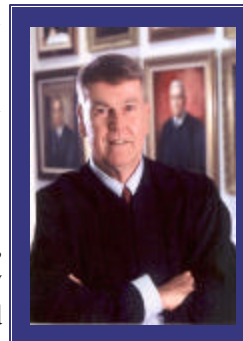


## A Message from Chief Justice Anstead

With the legislative session now behind us, and with the implementation and funding of Revision 7 to Article V off to a solid start, I want to take this opportunity to say "Thank you!" from the bottom of my heart for what all of you in Florida's justice system have done for the Branch and for the people of Florida. All of you deserve the credit for your tireless dedication and exhaustive work at home and in Tallahassee to protect and defend Florida's justice system.



Many of you took the initiative to contact your local legislative delegations, to meet with your local media, to write letters to the editor, and in every other way possible to see that this critical issue got the attention it deserved before the due date of July 1, 2004. Your chief judges, administrators, and local Bar leaders personally met with me in my tours around the state, came along with me to meet with editorial boards, and in countless other ways helped educate your local leaders and the news media about what admittedly was a difficult issue to explain. Through these efforts, leaders of respected groups such as Tax Watch and the Florida Retail Federation came to realize how much the business community had at stake, and with this understanding, rallied to our support. Through this work, news media provided the most extensive and accurate descriptions of any single event in Court history. In dozens, if not hundreds of articles, they helped all the citizens of Florida see what was at stake.

Two actual examples may serve to illustrate how hard everyone in the system has worked. Your representatives on the Trial Court Budget Commission, led by the indomitable Judge Susan Schaeffer, tirelessly spent weeks and months meeting with legislators before and during the crucial periods of the 2003 and 2004 Session. Similarly, Lisa Goodner and her incredible staff in OSCA have virtually lived and breathed Revision 7 these last several years.

The success the system achieved through all of your efforts is one for the history books. It is also absolutely clear to me that this success ultimately belongs to and most greatly benefits the people of this Great State, whom we all serve.

Again, I extend my most heartfelt thanks, appreciation and congratulations for a job well done to those that deserve it most: all of you who make the system work so well every day.

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## Supreme Court Holds Ceremony in Commemoration of Brown vs. Board of Education

The Supreme Court of Florida and The Florida Bar cordially invite you to attend a Ceremonial Session of the Court in commemoration of Brown vs. Board of Education in the Courtroom of the Supreme Court Building on Monday, May 17, 2004, from 11:30 a.m. to 1:00 p.m. Eastern Standard Time in Tallahassee. Speakers at the ceremonial session will talk about the impact of desegregation, and the ceremony will culminate in an attorney reenacting portions of the Brown oral argument in open court. Afterward, I will read portions of the decision originally read by U.S. Chief Justice Earl Warren exactly fifty years ago. A reception will follow in the Rotunda.

Organized under the leadership of Justice Peggy Quince, this ceremony is of great significance to all of us in Florida. It commemorates the 50th anniversary of a landmark judicial decision that continues to have a profound impact on this nation. The United States Supreme Court's decision in *Brown v. Board* struck down school segregation, ended the "separate but equal" doctrine, and paved the way for still other advances in civil rights.

The issue before the Court was whether racial segregation of children in public schools deprived minority children of equal protection of the laws under the Fourteenth Amendment. On behalf of the NAACP, special counsel Thurgood Marshall argued that segregation was unconstitutional because it stigmatized African-Americans, thereby denying them the protections guaranteed in the constitution. Chief Justice Earl Warren and a unanimous Supreme Court agreed, ruling that "separate educational facilities are inherently

unequal."

To assist courts in commemorating this historic event, the National Center for State Courts is developing an original curriculum about the decision to be used by judges when they visit middle and high schools. The curriculum will be available for download from the National Center web site ([www.ncsconline.org](http://www.ncsconline.org)) in late April.

The Brown case signaled the end of state-supported segregation of public facilities and set the nation on a long road toward racial equality. This anniversary reminds us of the critical role of the courts in safeguarding the fundamental values of this country. It also reminds us of the distance we have yet to travel in seeking true equality.

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

Fourteenth Amendment  
United States Constitution



## **ABOTA Presents Resolution to Chief Justice Anstead Supporting the Continued Independence of Florida's System of Justice**

Chief Justice Harry Lee Anstead recently received recognition from the American Board of Trial Advocates (ABOTA) in support of his efforts, along with the efforts of all members of the judicial branch, who have spent tireless days working on the implementation of Article V, Revision 7. Please see the entire resolution below.

