A Message from Lisa Goodner, State Courts Administrator

You’ve no doubt heard that the Revenue Estimating Conference’s recent general revenue projections (March 13) were even more dismal than the conference’s November projections. State, national, and world economies have continued to weaken, and, in response, for fiscal year 2008-2009, the Revenue Estimating Conference reduced its forecast of general revenue collected by $1.1 billion—which is 4.9% below the November estimate. And we’ve been warned not to expect the economy to be looking up anytime soon: regarding expected revenues for fiscal year 2009-2010, the conference reduced its estimate by $2.3 billion—which is 10.6% less than the earlier projection. Moreover, within the three-year forecast horizon, revenue collections are not anticipated to surpass the level of fiscal year 2005-2006.

As we are well aware, in this dire economic climate, citizens and businesses have turned to the courts in much greater numbers, particularly in the area of mortgage foreclosures. Meanwhile, with the cuts in court funding, the disparity between what the branch needs and what it receives to fulfill its role has increased.

Given the $49 million budget reduction that the courts have already faced over the last two fiscal years, it has become all the more imperative that the judicial branch have a permanent and adequate source of funding so that the courts can continue to meet their constitutional obligations.

The Seven Principles of Court Funding, articulated by Chief Justice Quince and adopted by judicial branch leaders earlier this year, seeks ways to address the current revenue decline and to ensure justice for all Floridians well into the future. One of the seven principles calls upon the legislature to re-evaluate all court-related revenue so that it can ascertain what portion of filing fee revenue should be dedicated to supporting the courts. Legislators have responded to this call, and branch leaders are grateful to legislative sponsors of several House and Senate bills that, as of this writing, initiate this re-evaluation by directing some filing fee revenue to trust funds for the courts. (For more information about the seven principles, and for additional information about the judicial branch’s funding needs, please visit the Florida State Courts’ Funding Justice website.)

Meanwhile, I want to thank you once again for your unwavering dedication and resourcefulness, especially in these uncommonly challenging times. The fruits of your efforts are evident on so many of the pages that follow. In this edition of the Full Court Press, you’ll find articles on the Task Force on Judicial Branch Planning’s meeting with justice system partners; the United Judicial Conference; the Florida Judicial College; judicial branch publications; faculty training for court personnel; the work of the Florida Courts Technology Commission and the Committee on Access to Court Records; and the exciting drug court graduation being planned to celebrate the twentieth anniversary of drug court. In addition, you’ll read articles bidding farewell to Justices Anstead and Wells and welcoming Justice Labarga to the supreme court.

Even in this harshest of economic times, because of your hard work, Florida’s courts are able to protect rights and liberties, uphold and interpret the law, and provide for the peaceful resolution of disputes.

Sincerely,
Lisa Goodner
Further Farewells and Welcomes at the Supreme Court

The personality of the supreme court continues the metamorphoses that were set in motion this past fall, when Justice Raoul Cantero and Justice Kenneth Bell resigned to return to private practice, and Governor Crist selected Justice Charles Canady and Justice Ricky Polston to fill their positions (for articles on all four justices, see the winter 2008 edition of the Full Court Press).

Then, because Florida law requires judges to retire at age 70, two additional members—the court’s most senior jurists—left the bench not long after the new year began: in early January, Justice Harry Lee Anstead retired, and in early March, Justice Charles Talley Wells retired. Justice Jorge Labarga, who had been a judge in the Fifteenth Circuit, was chosen to fill Justice Anstead’s seat, and Justice James E.C. Perry, who was a judge in the Eighteenth Circuit, was recently named to fill Justice Wells’ seat.

The articles that follow share some of Justice Wells’ most stirring memories of his years at the court and introduce Justice Labarga to the greater court family. The Full Court Press wants to give the court’s newest member, Justice Perry, an opportunity to begin to feel at home on the supreme court bench before interviewing him, but readers can look forward to an article on him in the summer edition of this newsletter.

Justice Anstead made it clear that he preferred not to be the subject of a farewell article—and the editors of this newsletter believe that such a request should be respected. But it would be inconceivable not to call some attention to the jurist who, in the words of long-time colleague Justice Barbara J. Pariente, has been “a brilliant writer, a tireless worker, and a passionate and courageous advocate.” Among Justice Anstead’s many accomplishments, he “shepherded the court system through the monumental efforts of the transition to state funding under Revision 7”; he is considered by many to be “the father of professionalism in Florida” because of his creation of a permanent professionalism center and his focus on the ways in which attorneys treat one another; and he has been steadfast in his commitment to helping “society’s abused, neglected, and abandoned [children] who have been placed in the trust of the judicial system.” She added, “The theme of his entire life as a judge has been one of treating others, no matter what their station in life, with respect and dignity.” Justice Pariente emphasized, and his own opinions reflect, that he has consistently been “a passionate voice for the fundamental rights we all enjoy as Americans and Floridians.” For all these qualities, she believes, he will “go down in history as one of our greatest justices.”

Farewell to Justice Charles Talley Wells

“I think I was extremely fortunate to come to the court at a time when Florida was becoming such an important political state in the country as well as such an important economic state. And that, of course, meant that there were a lot of issues confronting the country that came through our court,” remarked Justice Wells, after pondering some of the most memorable experiences of his nearly 15 years on the supreme court bench. Three experiences, all of which unfolded while he was chief justice (2000-2002)—and all of which were decidedly momentous, suffused with stresses and excitements and meaningful ramifications for the judicial branch—readily came to his mind.
Not surprisingly, the first was the 2000 presidential election cases. Although he described the 38-day period as being “certainly very taxing,” he also called it “the type of experience that you really feel privileged to be a part of.” The professionalism of the supreme court staff, the way everyone “rose to the occasion to do world-class service—and provided it”—remains especially indelible for him. He vividly recalls the efforts of Craig Waters, director of public information, to supply the news media with the most up-to-date opinions and reports, and the endeavors of Tom Hall, supreme court clerk, and his staff, who worked extravagantly long days to file the necessary papers, maintain the case files, and track the cases’ progress.

He also called attention to the “extraordinary service” of former Marshal Wilson Barnes and his staff, who were “able to firmly and tirelessly, but courteously, maintain order outside the court even with the very large crowds that gathered. We had not a single incident.” He called this period of Florida judicial history “a unique experience for this court and for all the courts that were involved in it” and “a fascinating and historic” phenomenon.

