

SPEAKING OF JUSTICE

News From The Florida Bar Foundation

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For more highlights from the 2014 Annual Dinner read Speaking of Justice online at floridabarfoundation.org



JUDY TRACY

Southern Legal Counsel staff attorney Kirsten Clanton and Executive Director Jodi Siegel, second and third from left, respectively, and disability rights attorney Nancy Wright accepted the 2014 Steven M. Goldstein Award for Excellence from Judge William A. VanNortwick Jr., who chaired the award committee.

Southern Legal Counsel receives 2014 Goldstein Award for Excellence

A Southern Legal Counsel Inc. project to remedy due process violations by Florida's developmental disabilities Medicaid waiver program was honored June 26 by The Florida Bar Foundation with its 2014 Steven M. Goldstein Award for Excellence.

The biannual Goldstein award recognizes a project of significant impact

work undertaken by a Foundation Legal Assistance for the Poor general support grantee, and its recipients receive a \$25,000 general support grant and a \$3,000 staff training scholarship.

In *Moreland v. Palmer*, Southern Legal Counsel, together with disability rights attorney Nancy E. Wright, filed a statewide class action lawsuit in federal court against Barbara Palmer, the director of Florida's Agency for Persons with Disabilities (APD), alleging due process violations in the agency's implementation



Leadership and Funding for Justice in Florida

see GOLDSTEIN, p. 5



Senior Judge Emerson R. Thompson Jr. took office as Foundation president July 1. He has been on the Foundation board since 1995 and previously served from 1991 to 1993. Prior to his retirement in 2008, Thompson served as a county, circuit and appellate judge. He was appointed to the Fifth District Court of Appeal in 1993 and was chief judge from 2000 to 2003. Previously, he was a trial judge in the Ninth Judicial Circuit, where he was elected chief judge by his colleagues. In 1994, he was one of three finalists whose names were submitted to Gov. Lawton Chiles for appointment to the Florida Supreme Court. Thompson received his law degree from the Florida State University College of Law and his bachelor's degree from the University of Florida.

Message from the President

After more than 20 years of involvement with The Florida Bar Foundation, it is my privilege to serve this year as president, and in particular to serve alongside the Foundation's new CEO and executive director, Bruce Blackwell.

Those of us who know Bruce immediately understand what a blessing it is to the Foundation and to the cause of justice that he has agreed to lead us into the next era. Those who do not know him soon will. Bruce's wisdom and acumen, his passion for helping the underserved, and his infectious enthusiasm for doing what is right — and doing it with a smile — are now being applied full-time to the many challenges facing civil legal aid in Florida.

His first order of business was to lead the successful effort to secure a \$6 million loan from The Florida Bar to help bridge the gap between the exhaustion of the Foundation's reserve at the end of this fiscal year and an anticipated rise in interest rates that should begin to restore revenue from Florida's Interest on Trust Accounts Program in 2016.

We are extremely grateful to The Florida Bar and its members for their support, and we know the loan would not have happened if the Board of Governors did not have full faith and trust in the Foundation not only to repay it but also to make the highest possible use of the funds. This will involve increasing access to justice through the use of innovative

technology and the training and support of legal aid providers and pro bono attorneys in its use, as well as some changes in the way we structure our grantmaking.

As we move forward, we intend to put a strong emphasis on transparency, communication and inclusion. This will be critical if we are to enjoy the full commitment of our board and all of our stakeholders in helping us advance, in collaboration with The Florida Bar and the Florida Supreme Court, a comprehensive access to justice initiative. We need to speak with a common voice to ensure that everyone hears our message and understands what we are doing and why.

Fairness, equality in the eyes of the law, and a means of legal redress for those whose rights have been denied are more than just values we hold dear. These things are critical to the functioning of our democracy. They provide for a healthier society, a better environment for business, and a better quality of life for everyone, not just the disenfranchised.

With IOTA revenue running at just over 25 percent of what it averaged for the 20 years ending in 2009, we can quite literally no longer afford business as usual. And while nobody likes change but a baby in a wet diaper, change is inevitable. We must embrace it or be left behind as change overtakes us.

Emerson R. Thompson, Jr.



Drive justice home.

Support the Foundation's Children's Legal Services grants by purchasing a Kids Deserve Justice specialty license plate. Available at your local tag agency.

For more information, contact us at KDJ@flabarfndn.org or (800) 541-2195.

Larry and Pat Stewart see their support of The Florida Bar Foundation as helping protect the American dream

As soon as planes were allowed to fly again in the aftermath of 9/11, Larry Stewart boarded one of the first flights out of Miami bound for New York.

He was on his way to launch what became the largest pro bono program in U.S. history, in which 1,100 attorneys from all over the United States and six foreign countries represented 1,700 families in obtaining settlements, primarily through the September 11th Victims Compensation Fund established by the U.S. Congress.