### **RESOLUTION**

WHEREAS, Florida's American Board of Trial Advocates, whose membership consists equally of Florida's most experienced defense and plaintiffs attorneys, recognizes the importance of the continued independence of Florida's judiciary as the third branch of government.

WHEREAS, a fundamental principal of every free government is the separation of powers granted to the branches of government, and as being part of both state constitutions and the federal Constitution, it is basic to the very existence and perpetuity of the American form of government.

WHEREAS, in 1998, the voters of Florida approved a constitutional amendment to Article V which declares that the funding of a substantial part of our trial court costs be shifted from the county level to the State level. The amendment was essentially intended to ensure consistent quality of justice in Florida and not dependent upon whether a citizen was in a property-poor county, or a property-rich county, and that a state court system be uniformly funded.

WHEREAS, the amendment provided six years for implementation and the deadline for executing these sweeping changes is July 1, 2004; the future of Florida's trial courts will be determined by such funding.

WHEREAS, it is imperative that Florida's justice system have priority funding to ensure the citizens of Florida equal justice under the law, to ensure the prompt resolution of criminal and civil matters, and to ensure the continued separation of powers of government. It is imperative that the Article V funding be given the highest priority by the State legislature and the Governor's office.

WHEREAS, Chief Justice Harry Lee Anstead of the Florida Supreme Court has labored tirelessly on these issues before and during his service as Chief Justice, and in recognition of his invaluable contributions to the citizens of the State of Florida and the legal profession, the Florida chapters of the American Board of Trial Advocates formally pay tribute to Chief Justice Anstead.

NOW, therefore, be it resolved that the Florida chapters of the American Board of Trial Advocates commend Chief Justice Harry Lee Anstead and the other members of Florida's judiciary for their tireless efforts to ensure the continued separation of powers of government and independence of Florida's justice system, we urge all citizens to follow Chief Justice Harry Lee Anstead's lead in the resolution of Article V funding issues.

PRESENTED on behalf of the Board of Directors of the Florida chapters of the American Board of Trial Advocates.

Davisson F. Dunlap, Jr.  
President

## New Judges Complete Florida Judicial College

By Cal Goodlet, OSCA Senior Attorney

Twenty-six of the state's most recently appointed judges participated in the Florida Judicial College's Phase Two program in Tallahassee March 7-12. Hosted by The Florida State University College of Law, this year's New Judges' College welcomed thirteen circuit court judges and twelve judges from the county courts, as well as one judge from the First District Court of Appeal. Following the orientation and trial skills workshops in January and in conjunction with the College's year-long mentor program, the March curriculum affords those new to the bench a unique opportunity to focus on more complex substantive and procedural matters in the principal areas of their jurisdiction.

The College is nationally-recognized and widely emulated as a model program for new judges in no small part because of an outstanding faculty. Drawn from both the trial and appellate courts in every part of the state, faculty members encourage participants to discuss circumstances they may have encountered as judges and to share differing views on how these matters may be most effectively resolved. This emphasis on participant involvement exposes new judges to a variety of judicial perspectives relating to all aspects of the State Courts System. The process also fosters innovative approaches frequently resulting in cost savings and other improvements benefiting both the judicial system and the public at large.



Judge Wayne M. Miller and  
Judge Phyllis D. Kotey

ner/orientation program preceding the week's academic pursuits. The Justices were also on hand the opening day of the program. Honored guests participating in the course of the week were Governor Jeb Bush, the Governor's General Counsel, Rocky Rodriguez, and numerous members of both the Florida Senate and House of Representatives. Others participating in various aspects of the program included Don Weidner,

Dean of the College of Law, Judges Martha Warner and Terry Lewis, co-chairs of the Florida

Court Education Council, several other members of the Council, and State Courts Administrator Lisa Goodner.

The Florida Judicial College continues to be one of the principal means by which judicial branch education strives to more effectively enable members of the judiciary to fulfill their judicial responsibilities and improve the administration of justice throughout the state.

