

State-to-State

flabaroutofstaters.org

Spring 2007

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Lawyers' Challenge for Children *Make a difference in the life of a child*

by Michelle C. Lyles, Assistant Director of Development, The Florida Bar

Despite dramatic growth in the economy, 24 percent of Florida's children still live in poverty according to the *1999 Kids Count* published by the Annie E. Casey Foundation. Half of these children are in homes where incomes are less than 50 percent of the poverty level.

As members of Florida's legal community, you have an opportunity to improve the lives of these children by helping to ensure their legal rights are represented—rights to services these children desperately need if they are to become contributing members of

society. You can do this by adding in the \$45 suggested contribution to The Florida Bar Foundation on the 2007-08 Bar Fee Statement. These funds will be dedicated by The Florida Bar Foundation for legal assistance to children by legal aid and legal services programs across Florida.

Although there are laws to assist these children, the reality is that without the services of a lawyer and related legal assistance, the future will remain bleak for thousands of Florida's most vulnerable children. For example, even though the law says disabled

See "Children," page 2

State-to-State welcomes Don Workman to the team!



The production team for the OOSPD's *State-to-State* newsletter is pleased to welcome Donald A. Workman as our member editor. He is a partner in the Business Group and head of Baker Hostetler's Bankruptcy & Creditors' Rights practice in the Washington, D.C., office. He has been rated

AV by Martindale-Hubbell for preeminence in his field and his ethical standards. Workman's practice areas include business bankruptcy, creditors' rights, debtor reorganizations, general insolvency, stockbroker liquidations and commercial litigation.

Workman is active in the District of Columbia Bar, in which he chaired the Bankruptcy Committee for two years. He is an

active member of The Florida Bar's Business Law Section, serving on the Executive Council committee, and is past chairman of the Bankruptcy/UCC committee and past co-chairman of the section's Judicial Liaison committee. He is also a member of the Hillsborough County Bar Association and served on the board of directors of the Tampa Bay Bankruptcy Bar Association.

Prior to entering law school, Workman served 10 years as an officer and procurement contracting officer in the U.S. Navy. During law school, he served as judicial intern to Chief Bankruptcy Judge Alexander L. Paskay and as judicial intern to the judges of Florida's Twelfth Judicial Circuit.

The OOSPD is pleased to have Don working with the production team of the division's newsletter. Welcome, Don!

**2007
Florida Bar
Annual
Convention**

June 27 - 30

**Orlando
World Center
Marriott**

Details in May
Florida Bar Journal
or at
www.floridabar.org

Children

from page 1

students should have individualized education plans, poor children are legally entitled to a full-range health examination and related treatment and children in foster care should receive training before they reach the age of 18 to help them live on their own, poor children in Florida are routinely denied their legal rights to these and other essential services.

For the past several years, The Florida Bar Foundation has funded special annual grants for legal representation of children. Through your generous donation, Legal Aid has been able to help children like Henry.

Henry, age 12, has autism and loves going to school. He has uncontrollable

body movements and is over stimulated by noises and by any changes in his scheduled routine. For his safety, Henry's school is required to transport him from his front door at home to the classroom door at school so he does not run out to the road and hurt himself. When Henry and his mother moved to a new home, the school district refused to continue picking Henry up at his doorstep because he does not use a wheelchair. Legal Aid worked with the Center for Autism Related Disorders to persuade the school district of the danger of allowing Henry to catch the bus at the bus stop. Thanks to the generous support of those who took to heart the Lawyers' Challenge for Children, the school finally agreed to implement Henry's Individual Education Plan initially approved by the school, and the youngster was able to return to school.

To see who joined the 2006 challenge in your area, please visit The Florida Bar Foundation's website at www.flabarfdn.org and click on the donors tab.

After you have made your \$45 donation this year, your name will be published on our website, beginning Nov. 15, 2007. And, with any donation of \$100 or more, your name will be on our website and also published in the 2007 annual report of The Florida Bar Foundation.

As lawyers, you know the law is a tremendous tool for improving your clients' lives—for protecting their rights and pursuing justice. Please join other Florida lawyers in making this \$45 charitable contribution to The Florida Bar Foundation. Let's bring the benefits of the law and of lawyers to the lives of poor children in Florida.