Also ranking high on Justice Wells’ list of significant milestones is 9/11, which was followed by the anthrax scares in courts around the state—crises that prompted him to initiate the development of emergency preparedness measures throughout the state court system. Many of Florida’s courthouses were affected by anthrax threats, he noted, but what gives him great pride is that “Throughout that very stressful period, we kept all of the courts open and did not miss any days or even hours of service.” Since then, Justice Wells’ directive to “Keep the courts open” has become a kind of mantra for those in the judicial branch who are responsible for addressing emergency management issues, and it underscores his—and the branch’s—priority to ensure that no one—even in the aftermath of an emergency event—is deprived of access to the courts.

Justice Wells also ruminated on the enormous importance of Revision 7, the voter-approved amendment that shifted the primary funding responsibility for the state court system from the counties to the state. This constitutional amendment was passed in 1998, soon after Justice Harding became chief, and was implemented in 2004, the last day that Justice Anstead was chief. Serving as chief between them, Justice Wells was extensively involved in helping to prepare the judicial branch for this move toward budgetary unification. While he was chief, the court adopted the Rule of Judicial Administration formalizing the structure of the Trial Court Budget Commission, and he appointed the commission’s first members. Creating the commission was one of the highlights of this period for him: “As time has passed, we have, I believe, seen the wisdom in setting up that structure so that there would be procedures in place” for developing and administering trial court budgets fairly across the 20 circuits.

On a more personal note, Justice Wells reminisced fondly about State Courts Administrator Ken Palmer, who passed away while Justice Wells was chief. “We were all so dependent on his experience and knowledge of the court system,” he reflected. He considers Mr. Palmer “a pioneer and leader who was able to convert Florida’s court system into a statewide court system that could serve the diverse state that Florida became in the 90s” and said that “One of his truly lasting gifts to the court system was that he mentored an exceptional staff. Because of that, when he got sick, his duties were able to be undertaken by [Deputy State Courts Administrators] Lisa Goodner and Dee Beranek; upon Dee’s retirement, Lisa has been and continues to be a strong leader for the Office of Court Administration.” He concluded, “I leave the court system with full confidence that the administration of Florida’s courts is in exceedingly capable hands.”

But not all of Justice Wells’ most compelling memories of his years on the bench are weighty and stress-ridden. In fact, he also has “great memories of watching the various acts that came to entertain the crowds spontaneously while they were all gathered outside the supreme court building” during the 38 days of election 2000. He would witness the spectacles daily from his office window. “I remember one woman brought a pet skunk,” he recalled with delight; “She could make it do back-flips,” he chuckled. “And there were jugglers out there too—it was quite a scene!” This unexpected entertainment definitely “provided...
relief and levity—and we needed it at that time,” he declared. Undoubtedly, it was a healthy antidote to the gravity of the situation: “It is very much a handicap if you take it to a level where the weight of it begins to wear you down,” he added—words that everyone needs to remember on occasion.

When asked what he thought he’d miss the most when he retires, he said, “What has always fascinated me about the law is the puzzle of it—trying to figure it out, figure out the problems and how the law should relate to the solving of those problems in a practical and commonsensical way.” Before becoming a justice, in his nearly 30 years of private practice, “I had so many demands on my time, which did not allow for periods of study and concentration on [legal] issues.” As a member of the court, however, he has had the time to study the law deeply, the chance to “concentrate, to figure those puzzles out; I’m really going to miss that.”

And he’ll also miss some of the people he’s come to know during his time on the court: “I’ve had such a superlative judicial assistant [Pam Stewart] and 17 extremely capable staff attorneys who’ve worked in my office since June 1994.” He expressed particular delight that 16 of them would be returning for his February 6th retirement ceremony. And about his colleagues on the bench, he said, “I’ve also worked with and met extremely capable lawyers who have been justices while I’ve been on this court; I appreciate so much their dedication to the court.”

As for what he plans to do next, he quipped, “Go back to work!” He quickly explained, “This has been too much fun to be totally work” because he has really relished “the stimulation of playing a part in looking at so many of the issues that confront us.” He plans to return to private practice, part time in Tallahassee, part time outside of Orlando, from where he hails. For pleasure, he’ll indulge in his “preoccupation” with the Gators, and he also looks forward to doing “a good bit of travelling,” especially to visit with family: his six grandchildren (with a seventh on the way at the end of March) are his “full-time hobby.”

Although Justice Wells has “great reservations about the fact of leaving the court,” he’s a strong believer in mandatory retirement for judges, especially in courts of last resort, explaining that “It takes the personality out of when people leave the court. This way, there’s input into the make-up of the court by the other branches of government. I think it’s very important that the court be a dynamic institution,” he continued. Besides, he pointed out, he’s been at the supreme court nearly 15 years—“just the right length of time here”—and, looking ahead to his last days on the bench, he playfully announced, “The official recognition of my ‘senility’ will be on the 3rd of March.”

Welcome, Justice Jorge Labarga

“It is the ultimate honor any lawyer can have,” Justice Labarga proclaimed when asked what inspired him to become a judge. As for being a supreme court justice, that’s the ultimate honor for any judge. I keep waiting for someone to come here and say to me, What are you doing here?” he exclaimed half-jokingly, allowing that he sometimes has to pinch himself to make sure it’s all real.

But, in some ways, Justice Labarga has been preparing for and traveling toward this summit all his adult life: after receiving his law degree in 1979, he spent three years as an assistant public defender, five years as an assistant state attorney, and nine years in private practice, all in the Fifteenth Circuit, before Governor Lawton Chiles appointed him to the circuit bench in 1996, where he served until Governor Charlie Crist recently selected him for the supreme court. His journey is a stirring example of the American Dream come true for the man who, as a young boy, ventured with his family from Havana, Cuba, to Pahokee, Florida.
Reflecting on his transition from the trial court to the supreme court, Justice Labarga remarked that he is experiencing some dramatic differences both in what he does and how he does it. For instance, as is typical for a trial court judge, “I made decisions by myself before; there was no one to go to to discuss these decisions with. But,” he quickly interjected, “I am so happy to be here, with six others—dedicated, intelligent people thinking about these issues as well; I enjoy hearing what they say and find it very helpful.” Thinking back to his first supreme court conference, he said he remembers watching the justices methodically present their cases to the rest of the supreme court—how thoughtfully prepared they were about the most intricate details of the case: “There are very bright people here in this building,” he added, saying that his work as a justice is so “all-consuming,” “so challenging and satisfying,” that he daily looks forward to it.