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26 Recently Appointed  
Judges Participants

## **Policies for Internet Access to Court Records to be Drafted; Interim Restrictions in Place**

By Steve Henley, OSCA Court Operations Consultant

Joining other states and the federal courts wrestling with concerns about privacy surrounding the electronic release of court records, Chief Justice Harry Lee Anstead created a committee to study the subject and recommend policies to the Supreme Court that would guide the electronic release of court records. To protect against the release of confidential information until policies are in place, the Chief Justice also ordered temporary restrictions on the electronic release of court records.

A 2001 report of the Judicial Management Council, which recommended both the committee and the interim restrictions, observed that there are significant advantages to be gained by electronic access to court records, but that "such access must be implemented in a manner that is respectful of people's privacy and does not undermine the ability of the courts to fairly administer justice." Concerns regarding privacy and security have been raised across the country in recent years as digital technology continues to revolutionize the management of records. Current technology makes it possible to transmit in bulk the full content of every court record and the publication of court files on the Internet. Several clerks of court in Florida provided on-line access to scanned images of court files until ordered to stop, and a number of clerks have been providing bulk transfers of records to commercial users, such as title insurers, background check agencies, and data aggregation firms.

In 2001 the Legislature enacted a law to restrict the placement of documents from family, delinquency and probate cases on Internet websites, but the law did not prevent clerks from transferring the same records in bulk or from creating limited access to them through subscription services. Such release of records raises concerns because of the potential misuse of information. Chief Judge Edward Fine of the Fifteenth Judicial Circuit, and a member of the new committee, was reported to say, "It's almost like Napster. Once you put it out on the Internet, it facilitates re-broadcast by others."

The fifteen-member Committee on Privacy and Court Records, chaired by Jon Mills, dean-emeritus

of the University of Florida Law School, met for the first time on April 12 and 13 at the Stetson Tampa Law Center. The committee is directed to report by July 1, 2005. At this organizational meeting, committee members received background information, an overview of legal issues, and heard from a national expert who has compiled information from a variety of states.

In addition to recommending general policies, the committee has been asked to recommend strategies to reduce the amount of personal and sensitive information that may unnecessarily become a part of a court record. Limiting the amount of personal information in court files prevents problems surrounding the release of the information. The committee can also suggest categories of information that the Legislature should consider for exemption from the right of access.

The interim restrictions containing the exceptions, allow court records to be released electronically to attorneys and authorized government agencies and allow a clerk to email a record to any requestor as long as the document is first inspected by the clerk's office and confidential information is redacted. Traffic cases, docket information, and high-profile cases are also allowed. More information on the Committee on Privacy and Court Records is available on the Supreme Court website at [www.flcourts.org](http://www.flcourts.org).

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## Explaining Court Organization Practices Frequently Referred to as “Specialty Courts.”

By Jo Suhr, Court Operations Consultant

The following article is a summary of a document prepared in response to the legislative interest in so-called “specialty courts.”

### Courts and Divisions of Court

Article V of the Florida Constitution provides for the following **courts** in Florida:

- a supreme court,
- district courts of appeal,
- circuit courts, and
- county courts.

Section 43.30, Florida Statutes, provides that “all courts except the Supreme Court may sit in **divisions** as may be established by local rule approved by the Supreme Court.” The Supreme Court has established a process by which local rules are generated and approved, Rule 2.050, Florida Rules of Judicial Administration.

Traditionally, trial courts (circuit courts and county courts) have established various divisions within their respective jurisdictions for the following reasons:

- to take advantage of the operational economies of scale available when the number of similar cases approaches a certain volume;
- to take advantage of the judicial knowledge, expertise, and consistency of outcomes that result when judges are assigned to hear similar types of cases for a period of time; and
- as a mechanism for increasing the likelihood that judges will be assigned cases for which they have the expertise, interest or temperament.

### What is meant by “specialty court?”

Often referred to as “specialty courts,” family courts, domestic violence courts, elder courts, and many other “courts” are **simply nominative designations that distinguish a set of judi-**

**cial case management practices or procedures.** These designations are often used for the ease of court users, but in spite of having titles that often parallel the names of divisions of court, they have no legal jurisdictional significance and have a wide variety of meanings. For example, the designation “family court” may refer to the family or domestic relations division of circuit court; a court calendar with similarly situated cases scheduled on the same docket; or any number of family-related cases, judicial case management practices, or procedures.

