and the St. Petersburg Housing Authority agreed—to move the hearings from the St. Petersburg Housing Authority’s administrative offices to the Pinellas County courthouse. The move has resulted in improved security while also providing a neutral and more dignified location.

Professor DeBose is very enthusiastic about her experience and hopes that she can increase the number of hearings she conducts in the future. She describes it as fun, not work. The experience has provided her with an opportunity to perform public service that is also very different from her typical day in “academia”.

Professor DeBose also volunteers as a special magistrate for the City of St. Petersburg. In 2008, she was appointed by then-Mayor Rick Baker to a renewable three year term to hear cases in which the Code Enforcement Board has decided to impose a lien on someone’s real property.

In addition to her full time job and her volunteer activities, she is busy raising her 8 year old son and was recently re-married.

For more information about the Stetson Family Law Internship Program or to volunteer your organization to provide internship placements to students, contact Professor DeBose at cdebose@law.stetson.edu. The Stetson Family Law Internship program places law students with not-for-profit, legal services and/or government entities so they can gain practical experience in family-law-related professional legal settings.

The St. Petersburg Housing Authority currently administers five public housing communities, one affordable housing development and more than 3,000 Section 8 housing choice vouchers. Anyone interested in becoming a Hearing Officer with the St. Petersburg Housing Authority can contact Ms. Stephanie Carder, Compliance Officer, at scarder@stpeteha.org or (727) 323-3171, Ext. 216.

We invite you to submit your upcoming volunteer opportunities! Also, please send us your ideas, including the names of attorneys and law firms to feature as "Community Champions" to j@artfulattorney.com or ccollins@stpetebar.com.

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The Honorable Irene Sullivan: A Career on a Whim

In 1942, Irene Hyland was born in Detroit, the city where her parents met. Her father, who fabricated metal caskets, had emigrated from Norway and her mother was born to Russian immigrants. In 1960, Irene graduated from high school in Farmington, Michigan and from Northwestern University in Evanston with a journalism degree in 1964. After graduation, she worked for several newspapers and magazines. She married her former husband, orthopedic surgeon Don Sullivan, in 1964. They led a peripatetic life for the next few years as they moved to the Chicago surroundings, the state of Kentucky, and the Philippines due to Don's military commitments. While in the Philippines, Irene worked as a part-time historian for the USAF. Their first child, Mary Kelly, who is a special needs person, was born before they moved to the Philippines and their second child, Patrick, was born in the Philippines.

The family returned to the United States and settled in Chicago for three years. In 1972, they moved to St. Petersburg as Don joined Dermot O'Connor's orthopedic practice. This was around the time that Medicare began covering joint and hip replacements, which was one of Don's specialties. After their move, their third and youngest child, Andy, was born in St. Petersburg. During this time, Irene was a homemaker and avid tennis player. However, she became antsy and needed a new challenge. Thus, in 1974, she whimsically took the LSAT. She attended Stetson the same year and graduated in 1977. Irene's mother (who is 95 and still lives in St. Petersburg), helped Irene with the children during her matriculation.

After law school, one of her professors, attorney Kenneth Deacon, casually asked her if she wanted to clerk at his firm Harris, Barrett, Mann & Dew. She accepted and began at the firm as a clerk and later Ken asked her offhandedly if she wanted to be an associate with the firm. She agreed and became a first-year associate earning \$13,000 annually. She quips that if she had been a more skillful negotiator she would have asked for more money. Ken remained her good friend and mentor. She stayed at the firm for 22 years and handled

personal injury cases (plaintiff and defense), probate litigation, and employment litigation. She loved the firm and all the attorneys in the firm supported each other. They all adhered to the firm's motto: God, Family, Firm. Later, she became a general partner.

Irene observed many of her friends become judges: Nelly Khouzam, Deanna Farnell, and Mark Shames. In 1998, she decided to run against a sitting judge who had received some unfavorable press. She and another attorney, John Stewart, were the remaining top two candidates after the primary election. Irene won the run-off election, as she received about 51% of the votes.