He anticipates that he’ll miss some aspects of being a trial court judge—especially “the direct contact with people, the direct contact with lawyers, on a daily basis”—for that was a source of great pleasure for him for the last 28 years. The truth of this statement became especially evident when he began talking about some of the people, especially the young people, who came before his bench and about the positive changes he witnessed after they got a chance to get their lives “back on track.” As he shared his anecdotes, it became infinitely clear just how dearly he loves this chance to do public service.

Justice Labarga believes that his judicial skills have been deepened by his experience of parenting his two daughters: “Having been a parent, I know how important it is to be able to appreciate that someone’s not just the young criminal being portrayed by law enforcement and the prosecutors. We also need to see that person as someone’s son, someone’s grandson, the kid who mowed our yard. There’s a big need to keep things in perspective...and to see the human being,” he emphasized, adding, “The person who wears the black robe must have a high level of compassion.”

He would most likely agree that his judicial skills have also been shaped, in part, by his passion for “speaking to people, trying to know how they are feeling.” Therefore, this self-proclaimed “people-person” expects to do a great bit of walking—both in the supreme court building and in downtown Tallahassee—because walking gives him a chance to talk to people. (In fact, the author first met Justice Labarga, who at the time was still quite new to the supreme court, while he was circumnavigating the second floor, trying to get a sense of the layout of the building and the location of the various OSCA units.) His daily peregrinations and his facility for engaging the people he meets will help keep him “grounded,” he imagines.

He also enjoys giving talks to groups of people, and that’s one of the aspects of being a judge that he looks forward to continuing while on the supreme court. He relishes the chance to talk to lawyers in a seminar setting, but he particularly loves talking to school-age kids, especially high schoolers. “Teenagers have access to so much information because of the Internet and TV,” he noted; “It’s difficult to parent them because they already know everything.” But he tries to remember never to preach to them—“that turns them off immediately”—and to “use real life examples” when he’s trying to make a point. Most important, he stressed, you need to listen to them.

When talking to young people, he frequently gets asked what they should major in to become a lawyer. Without reservation, he urges them to major in English. He tells them, “Lawyers are constantly writing and reading, so being an English major will provide you with the most valuable skills.” In fact, he’s delighted that one of his daughters is majoring in English in college: “I love that she wants to be a teacher,” he averred. Not surprisingly, like most avid readers and writers, Justice Labarga has an unforgettable English teacher in his remote past: “Whatever writing skills I have, she is responsible for;” he said of Miss Perry Jerry, with whom he studied in eleventh grade. He especially remembers that she used to write a famous quotation on the board each day, and her students had to memorize 10 of them for each test. As a result, he still has a treasury of compelling and relevant quotations percolating in his head.

Justice Labarga’s wife and daughters still live in Palm Beach County, and he misses them profoundly, but he’s delighted to be in Tallahassee and professed that both he and his wife love it and find it very beautiful.
As he said this, he gestured toward the glorious oaks that are framed by his window—colossal, stately trees that he believes are about 300 years old. At this point, the only matter that might temper the joy of this “double Gator” (he received both his B.A. and his law degree from the University of Florida) is that, with the retirement of Justice Wells, Justice Labarga is the only Gator on the Florida Supreme Court.

The chief purpose of the meeting was to glean attendees’ perceptions of the trends and issues that mutually affect their organizations and the courts, both now and in the future. After framing the topic, Judge Ferris was rewarded with an abundance of remarkably lively, highly creative, free-flowing, and often impassioned responses that generated many different levels of conversation, both with the task force and among the participants themselves: Calling the meeting “a pleasure,” Judge Ferris reflected, “The attendees were very engaged, and everyone contributed to the discussion. They were candid, which we all appreciated, and also provided examples and suggestions.”

Attendees had a plethora of ideas to share. According to Judge Jones, “Many of the participants echoed the need for more efficient, user-friendly, informed court services, in which the best use of technology would be to assist in the managing of cases and provision of accurate and timely information throughout the process. There exists a demand for coordinated information systems to avoid redundancy and delay and to ensure prompt, accurate, and high-quality decision-making. In leaner budget times such as now, all those involved in the justice system feel the public demands for efficiency and prioritization, and they would like the court system to be sensitive to these.”

In addition, he observed, “Reassessing the court’s core functions is an ongoing need. The attendees urged consideration of e-filing, increased use of forms, simplification of existing forms, addressing pro se litigant issues, adoption of alternative dispute resolution options (such as increased criminal diversion programs or non-traditional courts or creative sentencing options), among a host of other ideas.”
About participants’ feedback, Judge Ferris called it “exactly what we needed to hear. Although the trial courts interact with citizens, lawyers, agencies, and others every day, we are not able to accurately perceive how we’re viewed by them. As judges, we’re focused on, and are attending to, the cases before us, but we may not understand how significant issues like massive court dockets, cumbersome scheduling, ineffective computer systems, and inaccessible court files and documents are for our system partners. The perception is that the courts are not easy to communicate with, that we schedule only for our convenience, that our computer systems are inept, that we are reluctant to openly discuss issues with our partners, and that we are slow to address problems. Whether these perceptions are accurate, whether they are fair, or whether they are valid concerns in every circuit, we must take them seriously,” she emphasized.

Added Judge Jones, “This type of gathering should not be an isolated event. The very articulate and passionate representatives from the various agencies and interests have something to say, which the court system needs to hear. They provided insight into a variety of issues and offered a number of suggestions which the court system must be prepared to deal with in order to retain its position as the constitutional center for dispute resolution and to maintain the public’s trust and confidence. It would be my hope,” he concluded, “that we can institutionalize a mechanism whereby gatherings such as this are not a rarity, but are a part of a court system process that is attentive and responsive to its justice system partners and to the public.” Judge Ferris agreed: “It is clear that opening up regular, formalized lines of communication, both within the court system and with our system partners, would serve us well; we would have a more immediate understanding of problems and concerns and could have the benefit of ‘new’ ideas and solutions to better serve the people of Florida.”