BOG NEWS:

Tanner re-elected and Meeks elected to Board of Governors



TANNER



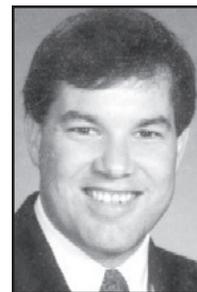
MEEKS

In March, incumbent Board of Governors member **RICHARD A. TANNER** was re-elected as the Out-of-State Seat 1 representative on the Board of Governors. Tanner, who first joined the BOG in 1997 and currently serves on The Florida Bar's Executive Committee, was re-elected without opposition. He is an attorney with Dickson, Ashenfelter, Slous, Tanner & Trevenen in Upper Montclair, N.J. In the election to

replace retiring board member **Gary Leppa** as the Out-of-State Seat 3 representative, **ERIC L. MEEKS**, a Cincinnati sole practitioner, defeated **W. Bard Brockman** of Powell Goldstein in Atlanta, by a vote of 816 to 679. Meeks has served for the past year as the immediate past president of The Florida Bar Out-of-State Practitioners Division, and he served as an out-of-state representative on The Florida Bar Young Lawyers Division from 1999 to 2004. Meeks will join Tanner, **Ian Comisky** (Seat 2) and **Brian Burgoon** (Seat 4) as the Board of Governors' out-of-state delegation when he is sworn in at The Florida Bar Annual Meeting on June 29.

SCOTT ATWOOD set to take office as president of The Florida Bar's Young Lawyers Division

On June 29, Atlanta lawyer **Scott E. Atwood** will be sworn in as presi-



ATWOOD

dent of The Florida Bar's Young Lawyers Division. He will be only the second out-of-state lawyer to serve in that position. Atwood has served for the past year as president-elect of the YLD and automatically assumes the presidency. The YLD president and president-elect also serve as members of The Florida Bar Board of Governors. Scott served as an out-of-state representative on the YLD Board of Governors from 1998 to 2006, and he is a former two-term president of the Out-of-State Practitioners Division. Atwood practices in the area of labor and employment law with his own firm, Atwood Law.

BLSE revises appellate lawyer certification standards



The Board of Legal Specialization and Education of The Florida Bar (BLSE) has reconsidered a proposed amendment to the certification standards to become a board certified appellate lawyer that could have precluded many out-of-state lawyers from becoming board certified in that area. On Mar. 9, the BLSE voted to remove a provision that would have impeded out-of-state Florida Bar members from becoming board certified. Board certification allows a Florida lawyer who meets the requisite standards to hold himself or herself out as a specialist in the field of law for which he or she has been certified. Before becoming board certified, a lawyer must demonstrate that a substantial part of his or her practice is devoted to the field of law (as defined by that field's certification rules), pass a written examination, attend a substantial number of CLE classes and submit peer reviews.

The appellate law certification rules require that an applicant, during the five-year period prior to application, have primary responsibility for 25 "appellate actions" as well as primary responsibility for five appellate oral arguments. R. 6-13.3(b)&(c). However, there is no definition of "appellate action."

Last fall, the BLSE proposed multiple amendments to the appellate law certification rules, including an amendment to define "appellate action" as "an action filed in a Florida state court, a federal district court, a United States court of appeals or the Supreme Court of the United States seeking review of a decision of a lower tribunal." Proposed R. 6-13.2(b) (emphasis added)

When the amendments were presented to The Florida Bar's Rules Committee last fall, Chairman Brian D. Burgoon, an out-of-state member of the Board of Governors, placed a hold on the proposal in order to request the BLSE to reconsider the amend-

ment. Burgoon was concerned that the proposed definition would have excluded most out-of-state lawyers from becoming board certified in appellate law, since it would not permit consideration of any appeals that took place in state courts in other states. Burgoon also was concerned that the definition could have a negative effect on in-state lawyers as well, given the multi-jurisdictional nature of today's practice of law and the likelihood that in-state lawyers could have appeals in other state courts. Burgoon believed there was not a significant reason to limit the state court appellate actions that would qualify for certification to only Florida appeals, particularly when any federal court appeal would qualify.

After Burgoon raised the issue with Dawna Bicknell, director of legal specialization & education, Bicknell's

staff revised the proposed amendment to remove the Florida-specific language, and on Mar. 9, the BLSE approved the revision. Under the current proposal approved by the BLSE, "appellate action" is defined as "an action filed in a state court, a federal district court, a United States court of appeals or the Supreme Court of the United States seeking review of a decision of a lower tribunal." Proposed R. 6-13.2(b) (approved by BLSE 3/9/07) The revised certification rules will next be considered by several Board of Governors committees before final consideration by the Board of Governors.

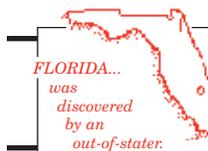
If the Board of Governors approves the amendments as passed by the BLSE on Mar. 9, appeals that are filed in state appellate courts across the country will now qualify for appellate law board certification.



