Florida Courts

Future poses challenges for justice system

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By: Billy Shields

Judge Joseph P. Farina

If a town hall-style meeting in Coral Gables is any indicator, the future challenges for Florida courts won't turn on the mastery of technology but mastery of the economy.

Judges, attorneys and law professors bandied about several ideas of what the future of the justice system will be in 20 years for Chief Miami-Dade Circuit Judge Joseph P. Farina, who chairs a state task force setting strategic goals for the state's courts.

Although discussion of cyberspace trickled into the conversation, the main issue on almost everyone's mind was money.

The austere financial situation for the state's courts "is going a long way toward undercutting the amount of authority of the courts," said Rory Stein, a chief Miami-Dade assistant public defender and the office's general counsel. "The general population believes they're being forced to litigate with one hand tied behind their back."

His remarks came a month after Circuit Judge Stanford Blake ruled the Miami-Dade public defender's office could decline its third-degree felony cases because the budget isn't enough to provide representation for indigent clients during a manpower shortage blamed on state budget cuts. Stein said a felony attorney in his office handles 500 cases a year, but the industry model calls for somewhere around 200 cases a year. There will be no overnight changes with the case on appeal.

The problem of everyday men and women not being able to afford to get into court is afflicting the civil side of the equation as well, said Dade County Bar Association president Timothy Ravich.

For a foreclosure defendant to parry the loss of a home requires ponying up fees running

about $300 for a countersuit, Ravich said.

He also voiced a common complaint among members of the judiciary — that only 0.7 of a percent of the state's annual budget is related to court funding, a development he described as "unacceptable" given the judiciary's role as the third branch of government.

About two dozen lawyers spoke at Thursday's meeting.

But a few, like Bradley Stark, were onlookers who came in while returning books to the Coral Gables library. Stark, a Coral Gables lawyer who teaches finance as an adjunct professor at Florida International University, made some of the most novel suggestions centered on arbitration contracts that credit card users and brokerage customers sign when they sign up. Arbitration is under attack in Congress following a series of U.S. Supreme Court decisions buttressing the system of conflict resolution.

Stark suggested Florida courts could pioneer a new form of arbitration involving a trial judge who would arbitrate disputes more fairly than the panels preferred by companies which are "totally designed to benefit the industry."

"There is not a major brokerage firm or bank in this country that does not require you to arbitrate where the deck is stacked against the investor," he said. He also referred to the financial crisis on Wall Street as an opportunity for Florida courts to serve a regulatory function, using fees that currently go to arbitrators to fund branches of the courts.

"Wall Street's been called on their shenanigans," he said. "Before this, people like myself were just lone voices in the wilderness."

Another suggested tweaks to Florida's courts — law clerks for every judge, said Michael Froomkin, a law professor at the University of Miami. He also suggested judges should adopt a Web-friendly method of writing opinions that numbers paragraphs.

Froomkin also criticized The Florida Bar for strictly limiting the activities of out-of-state attorneys. Florida doesn't allow outside attorneys to practice on a license from another state even though the reverse is often true.

Naturally, the themes of accessibility, demographics and cost of living took on prominent roles.

"How many more languages are we going to have to speak?" Farina asked. More than half of all of Florida's 67 counties currently have a non-English speaking population of at least 10 percent, and Farina suggested demographic trends may add to the language mix in Florida. Courts in South Florida regularly use documents and signage in English, Spanish and Creole. But Portuguese-speaking Brazilians are a growing presence.

On the cost-of-living front, 30 lawyers resigned from the Miami-Dade public defender's office since May 2, Stein said. He attributed the losses to the criss-crossing trajectories of expenses and earnings. Tuition at the University of Miami's law school shot up more than 12 times since he graduated in 1978, while the starting salary for an attorney at his office has gone up by a factor of only three in the same time.

Stein highlighted another prominent topic — the indispensability of the court system. Unlike government programs that can afford cuts in special programs, few programs in the court system are unnecessary, he said.

“The criminal justice system is not the community swimming pool,” Stein said. He suggested, as others have, including Florida Supreme Court Chief Justice Peggy Quince, creating a dedicated source of funding that would not be subject to the rise and fall of the economy and the state budget. Stein also advocated limiting the creation of specialized courts because his office has to find specialized lawyers in response.

Retired Miami-Dade Circuit Judge Jeffrey Rosinek told the audience that since the county pioneered a specialized drug court, more than 21,000 such courts have opened in the United States including 100 in Florida. The Miami drug court has graduated 14,000 defendants. The program allows defendants charged with substance abuse to enter a plea mandating a year-long rehabilitiation program in place of jail time. Rosinek estimated the court saves $7 in long-term costs for every dollar spent, he is worried lawmakers will put drug court budgets under the knife.

“We are in a desperate situation,” he said.

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