The meeting readily satisfied its twofold purpose, explained Barbara French, chief of OSCA’s Strategic Planning Unit, which staffs the task force: primarily, and most explicitly, the task force was seeking input for the long-range plan from the system partners. But no less important was the goal of “strengthening the court system’s relationships with these partners and seeking new opportunities to collaborate that would be mutually beneficial.” Especially heartened by the energetic fruitfulness of the meeting—and by the universal recognition of the collective benefits of collaboration—she remarked that, long-term, the court system “should probably start to build [outreach to system partners] into the goals and strategies of its strategic planning process.”

With the information-gathering process complete, only one, final undertaking remained for the task force before revisiting the long-range plan: in February and March, the task force hosted four focus groups, each of which concentrated on a designated long-range issue of the plan. After studying the information that the task force gathered in its various outreach endeavors, the focus groups worked with the task force in updating the long-range issues and in recommending goals and strategies that the long-range plan should address. The task force will soon begin drafting the plan and will submit it to the supreme court by June.
Education and Outreach

United Judicial Conference Draws Circuit and Appellate Judges

Watching Dean Erwin Chemerinsky, UC Irvine School of Law, and Professor Douglas Kmiec, Pepperdine University School of Law, taking turns pacing the stage while engaged in an animated point-counterpoint exchange, listeners could close their eyes and think back to December 2005, when the last United Judicial Conference was held. For in 2005, Dean Chemerinsky and Professor Kmiec also staged a vigorous, collegial debate in the opening plenary. The topic had changed; also, the 2005 conference took place almost diametrically across the state. But in the choice of plenary guests, the sizable number of conference attendees, the eclectic and compelling array of session topics, and the agreeable opportunity for inter-court collegiality, the two United Judicial Conferences are easily comparable.

Chief Justice Quince welcomed the circuit and appellate judges to the recent conference, celebrating this “great opportunity.” And Judge Alice Blackwell, Ninth Circuit, who chairs the Florida Conference of Circuit Judges, reminded attendees that “All programs are opened to every judge, regardless of their tier of court. Step out of your comfort zone,” she encouraged everyone: “Take something different.” (In this regard, the 2008 conference did differ from the one in 2005: the earlier one had separate education tracks for circuit and appellate judges.) The rationale for bringing together the circuit judges, the DCA judges, and the supreme court justices, Judge Blackwell noted, was “to broaden and deepen the education and exchange of ideas at the conference.” And the plan did indeed seem to work as intended.

Session topics were wide-ranging: Justice Through the Eyes of a Child; Juror Misconduct; The “CSI Effect” in The Real World Courtroom; Group Dynamics and Appellate Court Decision Making; Post-Conviction Relief; The Law’s Delay in Florida: Ex Parte Influences in Florida Appellate Practice and the Ku Klux Klan Flogging Cases of 1935-1938; Developing Judges as Leaders—there was ample opportunity for everyone to “take something different.”

One session that brought everyone together was called, simply, Collegiality. Moderated by former Justice Raoul G. Cantero, this panel discussion from each of the four tiers of court: Judge Gary Flower, Duval County; Judge T. Michael Jones, First Circuit; Chief Judge David M. Gersten, Third DCA; and Justice Barbara J. Pariente, Florida Supreme Court. Mr. Cantero framed the conversation with a lighthearted acknowledgement of the occasionally problematic relationships that exist among the different judicial tiers. He then set the agenda: to talk about the three types of collegiality in the courts: vertical, among the different tiers; horizontal, among the different courts within the same tier; and internal, within each court itself. He then orchestrated an honest and constructive dialog among the panelists, focusing on the importance of each type of collegiality, its benefits, its problems, and suggestions for improvement. The panelists readily agreed that respect, empathy, patience, and courtesy are critical for improving all three types of collegiality and offered some good suggestions for achieving these goals.

Although Florida’s circuit and appellate judges have been able to enjoy two joint conferences in three years, United Judicial Conferences are nonetheless a rarity. Before the 2005 conference, it had been about two decades since programming was planned with the two conferences in mind. (Admittedly, they did share a conference in December 2004, but that was something of an aberration: Hurricane Jeanne forced the cancellation of the appellate education program in September of that year, causing an impromptu joining of the two conferences.) In addition to the significant cost savings, the importance of united conferences cannot be denied: as Justice Pariente said during the Collegiality session, “We need to think of ourselves as all part of a team....It’s very

Dean Erwin Chemerinsky, UC Irvine School of Law (standing), and Professor Douglas Kmiec, Pepperdine University School of Law (seated), participate in a lively point-counterpoint colloquy at this year’s United Judicial Conference.
important to come together.” And Judge Jones added, “How important it is to have had an opportunity to break bread together, to talk together; we establish relationships through united conferences.”

Florida Judicial College Phase I Welcomes 60 New Judges

Altogether, 60 new trial court judges, both appointed and elected, spent five brimful days in attendance at the Florida Judicial College in early January. This “college,” a mandatory court education program for new judges, has been in place since the late 1970s, and it comprises two phases: the first, in January of each year, is for trial court judges, and it includes a series of orientation sessions and a trial skills workshop; the second, which takes place every March, concentrates on substantive law for trial and appellate court judges. All new judges are expected to complete this program within their first year on the bench; also in that first year, trial court judges participate in a mentoring program that provides them with steady, one-on-one guidance from veteran judges.

As always, the first phase of the college, which was held in Tallahassee this year, abounded with educational opportunities. In addition to the comprehensive, two-day trial skills workshop, new judges were familiarized with the spectrum of issues of which they must be aware as they make the dramatic transition from the bar to the bench. For instance, they learned how to identify and address contemptuous conduct in their courtrooms; they studied the elements of first appearance hearings and the essentials of a proper plea; they were taught how to identify and solve common problems arising under the Code of Judicial Conduct and how to recognize and avoid improper ex parte communications; and they got an intensive introduction to some family court matters—focusing on domestic violence injunctions and on major issues that they will have to address in juvenile detention and shelter hearings. The above topics would most likely fall under the rubric of what Judge Scott Brownell, Twelfth Circuit, called the “science of judging,” which he defined as “knowing the laws and rules.”