Chief Judge Susan Schaeffer wanted to appoint Irene to the Family Law Division. Irene was initially reluctant since she had little experience on family law issues. Judge Schaeffer thought she would be the perfect choice since she would have no biases and was unfamiliar with the family law attorneys. Irene was persuaded and enjoyed her three-year tenure in the Family Law Division. She was then transferred to the newly established Unified Family Court (UFC), where she has been ever since. The Pinellas County UFC was the first UFC established in Florida under Florida's mandate and grant.

By Charles M. Samaha

Irene handles both dependencies and delinquencies bi-weekly and miscellaneous matters on the remaining day. She has become very familiar with the chaotic and dysfunctional family situations. At times, the same children appear before her in both the dependency and delinquency courts. She nonetheless finds her time on the court very rewarding.

Irene has gathered her knowledge and experiences into a new monograph, *Raised by the Courts-One Judge's Insight into Juvenile Justice*. Irene has always loved to write and to read fiction and non-fiction as evidenced by her journalism degree and work as an historian. As a judge, she hears daily stories—some are positive ones (e.g., an adoption) and some are heart-rending. The book is divided into three main parts: (1) Awakening (i.e., early experiences on the bench); (2) Despair (i.e., despair due to the systemic problems and helplessness); and, (3) Enlightenment (i.e., the sapience that there are solutions and hope). She is confident everyone will enjoy the book, especially children advocates, educators, judges, attorneys, and members of large foundations. Many judges encouraged and supported her with the book and her judicial career, some of whom include Judge Judith Kay in New York, Judge Cindy Lederman in Miami, and Pinellas Judges Farnell, Gross, and Quesada, who was her first mentor as a judge. She invested two years to write the book and submitted her draft to fourteen book agents before she found the perfect match in Claire Gerus. Irene signed with Kaplan Publishing, who produces publications for the bar review and Kaplan University.

Irene approaches mandatory retirement on December 31, 2010, and will return as a senior judge in 2012. However, she already feels the pangs of leaving the 500 children she supervises in her division—talk about empty nest syndrome! During her hiatus, she plans to promote her book, earn her mediation certification, teach, travel, play tennis, and spend time with her children and five grandchildren. Irene will be without rest during her hiatus and we wish her much success with all her endeavors.



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is pleased to announce that

Rachel L. Drude, Esq.

has joined the firm as an Associate

Ms. Drude will head the firm's Estate Planning and Probate Department. She joins the firm after working as an Associate for Buchanan Ingersoll & Rooney PC, where she developed sophisticated estate plans for business owners, corporate executives, wealthy individuals and professionals and their families with a wide range of complex estate planning issues.

Rachel obtained her B.A. in English & Writing from Loyola University graduating *summa cum laude*, and received her Juris Doctor degree from the University of Miami School of Law graduating *cum laude*. She obtained her LL.M. in Estate Planning from the University of Miami School of Law.

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The mission of the St. Petersburg Bar Foundation is to fund, develop and promote efforts which enhance the legal profession and encourage better public understanding and access to the judicial system.

St. Petersburg Bar Foundation



By Robert Kapusta, Jr., Foundation President

In one of the biggest steps the St. Petersburg Bar Foundation has taken throughout its history, on August 31, 2010 the Bar Foundation has entered into a contract to purchase an office building located at 2880 1st Avenue North for use by both the Bar and the Bar Foundation in its activities. This is a very exciting development and provides us with the opportunity to raise our profile in the community and step up to the next level.

There are many reasons to acquire a building which will be very beneficial both to the Bar and the Bar Foundation. Perhaps the most basic reason, however, is simple economics. Back in the 1980's there was an opportunity to acquire a building for \$50,000.00. At the time, however, people thought it was much too expensive. If we had acquired that building for \$50,000.00 we would own it free and clear right now instead of paying approximately \$36,000.00 in rent. The money currently being spent on rent could now be better spent on more and better activities for the Bar and its members and for the Foundation.