A past president and member of the executive committee of what was then called the Association of Trial Lawyers of America, Stewart had been asked to set up the organization that came to be known as Trial Lawyers Care Inc.

"We had no money, no staff, no experience, no idea what we were going to do," Stewart said.

And yet, in two and a half years, under Stewart's leadership as president and CEO, Trial Lawyers Care recovered \$2.5 billion on behalf of 9/11 victims.

"Every penny went to the families," Stewart said.

Stewart, who has lived in South Florida for more than 50 years with his wife, Pat, received a number of national and statewide awards for his work with Trial Lawyers Care, including a pro bono award from the National Law Journal and The Florida Bar's 2002 Kirk Hass Humanitarian Award.

Since that time, the Stewarts have become increasingly aware of a growing justice gap in the United States, and they recently decided to do something about it by making two gifts of \$10,000 each to The Florida Bar Foundation.

"We've been concerned for quite a while about the growing gulf between the haves and the have-nots, and I think the



Larry and Pat Stewart

"We're all supposed to have the same rights in this country. But if you don't have access to justice, those rights are kind of meaningless. They vanish. Or they can't be enforced."

– Larry S. Stewart

country is going in the wrong direction in that regard," Stewart said.

"We're all supposed to have the same rights in this country. But if you don't have access to justice, those rights are kind of meaningless. They vanish. Or they can't be enforced.

"So, access to justice then becomes one of the things that is driving this gulf between the haves and the have-nots. It's way beyond a huge problem."

Pat Stewart said their gifts, which are designated for the Foundation's Legal Assistance for the Poor Grant Program, are a way of "paying it forward" on an issue about which they are passionate.

Furthermore, Larry Stewart sees the Foundation's work as helping protect a core American belief.

"This whole thing about the American dream is disappearing for so many people," he said, adding that he would be pleased to see others stepping

forward to provide opportunity and access to justice through similar support of The Florida Bar Foundation.

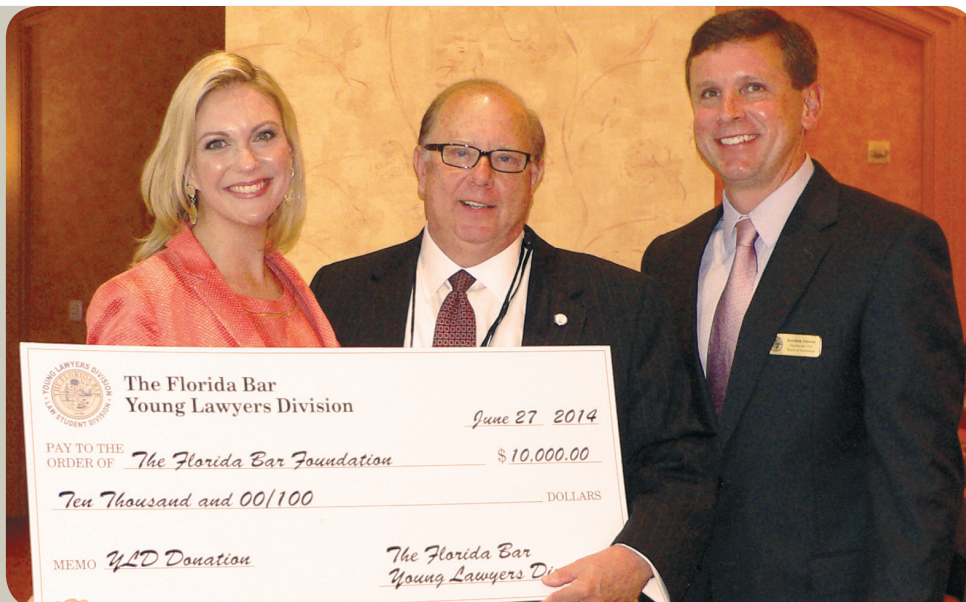
"I didn't make these gifts to encourage other people, but if that's the effect of it, that would be wonderful," he said.

Senior Judge Emerson R. Thompson Jr., the Foundation's president, thanked the Stewarts for their donations.

"People often state what their values are, but what they say may or may not conform to what they do. If you see the work Larry and Pat Stewart perform, it is obvious what their values are," Thompson said. "With the volunteer work they have done after the events of 9/11 and these donations, we note that their values are to serve and help those in need who cannot help themselves. On behalf of The Florida Bar Foundation, I applaud the Stewarts for continuing to serve and to help."

Florida Bar sections and divisions continue their support of the Foundation

In the past three years, Florida Bar sections and divisions have contributed more than \$660,000 to The Florida Bar Foundation. Some of their most recent gifts were announced at The Florida Bar's Annual Convention in June.