But, as he pointed out, there is also an “art of judging.” To be a good judge, a person also needs to work consciously on developing certain human skills. And the first phase of the Florida Judicial College worked with attendees to foster this fundamental aspect of their new calling as well. For instance, attendees delved into the qualities that make a good judge, and they distinguished the key characteristics that can affect a judge’s reputation and style; they considered strategies for becoming more effective listeners and communicators; they contemplated the skills necessary for dealing with the emotions of litigants in ways that engender...
Imagine getting a call from the president of your local homeowners association asking you to be the master of ceremonies at the candidates forum that your association is hosting at its next meeting. As a judge, are you allowed to perform this role? Or perhaps you received an invitation to attend a local political party meeting; you’re told that the meeting is open to the public and that you’re welcome to distribute your campaign literature and to speak with the attendees. As a judicial candidate, may you attend this function, distribute literature, and talk about your qualifications with the people who show up? Maybe you’ve been invited to teach a course at a local academic institution. As a judge, are you permitted to engage in this activity? If you don’t know the answers to these questions off the top of your head, would you know where to go to find the answers quickly and easily?

In fact, the answers to these, and hundreds of other questions like these, are available online, which means that readers can peruse them at their leisure and convenience. Responses to the questions above, for instance, can be found in An Aid to Understanding Canon 7 and the Judicial Ethics Benchguide, which are readily accessible from the same page on the Florida State Courts website: http://www.flcourts.org/gen_public/courted/references.shtml

In addition to finding the answers to a host of judicial ethics questions, curious browsers can link to a range of other online court education publications from the same webpage. Readers can find the Pandemic Influenza Benchguide, Domestic Violence Case Law Summaries with Indices (updated quarterly), Traffic-Related Appellate Opinion Summaries (updated quarterly)—and more. Links to a number of family court publications produced by the Office of Court Improvement can be found there as well, including the Domestic Violence Benchbook, the Dependency Benchbook, and volumes 1 and 2 of the Florida’s Family Court Toolkit. In short, a wealth of information for Florida’s judges and court personnel is literally at one’s fingertips.

Court education comes under the purview of the Florida Court Education Council, which was created in 1978 by the supreme court to provide oversight of the development and maintenance of a comprehensive education program for judges and court personnel and to administer the budget that supports these endeavors. Because the emphasis in court education is on live programming, that is where most of the resources have been channeled. But the council recognized that publications must also figure prominently in its judicial education delivery system: publications are portable; they are accessible to anyone with a computer and Internet access; and they can be readily updated. In addition, they can supplement, or complement, live education programs and can be a constituent of online learning programs. Moreover, publications offer learners another kind of pedagogical tool, and, together with live programming, online learning, and education program materials, they support the council’s endeavors to meet all types of learner needs. Finally, publications are a fiscally-prudent teaching instrument: since most of these publications are available only electronically, they are cost-effective to produce. In these times of fiscal uncertainty, the case for producing online court education publications has become even more compelling.
The Florida Court Education Council’s Publications Committee aims to advance continuing judicial branch education in Florida by creating, developing, distributing, publicizing, and maintaining a variety of publications of the highest quality. Currently, the committee is working assiduously to update An Aid to Understanding Canon 7, the Judicial Ethics Benchguide, and the Judicial Administration Benchguide. Judges and court personnel can also look forward to several new publications in the near future: Handling Cases Involving Self-Represented Litigants is forthcoming, and publication proposals include a New Employee Handbook and an Emergency Preparedness Handbook.

Incidentally, a judge may indeed be the master of ceremonies at a candidates forum hosted by a homeowners association (An Aid to Understanding Canon 7, JEAC Opinion 96-17). In addition, a judge is allowed teach a class about the law or a non-legal subject and may be compensated, as long as the teaching doesn’t detract from full-time judicial responsibilities and the compensation is comparable to what a non-judge would receive [Judicial Ethics Benchguide, Canon 4B, Canon 5B, Opinion 81-3, and Canon 6A(1)]. However, a judicial candidate may not attend the political party meeting referenced above since the candidate was not invited to speak on his/her candidacy or on a matter that relates to the law, the improvement of the legal system, or the administration of justice (An Aid, JEAC Opinion 96-20). [On a related note, Canon 7C(3) requires that an invitation to speak at a political party function must include the other candidates, if any, for that office.]

Faculty Training for Court Personnel

Since the early 80s, OSCA’s Court Education Section has coordinated a faculty training program for people who wish to be judicial educators. This day-and-a-half-long program, which is now required and is offered at least once a year, gives aspiring judicial faculty an opportunity to steep themselves in adult education principles in a small-group setting (the course is usually capped at 20). Participants learn how to do a needs assessment and how to create relevant learning objectives; they also get training in how to team teach, how to reach different kinds of learners, and how to plan a successful course. Especially attractive about this program is that it gives participants an opportunity to work closely with, and learn from, some of the court system’s most seasoned and gifted judicial educators. Although court personnel have been welcomed at this training program, its target audience really is judges who will be teaching other judges. This past October, however, court personnel had a chance to participate in the first faculty training program designed distinctly for them.

Two years ago, the Florida Court Education Council hired a consultant to perform an educational needs assessment of six different categories of court personnel: general magistrates and hearing officers; trial court staff attorneys and general counsel; judicial assistants; administrative services personnel; family court personnel; and case managers. The consultant made recommendations about the education and training needs of these audiences and about the most suitable and cost-effective delivery systems for handling those needs. Then, last year, to help it structure a framework for addressing the educational requests of these categories of court personnel, the council established an Other Court Personnel Committee, chaired by Chief Judge Kathleen Kroll, Fifteenth Circuit. Thus the development of the Other Court Personnel Faculty Training Program was an opportune and inevitable outgrowth of the court system’s expansion of educational opportunities for court personnel.