The various judicial practices and procedures adopted for these “courts” are designed to provide differentiation of management, processing, and handling of cases with an identified characteristic. The “trigger” characteristic for the use of practice or procedure may be:

- the **type of case** (e.g., domestic violence cases, Title IV-D child support cases, or traffic cases);
- the **type of issues involved** in the case (e.g., family-related issues, business-related issues, or collection of court-related costs issues);
- a **characteristic of a litigant** in the case (e.g., elder or other vulnerable person, substance abuser, or repeat/habitual offender); or
- a function of the element **time**, (e.g., night court or emergency court).

Court practices that attempt to coordinate or link litigants with community service providers are often given a “specialty court” designation. This designation can lead to the incorrect conclusion that the judicial branch is actually providing a service such as counseling for victims or perpetrators of domestic violence or treatment for substance abuse. This is typically not the case. Florida’s judicial branch recognizes that it is outside the role of courts to serve as a provider of non court-related services and the Revision 7 leg-

(continued on next page)

islative budget request does not include costs related to providing such non court-related services. The resources required to accommodate the various case management practices and court procedures dedicated to the efficient and effective processing of cases are included within the elements of the Revision 7 state court system budget.

### **What is the relationship between “specialty” courts, “problem-solving” courts, and “therapeutic justice?”**

Like specialty courts, problem solving courts and therapeutic justice are terms which have no agreed upon meaning, yet they have become prominent features of the national court landscape as courts have acknowledged an increasing number of diverse expectations for the courts’ role in society. While arguments for increasing court involvement in service issues are growing, the Florida Supreme Court has emphasized that Florida’s courts are, first and foremost, courts. After careful study of the implications for the judiciary, the Commission on Trial Court Performance has recommended that judicial expansion into providing evaluative, clinical, or social services is not consistent with the traditional role of courts. The Florida legislature made this same policy choice in defining the elements of the state court system to be funded by the state, and the Trial Court Budget Commission has developed its budget request to conform with these policy choices.

**It is important to note that trial judges address the needs and issues presented in cases involving substance abuse, family violence, etc. – regardless of whether any “special” practices and procedures have been adopted.** Our courts have always been involved in resolving disputes and solving problems, and over time courts have responded to legislative and citizens’ expectations by adopting court practices and procedures that require coordination and facilitation, as well as adjudication, at the case, organizational,

and policy level. In addition to external factors, courts have long understood that court actions and decisions that are unresponsive to parties’ needs may result in new or renewed case activity.

Mediation and arbitration programs offer an example of how courts adapted practices and procedures to promote logical outcomes that do not conflict with other normative values of our legal system. Other examples can be found in substance abuse, dependency, domestic violence, dissolution, and guardianship cases, where our courts have been legislatively charged with overseeing executive protective and rehabilitative activities to ensure the well-being of individuals involved. In these cases, individual judges and courts have developed a variety of practices, procedures, information sharing protocols and community partnerships. Most of the practices and procedures developed are not “programs” and are not “courts;” many do not require additional resources – other than a little extra effort on behalf of the judge or court staff.

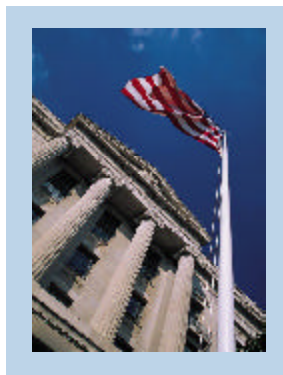
### **Examples of “specialty court” designations in Florida**

“Specialty court” practices or procedures can vary widely between and among circuits. Below is a summary of some of the practices or procedures frequently given such a designation:

**Repeat Offender Court (ROC)** - A practice of managing and docketing criminal cases involving repeat or habitual offenders in order to expedite case processing.

**Emergency Court** – A first appearance docket of the criminal court in the 13<sup>th</sup> Circuit, this “court” conducts in-camera

preliminary hearings or proceedings on all criminal cases, bond and ROR motions, arraignments for incarcerated defendants, misdemeanor violation of probation hearings, and other time-sensitive emergency criminal matters. In misdemeanor cases, the judge may accept a guilty plea and release the individual on his own recognizance or



time served.

**Collection/Enforcement Court** - A court process designed to enforce the collection of fines and costs imposed in the criminal justice system, including fines and costs in felony and misdemeanor cases, public defender liens, court-appointed attorney liens, restitution, county ordinance infractions, municipal ordinance infractions, civil traffic infractions, and parking fees. When these types of cases are scheduled on a single docket for efficiency, it is often referred to as a collection court.