Before we can realize this dream, however, we need to raise the funds to acquire the building. The contract price for the building is \$325,000.00. Our goal is to raise the full amount of the purchase price if at all possible.

In order to do so, we will need everybody's help. Any and all contributions towards the purchase of the building would be greatly appreciated. Any contributions should be made payable to the St. Petersburg Bar Foundation which is a 501(c)(3) organization and eligible for a donor to take a charitable contribution deduction. There are also numerous naming opportunities if you are so inclined. The naming opportunities include the following:

Staff Office (4 opportunities)	\$10,000.00
Executive Director's Office	\$20,000.00
Conference Room	\$30,000.00
Board Room	\$50,000.00
Entrance Foyer	\$50,000.00
Building	\$100,000.00

In addition, there will be an engraved



donor wall in the entrance foyer. The following amounts will allow your name to appear on the wall:

\$1,000 - \$2,499	Benefactor
\$2,500 - \$4,999	Curator
\$5,000 and above	Patron

The larger the donation the more prominent the name will be displayed.

We have formed a fundraising committee consisting of Anthony Battaglia, Jeff Goodis, Camille Iurillo, Tom Masterson, Tim Miller, Lee Greene, Eric Ludin, Jim Thaylor, Jeannine Williams and David Abbey. I would like to thank all of them for volunteering and urge all of the Bar members to reach out to one or more of these people for additional information concerning the capital campaign.

This is a very exciting time. I realize that the economic environment makes this a challenge for many people but it is that same economic environment that has presented us with this opportunity to acquire this building. I ask each of you to make a contribution, no matter how much.

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Legislative Changes Affecting the Poor

by Kimberly Rodgers

2010 has been an interesting year thus far for legislation, as the Florida legislature wrapped up its regular session on April 30. During that legislative session, some important pieces of legislation, potentially affecting clients of Community Law Program, did not pass, including SB 1706, which would have drawn down additional federal stimulus funds to allow Florida to continue to offer extended unemployment compensation (although the legislature may choose to address this matter in a fall special session).

However, several important pieces of legislation did pass, each of which could have a significant impact upon indigent legal assistance and lawsuits. Among the most important of these are the following:

HB 901: This House bill provides for several changes in the area of family law, especially with regard to child support and alimony. Among the most significant changes to existing child support law, the bill drops the lowest three income tiers for the determination of child support payments, which will in effect lower child support payments for the lowest tier of payers; gives judges discretion in the ordering of child support payments within the lowest income bracket; removes the 25% reduction to child care costs before apportionment among the parties; and changes the requirement for "substantial visitation" from 40% overnights to 20% overnights. Low income recipients continue to be protected by provisions that prevent deviation from established child support guidelines if deviation affects the recipient/payee's ability to provide for basic necessities of the child. In addition, the bill provides that if a parent fails to provide income information to the court, the court can impute income equal to the median income of year round, full time workers to the unresponsive parent

in determining his or her child support obligation.

HB 901 also provides for changes to alimony, adding the options of bridge-the-gap alimony and durational alimony to the existing permanent and rehabilitative alimony options. Also with regard to the allowance of alimony, the law creates a new, rebuttable presumption that defines "short term" marriages as those that last 1-7 years, and "long term" marriages as those that last more than 14 years.

HB 25: This bill amends Chapter 751 of the Florida Statutes to allow a court to order "concurrent custody" of a minor child to an extended family member who has physical custody of the child but does not have written permission of the parent. Concurrent custody does not eliminate or diminish the right of a parent to custody; parents retain the right to move to terminate concurrent custody. The bill also allows a court to redirect some or all child support paid on behalf of the child, to the relative having concurrent custody of that child.