Ethics Questions?

Call The Florida Bar's ETHICS HOTLINE

1/800/235-8619



State-to-State

THE PUBLICATION OF THE FLORIDA BAR
OUT-OF-STATE PRACTITIONERS DIVISION

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State-to-State is devoted to Florida and multi-jurisdictional legal matters. It is editorially reviewed and peer reviewed for matters concerning relevancy, content, accuracy and style. *State-to-State* is mailed to over 1,200 legal practitioners throughout the United States.

Statements or expressions of opinion or comments appearing herein are those of the contributors and not of The Florida Bar or the division.

The deadline for the **Summer 2007** issue is **July 15, 2007**. Articles should be of interest to legal practitioners with multi-jurisdictional practices. Please submit articles in rich text format (rtf) via e-mail to Susan Trainor, editor@ctf.nu. Please include a brief (2-3 sentence) biography and photograph of the author. If a digital photo is not available, please mail a print to The Florida Bar, OOSPD, 651 East Jefferson Street, Tallahassee, FL 32399-2300.



Time to upgrade your listing in the OOSPD Online Directory!

by Eric L. Meeks

Responding to the needs of clients that are engaging in significantly more interstate activities, the OOSPD has updated its website. The updated website now offers OOSPD members the ability to include practice areas and other state law practice licenses within their listings in the OOSPD Online Directory.

The OOSPD initially populates the new listings via a download of OOSPD member information from The Florida Bar (this is exactly the

same information currently included on The Florida Bar website). To have your practice areas and other state licenses listed, you need to complete and return the form included in this newsletter.

This is a great way to inform website users of your ability to help them legally resolve multi-state issues. Note: if you do not want your practice information included on the revised website, you do not have to do anything. By not returning a completed practice profile,

your practice areas/state licenses information will not be included.

The only requirement to upgrade your listing is to be a member in good standing with the OOSPD and The Florida Bar. Therefore, if other members of your firm would like to be listed in the Online Directory, be sure to have them join the OOSPD.

If you have any questions or concerns about these changes, you can contact me at 513/826-0229 or emeeks@meekslawfirm.com.

Author! Author!

The Out-of-State Practitioners Division offers its membership a valuable forum for the exchange of information on legal issues affecting our interstate practices. To be truly effective, it is essential for a large cross-section of our members to contribute articles, news and announcements to this newsletter.

For those of you who would like to see your work in print, the rules for publication are simple: The article should be related to a subject of general interest to legal practitioners with multi-jurisdictional practices. Articles focused on your home state are less appealing than issues impacting a number of jurisdictions.

Please send document in rich text format (rtf) via email (editor@ctf.nu).

Please help your colleagues to get to know you by including a brief (two or three sentence) biography and include a head and shoulders photograph. If you do not have a digital photograph, please mail a print to The Florida Bar, OOSPD, 651 East Jefferson Street, Tallahassee, FL 32399-2300. Your photo and bio will be kept on file and need only be submitted once.

Nominations slate

The following slate of nominated officers will be voted on during the annual meeting in Orlando. The meeting will be held on June 29, 2007.

- President Tim Chinaris (Montgomery, Ala.)
- President-elect Allyn Kantor (Ann Arbor, Mich.)
- Treasurer Bill Lee (Waterville, Maine)
- Secretary Mike Busenkell (Wilmington, Del.)

Our program administrator's newest drawing

This is a black bellied whistling duckling. Arlee did this drawing as a study for a larger painting. The original drawing is now owned by Carolyn and Tom Sawyer of Orlando.

To see more of Arlee's work, visit www.artbyarlee.com.



**UPDATE
YOUR
LISTING!**

**THE FLORIDA BAR
OUT-OF-STATE PRACTITIONERS DIVISION**

**Website Online Directory
Questionnaire**

The Out-of-State Practitioners Division is compiling specific information to assist in referring division members to clients and attorneys around the country.

The information compiled will appear on the division's web page at www.flabaroutstaters.org and will be searchable by states licensed in and areas of practice. Because The Florida Bar does not ask for practice area information or keep information on which states a members is licensed in, it is imperative that you return this form to be included in the out-of-state online data base.

MEMBERS WHO DO NOT RESPOND WILL BE LISTED BY NAME AND ADDRESS ONLY. Make sure you keep your contact information current with The Florida Bar. If you need to make any changes to your information go to www.floridabar.org. In the Member Services section you will find the Membership Records Online Change of Address Form. Make any updates to your contact information and follow the instructions for submitting the form to membership records.