According to OSCA’s Susan Morley, senior attorney with the Court Education Section and coordinator of distance learning education, the Other Court Personnel Faculty Training Program was unique for three reasons. First, it was exceptional because of its audience: specifically conceptualized to address the needs of court personnel, the program was attended by a variety of court employees from all across the state, among them, magistrates, case managers, staff attorneys, appellate law clerks, judicial assistants, administrative services personnel, and a few OSCA managers.
In addition, the program was singular because of its format. Due to budget constraints and the challenges of coordinating conferences for large, diverse groups of people, it’s likely that court personnel will be meeting a significant portion of their statewide educational needs largely through distance learning mechanisms. Therefore, although the program dedicated some time to addressing traditional, live, in-person training, it focused substantially on distance learning formats. Practicing what it preached, the program utilized distance learning methods for two-thirds of its activities.

What also made the program noteworthy was its use of a “blended” or “hybrid” learning model that involved a combination of pre- and post-training outside the classroom along with a day-long training session inside the classroom. For the pre-training, participants studied some background materials that were available, on-demand, on the intranet; they also completed a needs assessment survey that measured their familiarity and comfort-level with various kinds of distance learning technology. This was followed by an interactive web conference, which gave everyone a chance to “meet” and presented the needs assessment results. Next was the in-person, classroom training, during which participants did some actual teaching—and had their teaching critiqued. The advantage of having done the pre-training is that, by the time these participants got to meet face-to-face, they already had a good sense of one another, had reviewed some basic information, and were comfortable working together as a group; as a result, faculty were able to maximize the time participants spent together. Finally, the third part of the program, or the post-training, was done through videoconferencing.

In addition to Susan Morley, faculty included Chief Judge Kathleen Kroll; Judge William Van Nortwick, First DCA; and Blan Teagle, Deputy State Courts Administrator with OSCA.

Currently, the great majority of the court system’s education program teachers are judges. But the council recognizes that court personnel will most benefit from faculty and mentors who actually do the sort of work that they do. To meet this need, planners conceived the October program as a kind of “train the trainer” initiative that will enable the council to begin building up a body of court personnel faculty. In fact, one of the requirements of the program is that these future court personnel faculty must offer some kind of training sometime within the next year. Several have already offered or scheduled presentations, so the program has already begun to bear fruit.

At the end of last year, the Other Court Personnel Committee developed an application for funding assistance to court personnel who propose to provide educational programming designed for non-judge court personnel. By the January 30 deadline, the committee received numerous applications for funding from judicial circuits and court personnel groups, proposing a wide range of programs. The committee voted to approve funding assistance for 13 of these, all of which are scheduled to occur during this fiscal year. Court personnel at various locations around the state can look forward to education and training on topics such as “Fairness and Diversity,” “Creating Excellence in the Workplace,” “Advanced Dependency Mediation Techniques,” “Domestic Violence Screening,” “Caseflow Management,” and “Effective Communication and Conflict Resolution in the Workplace.”

Whenever possible, the committee intends to share these course offerings with other locations, through distance learning or other means. Budget permitting, the committee plans to conduct a similar application process soon for proposals for the 2009-10 fiscal year.
Technology

The Florida Courts Technology Commission Meets in January

Like other court commissions and committees, the Florida Courts Technology Commission (FCTC) has been hampered by budget cuts, the travel freeze, and staffing shortages, so the opportunity for live meetings has not been forthcoming. Since the commission’s initial meeting, in January 2008, members have made use of email, teleconference, and videoconference to perform their duties. Given the chance for one face-to-face meeting this fiscal year, members convened at the end of this January, embracing their densely-packed agenda and making the most of this rare, in-person gathering.

The FCTC, chaired by Judge Judith L. Kreeger, Eleventh Circuit, is responsible for coordinating and reviewing recommendations informing all court policy matters related to the use of technology, and it also sets the technology policies and standards that all court committees and workgroups must observe. To address the FCTC’s multiple charges under the current financial circumstances, Judge Kreeger created five workgroups following last year’s meeting: a Planning Workgroup (to coordinate with the Task Force on Judicial Branch Planning); a Manatee Project Oversight Workgroup (to monitor and evaluate the Manatee County Pilot Program on online access to court records); an Access Policies Workgroup (to review and evaluate issues associated with user access fees and funding models, user identification, and the commercial use of court records); a Technical Standards and Security Workgroup (to work with the E-Filing Subcommittee in developing an electronic filing portal and to recommend security policies for technology); and a Governance Structure Workgroup (to recommend a system of governance for developing and implementing integrated, branch-wide technology). Because of resource limitations, only three of the workgroups have been able to move forward. One of the purposes of the recent meeting was to give them a chance to present their reports and recommendations to the full committee.

Via videoconference, Judge Edward C. LaRose, Second DCA, who chaired the Technology Subcommittee of the Task Force on the Management of Cases Involving Complex Litigation, also attended part of the meeting. Technology necessarily plays an essential role in managing complex cases efficiently and effectively—through case management, content management, e-discovery, e-filing, videoconferencing, single portal access, and electronic signatures, for example. Because these technologies fall under the oversight of the FCTC, commission members were keen to hear Judge LaRose’s presentation and discussion of the technology recommendations that were included in the task force’s final report.

FCTC members also got an update on the Committee on Access to Court Records. Staff to this committee synopsized the Access Committee’s final report and described the two rules petitions that are currently pending before the court and that the FCTC has been directed to guide through the amendment process (see following article for more details).

Other items on the agenda included presentations on the Records Retention Workgroup and ADA-Section 508 Compliance, as well as a demonstration of the Eleventh Circuit’s Odyssey System. This case management/case maintenance system, the product of a collaborative effort between the clerk and the court, has been implemented in the Eleventh Circuit’s family court division, and Judge Kreeger was eager to show commission members what this software can do for the courts.

In its January report on Judicial Case Management Practices, the Office of Program Policy Analysis and Government Accountability underscored a point that resonated well with FCTC members: Florida’s courts must have adequate technology to assist with scheduling judicial events, monitoring case processing, capturing court records and proceedings,
and providing judges with timely management
information and statistics (read report online).
Reviewing this report with commission members,
Judge Kreeger reiterated that “Technology is an
essential piece of the twenty-first century court
system”—and that having adequate technology is
especially critical in these times of diminished
resources, increased filings, and dwindling staff
support.