HB 787: Child Abduction Prevention Act. This bill adds risk factors for a judge to consider when deciding if a child is at risk of abduction, especially by a parent. Among these risk factors: whether a visa or other travel documents have been obtained for the parent or child, including a passport; whether the child is likely to be taken to a country that is not part of the Hague convention (such that the child is less likely to be found and returned if abducted) or a country that is generally not compliant with enforcement of child abduction laws. The bill specifically provides that a judge may take additional measures to prevent child abduction if the judge finds credible evidence of a risk of abduction.

CS/CS/HB1073 and HB91: Recognizing the rise of lawsuits concerning treatment of students with disabilities, this House bill is designed to prevent or reduce the use of seclusion and restraint of students in public schools in the state. The law establishes requirements for the use, monitoring and reporting of seclusion and restraint incidents and practices; prohibits the use of restraints that inhibit or restrict breathing; prohibits seclusion in unlit rooms or rooms that do not meet state fire marshall codes or rules; and require continuing education for teachers of students with disabilities. This bill became effective July 1, 2010.

SB 1363: SB 1363 provides for post-secondary school fee exemptions for young adults formerly in foster care. The fee exemption is available until age 28 to any adult who: 1. was in the custody of the Department of Children and Families (DCF) until age 18; or 2. was placed in guardianship after age 16 and who spent at least six months in DCF custody; or 3. was in the custody of a relative under the Relative Caregiver program until the age of 18. A House proposal to reduce by 50% the Road to Independence program for young adults formerly in state care did not pass, but language contained in SB 1363 allows DCF to "adopt rules that govern the payments and conditions" related to services provided to these young adults.

HB 11 / SB 506: Hate Crimes On Homeless Persons. Effective 10/1/2010, these bills add the status of "homelessness" to Florida's current hate crimes statutes, making assaults upon the homeless a hate crime under Florida law. With the passage of this law, Florida becomes the fourth state in the nation to make attacks on homeless persons a hate crime.

Adams and Reese LLP is pleased to announce that six members of the firm were named among Tampa Bay's Top Lawyers in the July/August 2010 edition of Tampa Bay Magazine. Included were Marilyn Mullen Healy, listed in Banking and Finance; Richard Malchon and Geoffrey Young, in Banking Law; Donald Mihokovich, in Commercial Law; Jim Dickson, in Environmental Law; and Bob Boos, in Numerous Business Litigation Matters.

Adams and Reese Partners Jim Dickson and David Bernstein, practicing in the firm's St. Petersburg office, have been named to the *Best Lawyers*® edition, the oldest and most respected peer-review publication in the legal profession. Dickson was named in the field of Construction Law, while Bernstein was honored in Real Estate Law. First published in 1983, *Best Lawyers*® is based on an exhaustive annual peer-review survey.

Englander & Fischer, LLP is pleased to announce that Leonard S. Englander has been listed in the July issue of *Tampa Bay Magazine* as one of Tampa Bay's Top Lawyers in Construction Law, and Sidney Werner has been listed as one of Tampa Bay's Top Lawyers in Trust and Estate Planning.

Will Conroy, a transactional lawyer with Englander and Fischer, LLP has recently been selected for participation in the Connect Florida Statewide Leadership Institute. The year-long program, started by members of Leadership Florida, is designed to provide leadership training to professionals from across the state and begins in Jacksonville in October.

St. Pete Bar member, Jeffrey M. Adams, of Abbey Adams Byelick Kiernan Mueller Marone & Samis, LLP is now serving as a 2010-2011 director, District 2 of the Florida Defense Lawyers Association. The FDLA is a statewide association specifically

designed to meet the needs and help solve the problems of the civil defense attorney.

St. Pete Bar President, John Biesinger and the Executive Committee are pleased to announce the appointment of Joseph "Jay" W. Fleece, III, to the Board of Governors of the Pinellas Community Foundation. We know Jay will provide a strong leadership role in this position and are most thankful for his "volunteer" attitude!

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Ken Deacon has over forty years civil trial experience
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