Please type or print all information.

Name: _____ FL Bar No.: _____

Other State Bar Admissions:

1. _____ 2. _____
3. _____ 4. _____
5. _____

AREA OF PRACTICE —

Check appropriate code denoting primary area of practice for publication in the practice area listing.

- | | |
|--|--|
| <input type="checkbox"/> 1. Financial Institutions | <input type="checkbox"/> 17. Other |
| <input type="checkbox"/> 2. Bankruptcy | <input type="checkbox"/> 18. Professional Ethics |
| <input type="checkbox"/> 3. Business | <input type="checkbox"/> 19. Real Estate |
| <input type="checkbox"/> 4. Business Litigation | <input type="checkbox"/> 20. Securities |
| <input type="checkbox"/> 5. Commercial Transaction | <input type="checkbox"/> 21. Tax |
| <input type="checkbox"/> 6. Corporate | <input type="checkbox"/> 22. Personal Injury |
| <input type="checkbox"/> 7. Criminal | <input type="checkbox"/> 23. Labor & Employment |
| <input type="checkbox"/> 8. Estate Planning/Probate | <input type="checkbox"/> 24. Worker's Comp. |
| <input type="checkbox"/> 9. Family | <input type="checkbox"/> 25. General Practice |
| <input type="checkbox"/> 10. Government | <input type="checkbox"/> 26. Health |
| <input type="checkbox"/> 11. Immigration | <input type="checkbox"/> 27. Environmental |
| <input type="checkbox"/> 12. Intellectual Property | <input type="checkbox"/> 28. Elder |
| <input type="checkbox"/> 13. International | <input type="checkbox"/> 29. Construction |
| <input type="checkbox"/> 14. Insurance Defense | <input type="checkbox"/> 30. Maritime/Aviation |
| <input type="checkbox"/> 15. Litigation, Civil | <input type="checkbox"/> 31. Appellate |
| <input type="checkbox"/> 16. Litigation, Malpractice | |

Return this form by MAIL to:

**The Florida Bar
Out-of-State Practitioners
Division
651 E. Jefferson Street
Tallahassee, FL 32399**

OR FAX it to 850/561-5825, c/o Arlee Colman, program administrator. **This can be done at anytime.**



The Florida Bar

2007 Annual Convention

Orlando World Center Marriott • June 27 - 30, 2007

CLE: 4 days/1 fee

See the "Annual Convention" insert in your May Bar *Journal* for seminar CLE hours.

Visit
www.FloridaBar.org
 for up-to-date
 Annual Convention
 information!

Wednesday, June 27

★ **"Representing a Representative"**
presented by the Out-of-State Practitioners Division ★

- **"Prepaid Legal, Domestic Violence and Landlord/Tenant Issues"**
presented by the Prepaid Legal Service Committee and sponsored by Florida Lawyers' Legal Insurance Corporation
- **"Justice Teaching"**
presented by the Law Related Education Committee

Thursday, June 28

- **"Florida Law Update"**
presented by the General Practice, Solo & Small Firm Section
- **"Animal Law - State and Federal Issues in Today's Society"**
presented by the Animal Law Committee
- **Masters Seminar on Professionalism 2007: "Professionalism - You'll Know It When You See It and Why You Can't Live Without It"**
presented by the Standing Committee on Professionalism
- **"eDiscovery: The Changing Landscape"**
sponsored by Robert Half Legal
- **"Are You Practicing Law on Your Terms?"**
presented by The Florida Bar's Quality of Life & Career Committee and The Jay Block Companies
- **"The Changing Landscape - 2007"**
presented and sponsored by The Insurance Design Center, LLC

- **"Criminal Justice and Our Constitutions: That Delicate Balance: "Where Courageous Inquiry Leads ..."**
presented in the President's Showcase by the Criminal Law Section

Friday, June 29

- **"Health Law Hot Topics 2007"**
presented by the Health Law Section
- **"Your Firm's Culture: Breed Malpractice or Support Professionalism?"**
presented and co-sponsored by Florida Lawyers Mutual Insurance Company and The Florida Bar
- **"Overview on International Transactions"**
presented by the International Law Section
- **"Masters Seminar on Ethics 2007"**
presented by the Professional Ethics Committee
- **"Litigating Consumer Cases in Arbitration and Court: Practical Lessons for the Defense and Plaintiff Bar"**
presented in the President's Showcase by the Consumer Protection Law Committee
- **"First Amendment and the U.S. Supreme Court"**
presented by the Media & Communications Law Committee

Saturday, June 30

- **"2007 Military Law and Legal Assistance Symposium"**
presented by the Military Affairs Committee
- **"Trials and Tribulations" with Roy Black and Ervin A. Gonzalez**
presented by LexisNexis and The Florida Bar

HOTEL RESERVATION INFORMATION

Accommodations	Rates
	Single–Double
No Preference	\$171
1 King Bed, Non-Smoking	\$171
2 Double Beds, Non-Smoking	\$171
Accessible Room - 1 King Bed Only	\$171
Plus 12.5% Sales Tax	

Note: The Marriott is a non-smoking facility.
 Guestrooms include balconies.