Committee on Access to Court
Records: Update

In 1992, when Florida voters overwhelmingly approved
the Sunshine Amendment, which guarantees access
to public records and meetings, probably few people
(outside of futurists, computer whizzes, and science
fiction buffs) imagined the bewilderingly prodigious
amount of information that computer technology
would soon make available: it was only a matter of
time before “the right to inspect or copy any public
record made or received in connection with the official
business of any public body, officer, or employee
of the state, or of persons acting in their behalf”
would take on a whole new dimension of possibility.
Before the advent of electronic records and the
Internet, Floridians could assume that public records
containing information about them were relatively
invulnerable, buried deeply in “practical obscurity.”
But this assumption has been eroded, thanks to the
digitization of records and the increasing popularity
of personal computers with Internet access.

Judicial branch records are also required to be
open to the public, and the supreme court has been
actively addressing ways to provide access to court
records without threatening the privacy interests of
individuals and corporations (since 1980, Floridians
have enjoyed a constitutionally-guaranteed right of
privacy). In 2001, for instance, former Chief Justice
Wells directed the Judicial Management Council to
study the issue of electronic records as it affects
Florida’s courts. The council concluded that emerging
technologies offer tremendous promise for advances
in the efficiency, effectiveness, accountability, and
openness of the courts but that current governing
policies and regulation were inadequate to protect
the public’s privacy.

Then in 2003, former Chief Justice Anstead created
the Committee on Privacy and Court Records, which
was directed to study and recommend policies and
rules to govern electronic access to court records. In
its final report, submitted to the court in August 2005,
the committee offered 24 recommendations: six for
immediate implementation; four for minimizing the
unnecessary filing of personal information; and 14
for creating a blueprint for a system of electronic
access. After receiving public comment, outgoing
Chief Justice Pariente and incoming Chief Justice
Lewis, in a joint administrative order in June 2006,
noted that “The issue is not whether the courts will
make records available electronically, but rather
when and under what conditions they will do so.”

To guide the implementation of the Privacy
Committee’s recommendations, former Chief Justice
Lewis established the Committee on Access to Court
Records in August 2006 and named as chair Judge
Judith L. Kreeger, Eleventh Circuit. Part of the
committee’s charge was to develop the necessary
conditions for electronic public access to court
records.

Florida Rule of Judicial Administration 2.420 governs
access to judicial branch records, and the committee’s
primary task was to propose amendments to this rule
that would improve the procedures for identifying
and protecting information in court records that is
confidential by court rule or statute. The Privacy
Committee had concluded that, in its current form,
this rule is largely unworkable in a digital context
because it appears to incorporate, by general
reference, all statutory exemptions—of which
there are over 1,000; since Florida’s courts
receive approximately 19
million documents a year,
it would be practically
impossible to apply all the
statutory exceptions to
all court records without
hindering the eventual
implementation of public online access.

To make Rule 2.420 workable, the Access Committee
proposed an amendment that essentially establishes
three categories of information commonly appearing
in court records: one for information that is clearly
exempt under court rule or statute; one for information
that is not clearly exempt but that a party seeks to
have determined confidential by the court; and one
for information that is clearly public. For the first
category, the rule amendments identify 19 statutory
public records exemptions that must be applied
by the clerk of court, as an administrative matter, to all incoming records. For the second category, the rule amendments expand an existing motion process through which any person can request a determination that specified records are confidential; the amendments also describe formal procedures for assuring that a motion meets certain requirements. In addition, the amendments address the difficult issue of protecting the identity of confidential informants and allow for restricted motions in a limited set of such cases. Last September, the committee filed its rules petition with the supreme court. If the court accepts the committee’s proposal, court users, clerks, and the courts themselves will be required to play a much larger role in segregating and protecting confidential information that is filed in court records.

Through a second petition, the Access Committee proposed an extensive series of rules amendments to minimize the introduction of unnecessary personal information into court files. In 2006, the court had instructed the various rules committees “to conduct a comprehensive review of court rules and approved forms for the purpose of modifying the rules and forms to discourage the unnecessary filing of personal information.” The separate rules committees’ proposals were referred to the Access Committee for consolidation. After reviewing these submissions, the Access Committee concurred with most of the proposals and compiled a single omnibus petition with all the related rules amendments. This petition was filed with the court in December, and a comment schedule for these proposals is expected soon.

Since the administrative order that created and authorized the Access Committee is no longer in effect, Chief Justice Quince, in a January administrative order, directed the Florida Courts Technology Commission to establish a Subcommittee on Access to Court Records to usher the rules petitions through the rule amendment process.

Chief Justice Quince will be one of the keynote speakers at this year’s May 15 drug court graduation; hosted by Miami-Dade County, drug court’s birthplace, this special event will mark the 20th anniversary of drug court.

Clearly, the traditional response to the drug crisis (hiring more law enforcement officers, appointing more prosecutors, certifying more judges, and building more and bigger jails) was not working, so Judge Klein knew that continuing to treat the problem as if it were merely a criminal justice issue was bound to fail. Through his research, he came to realize that, in order to tackle the crisis, he would first have to understand and address the underlying problem—drug addiction. And, as he soon discovered, treatment for drug addiction is both possible and often successful. To treat drug addiction, he recognized, it is necessary to marry the mechanisms of the criminal justice system with the delivery of treatment services. And in this marriage, the model for the treatment-based drug court was conceived.

An innovative, court-based diversion and treatment program for non-violent drug offenders, drug court
is typically a 12-18-month process that involves placing substance abusers into programs in which they are carefully monitored by a judge and a unit of treatment and justice-system professionals. All drug court programs share certain fundamental features: for example, the approach is non-adversarial; the programs offer a range of treatment and rehabilitation services and utilize interdisciplinary educational strategies; offenders participate in ongoing interaction with the court; and offenders undergo random alcohol and drug tests and are rewarded for positive behavior and sanctioned for negative behavior. Moreover, all drug courts are primarily focused on the participants’ treatment and recovery. Despite these common aspects, each drug court is unique, responsive to the needs, priorities, resources, and personality of the community in which it dwells.