**Business Court** - “Business” court in the 9<sup>th</sup> Circuit is a process by which certain managerially and substantively complex business cases, such as antitrust suits, intellectual property cases, franchise cases, and unfair competition cases are subject to certain standardized practices and procedures to ensure that they are handled in a consistent, effective, and efficient manner by a judge who has developed an expertise in complex litigation.

**Family Court/Domestic Violence Court** – “Family court” is a term that may refer to a division of the circuit court created by local rule or administrative order approved by the Florida Supreme Court hearing domestic relations cases; a group of family related divisions, such as domestic relations, domestic violence, and juvenile divisions; a court docket with family-related cases scheduled; or, where there is not enough volume to justify a division, a circuit’s administrative plans to coordinate family law matters that affect one family and ensure the efficient and proper administration of cases involving family-related matters.

**Domestic Violence Court** – A term that may refer to domestic violence division, or “department” of a division, created by local rule or administrative order approved by the Florida Supreme Court; a docket management tool by which county misdemeanor or circuit civil domestic violence cases are scheduled together in order to promote efficiency in the circuit or county courts; or a variety of judicial practices and procedures, including monitoring compliance with

court orders, designed to comply with statutory requirements, improve case processing time, and advance victim safety and batterer accountability.

**Model Dependency Court** - Not a court, but a reference to five circuits that received additional resources from the Florida Legislature in order to develop more efficient case management practices and ensure that the statutorily mandated case reviews were completed. These additional resources included case managers and general masters. These programs were eliminated in the FY 2003-04 budget reductions.

**Drug Courts** – Rather than a division of court, the term “drug court” refers to community partnerships and court practices that bring together the full weight and collective efforts of the state attorney, public defender, law enforcement and corrections, substance abuse treatment providers, education and vocational experts, community agencies and organizations, and others to handle cases involving persons in the justice system with a related substance abuse problem. The court’s role is to exercise the coercive power of the bench to keep participants engaged in treatment; supervision and drug treatment are generally provided by other drug court partners.

**Mental Health Court** – A court process that acknowledges the intersection of mental illness and criminal justice and the large numbers of mentally ill misdemeanants held in jails and processed through the justice system. The collaboration between the court, the public defender, state attorney, and community mental health service providers can provide faster case processing times, improved access to public mental health services, and reduce recidivism. Mental health “courts” convene on an as-needed basis with referrals coming from various sources.

**Elder Justice Court/Centers** – A local court program in the 13<sup>th</sup> Circuit that assists persons age 60 or older who are involved in the court system because of guardianship, criminal, family, or other civil matters. The program specifically serves older persons who are overwhelmed or confused by court proceedings, and its staff also



provides referrals to medical, social, and legal services available within the community.

**Night Court** – A docketing practice that, as a convenience to court users, schedules traffic, small claims, or simplified dissolution cases during evening hours. Generally, the cost of operating outside normal business hours is absorbed within existing operating budgets. Night court is typically eliminated during tight budget times.

**Traffic Court** - Not a court, rather simply a common docketing practice that schedules traffic-related cases on the same calendar to be heard by a county court judge or traffic infraction hearing officer.

**Teen Court** – Teen courts are not courts, and do not involve court cases. Teen courts are voluntary diversion programs designed to keep certain cases out of court. These programs have co-opted the “court” title because they involve a court-like simulation, where youthful offenders participate in a sentencing forum made up of a jury of their peers, and often utilize local courthouse facilities. They are operated at the local level by a variety of community-based organizations.

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## OSCA Hosts Employee Awards Program

By Christa Ray, Senior Court Analyst II



The Office of the State Courts Administrator (OSCA) held its first ever Employee Awards Program on February 24, 2004. Three employees were honored for their length of service to the State Courts System: Merica Granger, with more than 30 years of service, Richard Cox, with more than 25 years of service, and Hanna Watson, with more than 20 years of service. The OSCA also recognized its first Employee of the Quarter, Arlene Johnson. Arlene works in the Court Services Section and serves as a Court Statistics Consultant.