To lock in low convention rates, visit www.marriott.com (group code: flofloa) or call 800/228-9290 or 407/239-4200, ext. 85454.

Hotel reservations may be made by using the hotel link on The Florida Bar's website: www.floridabar.org.

Room Rate Includes: • Unlimited local phone calls • Complimentary newspaper daily • In-room safe • Unlimited use of Hawk's Landing Driving Range • 24-hour fitness center • 6 pools and 6 whirlpools

The Out-of-State Practitioners Division CLE: **“Representing A Representative”**

**A CLE Presentation at The 2007 Annual Convention of The Florida Bar
Orlando World Center Marriott, June 27, 2007**

CLE Program Chair: Eric Meeks, Immediate Past President

Wednesday, June 27, 2007

1:00 p.m. – 1:35 p.m.

Your Lawyer Client: The Evolving Advertising and Website Rules in Florida

Gary Leppla, Ohio

The Florida Supreme Court has approved new refined advertising rules. New Internet website regulation will again put Florida at the forefront of the national debate on restricting advertising by attorneys. This presentation includes a detailed analysis of the limitations on self promotion by attorneys.

1:35 p.m. – 2:25 p.m.

Marketing to a Niche Client Base

Richard Tanner, New Jersey

This presentation involves exploring and developing a marketplace for your legal services to a specialized clientele. Additionally this presentation discusses distinguishing your practice products to create a market where your firm is the best provider of those legal services.

2:25 p.m. – 2:40 p.m.

Break

2:40 p.m. – 3:30 p.m.

Director and Officer Insurance Coverage and Deepening Insolvency

Michael Busenkell, Delaware

This presentation examines the fiduciary duties owed by directors and officers to the corporation, its shareholders and its creditors when the corporation is insolvent or in the zone of insolvency. This presentation also examines potential causes of action for breaches of such fiduciary duties and provides an understanding of the type of D&O insurance policies available and coverage for causes of action for breaches of fiduciary duties.

3:30 p.m. – 3:45 p.m.

The Constitutionality of the Personal Representative Statute in Florida: A Singular and Divisive Statute

Gary Leppla, Ohio

This presentation reviews national case law and the practical implications of the discriminatory personal representative statute in Florida. Discussion includes an examination of lobbying efforts by sections of The Florida Bar and the singular impact of Florida's ban on non-related out-of-state representative probate fiduciary.

3:45 p.m. – 4:35 p.m.

Ethical Considerations When Representing a Representative

Eric Meeks, Ohio

This information-packed program sharpens your skills and gives you the ethical competitive edge when you are representing a representative. Learn how to identify when ethical conflicts arise in the practice of law, how to anticipate problems and how to take action to protect yourself from charges of ethical negligence in Florida.

To register for the 2007 Convention and this seminar, go to www.floridabar.org and click on the Annual Convention links, or see the insert in your May Florida Bar *Journal*.



Post Your CLE Credits *Online!*

Attention, Florida Bar Members:

You may now post all your CLE credits online! No longer do you have to pencil in bubbles on course attendance cards and wait for your credits to post. Now you can post your credits online and watch your record update in real time.

With the new CLE credit posting feature, you can conduct nearly all of your CLE transactions online. You may already be using the Bar's website to check your CLE credit status. Once you have opened your online account (obtain your personal password), we guarantee the new online CLE reporting system will be both more efficient and less time consuming than filling out and mailing the course attendance cards. All you need to do is follow these simple instructions:

- 1. Go to *www.FloridaBar.org*.**
- 2. Click on "Member Profile" on the right side of the web page.**
- 3. Click on "CLE Activity Posting."**

Note: You will need to request a password prior to using any of the online functions. Please allow 5-7 days to receive your confidential password.

After you have completed posting all of your credits, you may wish to print the confirmation page for your records.

If you have any questions or need assistance with the online credit reporting, please call the Legal Specialization and Education department at 850/561-5842.

**The Florida Bar
651 East Jefferson Street
Tallahassee, FL 32399-2300**

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