In the 20 years since their inception, drug courts have been established across the state, the country, and the globe, expanding considerably beyond adult criminal drug court: the drug court model now includes juvenile, family dependency, and DUI drug courts, and elements of this model, especially its case management practices, have been appropriated by other court divisions, most notably, mental health, family-focused, and truancy divisions. The U.S. currently has over 2,140 operational drug courts, according to the National Association of Drug Court Professionals. Florida has 111 drug courts: 48 adult criminal, 30 juvenile, 24 family dependency, five misdemeanor, three DUI, and one juvenile re-entry. Through the partnership of the three branches of government and the private sector, Florida’s drug court program has become a far-sighted investment that has been shown to reduce crime, increase public safety, restore families, save money, and save lives.

Paying homage to the birthplace and to the 20th anniversary of drug court, the 10th annual statewide drug court graduation ceremony will take place in Miami-Dade on May 15. The function will include keynote speakers, one of whom will be Chief Justice Quince; a video presentation; and the graduation ceremony. Alumni as well as various dignitaries are being invited to attend this historic event. So far, fifteen circuits have announced that they’ll be participating, and, to enable drug courts across Florida to mark this celebration together, it will be webcast statewide. This anniversary commemoration has even attracted national interest; in fact, the National Association for Drug Court Professionals is involved in the planning and will be encouraging drug courts across the nation to hold their graduation ceremonies on the same day. Not surprisingly, it will also be a significant media event, with a press conference scheduled for 8:00 a.m. on the steps of the courthouse. For more information, please contact Aaron Gerson, with OSCA’s Office of Court Improvement.

Turning Points

Awards and Honors

On January 29, at the annual Pro Bono Service Awards Ceremony at the Florida Supreme Court, the following attorneys were extolled for their exemplary commitment to meeting the legal needs of the poor, the disadvantaged, and the most vulnerable of Florida’s citizens:

Russell E. Carlisle, Seventeenth Circuit, was honored with the Tobias Simon Pro Bono Service Award; Retired Judge John T. Blue, Second DCA, was presented with the Distinguished Judicial Service Award; Fishback, Dominick, Bennett, Stepter, Ardaman, Ahlers, Bolton & Langley LLP, Ninth Circuit, received the Chief Justice’s Law Firm Commendation; The Dade County Bar Association, Eleventh Circuit, was awarded the Chief Justice’s Voluntary Bar Association Pro Bono Service Award; Carin Constantine, Sixth Circuit, received the Young Lawyers Division Pro Bono Service Award.
In addition, the following attorneys were recipients of The Florida Bar President’s Pro Bono Service Award:

- Shari Thieman Greene, First Circuit
- Twyla Lawrene Sketchley, Second Circuit
- John Justin Kendron, Third Circuit
- James Anthony Kowalski, Jr., Fourth Circuit
- George Michael Germann, Fifth Circuit
- Gregory Keith Showers, Sixth Circuit
- Judith Duggan Davidson, Seventh Circuit
- Shannon McKenzie Miller, Eighth Circuit
- Susan Voight Stucker, Ninth Circuit
- William James Lobb, Tenth Circuit
- Robert C. Josefsberg, Eleventh Circuit
- Stanley Morris Krawetz, Twelfth Circuit
- Scott Alan Stichter, Thirteenth Circuit
- Todd Clifford Brister, Fourteenth Circuit
- Thomas Carlton Gano, Fifteenth Circuit
- Albert Lewis Kelley, Sixteenth Circuit
- Heidi Davis Knapik, Seventeenth Circuit
- Melanie Freeman Chase, Eighteenth Circuit
- Harry Charles Greenfield, Eighteenth Circuit
- Mark Edward Hill, Nineteenth Circuit
- Jean M. Finks, Twentieth Circuit
- Michael J. Willis, Out-of-State Florida Bar Member, Kalamazoo, Michigan

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On January 30, at the Florida Supreme Court, the following were honored at the annual OSCA Employee Recognition Ceremony:

- **Susan Leseman** (Publications Unit) received the Annual Award of Excellence;

- **The Family Court Forms Team—Susan Proctor, Tameka Francis, Rhanisa Jerger, and Chris Korn** (Office of Court Improvement)—received the Annual Teamwork Award;

- **Karen Samuel** (Personnel Services) received the Joseph W. Hatchett Diversity Award;

- **Brenda Vila** (General Services), **Katherine Simpson** (Strategic Planning), **Theresa Westerfield** (Budget Office), and **Michelle Ogletree** (Personnel Services) received the four 2008 Employee of the Quarter Awards.

**In Memoriam**


- **Judge David Harper** served on the bench in Martin County from 1971 – present.


If you have information about judges and court personnel who receive awards or honors for their professional contributions to the branch, please forward it to *Beth C. Schwartz*
### April 2009

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<tr>
<th>Date</th>
<th>Event</th>
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<tr>
<td>3</td>
<td>ADR Rules &amp; Policy Committee Meeting, Orlando, FL</td>
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<tr>
<td>19–23</td>
<td>Justice Teaching Institute, Supreme Court Building, Tallahassee, FL</td>
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### May 2009

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<tr>
<td>1</td>
<td>Legislative Session ends (Sine Die)</td>
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<td>4</td>
<td>New Attorney Induction Ceremony (tentative)</td>
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<td>5–8</td>
<td>DRC County Mediation Training, Tavares, FL</td>
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<td>6–9</td>
<td>National Consortium on Racial &amp; Ethnic Fairness in the Courts Annual Meeting, Pittsburgh, PA</td>
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<td>14–16</td>
<td>American Judges Association (AJA) Midyear Meeting, Sanibel Island, FL</td>
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<td>15</td>
<td>Annual Statewide Drug Court Graduation &amp; 20th Anniversary, Miami, FL</td>
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<td>15</td>
<td>Court ADA Coordinator Meeting (conference call), 12:00 – 1:30 PM</td>
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<tr>
<td>21</td>
<td>ADR Rules &amp; Policy Committee Meeting (conference call), 9:00 AM – 1:00 PM</td>
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### June 2009

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<tr>
<td>1–5</td>
<td>Florida College of Advanced Judicial Studies, Ft. Myers, FL</td>
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<td>2–5</td>
<td>DRC County Mediation Training, Jacksonville, FL</td>
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<td>4</td>
<td>Practicing Before Florida Supreme Court Seminar (tentative)</td>
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<td>11–12</td>
<td>Court Interpreter Oral Exam Testing, Miami, FL</td>
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<td>24–27</td>
<td>Florida Bar Annual Meeting, Orlando, FL</td>
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