The awards program was initially recommended by the OSCA Diversity Workgroup. The purpose of the program is to recognize superior efforts by OSCA employees. The program encompasses several award categories, including:

**Employee Appreciation Award**

**Employee of the Quarter**

**Teamwork Award**

**Excellence Award**

**Joseph W. Hatchett Diversity Council  
Award**

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## Legislative Issues

As the Florida Legislature winds down with only two weeks left in session, the pace escalates as changes in our legislative bills continue to arise daily, and sometimes, even hourly. Due to the changing events, this issue of the *Full Court Press* will not contain legislative information. It is the intent of the Office of Community and Intergovernmental Relations to produce a *Special Edition* of the *Full Court Press* solely for the purpose of educating you on the 2004 legislative issues. If you have any questions, please contact Brenda Johnson, Director of the Office of Community and Intergovernmental Relations by phone at (850) 922-5692 or email at [johnsonb@flcourts.org](mailto:johnsonb@flcourts.org).

## **Domestic Violence Update**

Over the next three months, the Office of Court Improvement within OSCA will conduct several training meetings for circuit Domestic Violence (DV) Coordinators and other court administration staff members from around the state. Two regional meetings will be held, one on April 16 in Tallahassee and one on May 14 in Orlando, to conduct training on the Domestic Violence Court Action Plan. These trainings will constitute one of several methods for distributing the Court Action Plan to judges and court administration staff.

On June 10, a statewide training institute for DV Coordinators and other court administration staff will be offered in Tallahassee at the Supreme Court Building. Ms. Rachel Feldheim from the American Bar Association's Center on Children and the Law will provide training on handling cases involving both domestic violence and child abuse. On June 11, a statewide meeting will be held to further discuss the Court Action Plan and to share information regarding best practices, court effectiveness, statutory changes, and local initiatives.

For further information regarding these training opportunities, please contact Linda McNeill in the Office of Court Improvement at 850-414-8868.

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## **Justice Teaching Institute**

The Florida Law Related Education Association, Inc. collaborates with the Florida Supreme Court to administer the Justice Teaching Institute (JTI). The award winning Institute provides 25 secondary school teachers statewide the opportunity to spend a week at the Supreme Court learning about the structure and function of the Florida courts system. Justices and judges serve as faculty for the Institute and participants follow a pending case and conduct a mock oral argument as culminating activity.

On April 18 - 22, 2004, the statewide JTI was held at the Supreme Court Building in Tallahassee. One of Florida's greatest strengths is the rich social, ethnic, and gender diversity of its citizenry. Inclusion of diverse population groups is a priority of the State Courts System. Thus, the JTI encourages participation by teachers who will interact with students of diverse backgrounds or who are themselves members of a minority group. After successfully completing the Institute, teachers receive certificates recognizing them as Fellows of the JTI, signed by the Chief Justice and the Commissioner of Education. For further information please contact the Office of Court Education at (850) 922-5079.

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## **Judicial Qualifying Dates**

The dates for candidates for judicial office to qualify are from noon on Monday, May 3, 2004, through noon on Friday, May 7, 2004. Candidates for the office of county judge qualify with their local supervisor of elections. Candidates for the office of circuit judge and candidates for retention to judicial office qualify with the Division of Elections of the Department of State. Campaign conduct forums are being planned for the last week in May in those circuits with contested judicial elections. These forums stress the nonpartisan character of judicial elections and encourage strict compliance with the ethical requirements of Canon 7 of the Code of Judicial Conduct and related Rules Regulating The Florida Bar. For further information please contact the Office of Court Education at (850) 922-5079.

**MAY 2004**

- 1 Law Day
- 5-7 Florida College of Advanced Judicial Studies, Orlando
- 20-21 Steering Committee on Families and Children in the  
Court Committee Meeting, Tallahassee
- 20-21 Supreme Court Committee on ADR Rules and Policy  
Meeting, TBA
- 31 Memorial Day Holiday - Court Closed

**JUNE 2004**

- 3-4 Court Interpreter Oral Language Qualifications  
Examination, Daytona Beach
- 19-23 Florida Conference of Circuit Judges Business Program,  
Marco Island
- 23-27 Judicial Assistants Association Conference, Ft. Lauderdale
- 23-26 The Florida Bar Annual Meeting, Boca Raton

**Courtside  
Events**

**Harry Lee Anstead**, Chief Justice  
**Lisa Goodner**, State Courts Administrator  
**Jennifer Hirst**, Art Director & Editor

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