Former Young Lawyers Division President Melanie Griffin and President-elect Gordon J. Glover present a \$10,000 check to Foundation Executive Director Bruce B. Blackwell. The Young Lawyers Division has contributed more than \$210,000 to the Foundation in three years.

Business Law Section makes \$50,000 gift to the Foundation



Judge William A. VanNortwick Jr., 2014-15 Business Law Section chair, with Foundation Executive Director Bruce B. Blackwell and 2013-14 Business Law Section Chair Stephen Nagin at The Florida Bar Annual Convention.

The Florida Bar Business Law Section has made a \$50,000 gift to The Florida Bar Foundation to help the organization through the current period of reduced revenue from Florida's Interest on Trust Accounts Program.

"We see it as being in the best interest of all Floridians, including the business community, for people at all levels of our society to have access to our courts," said 2013-14 Business Law Section Chair Stephen Nagin of Peretz Chesel Herrmann in Miami. "And we see

the Foundation as an essential institution in making sure that happens, not only through support of Florida's legal aid organizations but also in implementing positive change within our justice system in terms of fairness, effectiveness and efficiency."

In recent years a number of Bar sections and divisions have donated funds from their reserves to the Foundation, which has helped soften the cuts in grants to legal aid organizations throughout the state as the Foundation's once-healthy reserve has begun nearing depletion.

"This generous gift from the Business Law Section is just one more example of the steadfast support Florida lawyers have shown during these challenging times," said 2013-14 Florida Bar Foundation President John Patterson. "We thank the Section's leadership and members. We can't say enough about the outpouring we have received from The Florida Bar, its sections and divisions, and from Bar members all over the state."

Trial Lawyers Section increases its 2014 giving to \$75,000

The Florida Bar Trial Lawyers Section has made its second gift to the Foundation in 2014, adding \$25,000 to its initial \$50,000 gift.

The Section was the first of several Florida Bar sections and divisions to come forward with a major gift when the Foundation had to begin reducing its funding to legal aid grantees after extremely low interest rates cut sharply into the income earned through Florida's Interest on Trust Accounts (IOTA) Program.

"Hundreds of Floridians have gotten desperately needed legal help in recent years as a result of the generosity of Florida's trial lawyers," said Senior Judge Emerson R. Thompson Jr., Florida Bar

Foundation president. "Their dedication to the cause is truly remarkable."

With total giving for the year of \$75,000, the Section has now contributed a total of \$225,000 in three years.

"The Trial Lawyers Section is so glad to have been able to match our \$75,000 in giving for a third year," said Hector Moré, the Section's chair. "We share the Foundation's mission of ensuring access to justice and are confident in the ability of its leadership not only to weather the extended IOTA revenue slump, but to innovate and emerge even stronger than before. In the meantime, we wanted to continue to do our part."



**Hector Moré, 2014-15 Chair
Trial Lawyers Section**

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of "iBudget," a new developmental disabilities Medicaid waiver program that cut the benefits of about 40 percent of those receiving services through the waiver.

Tina Russell of Port Orange, when looking at a 30-percent cut in the services provided to her 25-year-old son, who has cerebral palsy, told the Daytona Beach News-Journal in March 2013 that she worried how he would be able to continue to go to his adult day training program, and if he couldn't, how she would be able to continue to work and pay the bills.

"This settlement provides a safeguard against arbitrary government action, and prevents the erroneous deprivation of these individuals' services that are necessary to keep them living in the community, instead of an institution," Southern Legal Counsel attorneys wrote in their award application.

About 30,000 Floridians with developmental disabilities receive Medicaid waiver services from the APD. These are people who meet the level of need required for institutional care but who, instead of being institutionalized,

receive services that allow them to live at home with family members, in their own homes or in a licensed group home, and to participate in community life.

The program has had more than 22,000 people on the waiting list and has been chronically underfunded, and iBudget was instituted in an effort to control spending and get people off the waiting list. However, by failing to provide written notice and explanation of the intended reduction in services, APD left those consumers who faced a loss of services without the knowledge they needed to request a hearing or present evidence to appeal the cuts.

After an evidentiary hearing and two oral arguments, U.S. District Court Judge Mark Walker entered a preliminary injunction in favor of the plaintiffs, and the parties mediated a settlement agreement to protect the due process rights of a class of more than 9,000.

Resulting changes include the reinstatement of all class members' cost plans on a pro-rated basis to the level they were prior to the transition to iBudget and an agreed-upon notice from APD of iBudget allocation and reduction

of annual funding amount to all class members, and at the same time their parents, guardians, guardian advocates or authorized representatives. Notice will be in English and in the class member's primary language.

Southern Legal Counsel Inc., based in Gainesville, Fla., is a statewide not-for-profit public interest law firm that is committed to the ideal of equal justice for all and the attainment of basic human and civil rights. In 2013-14 it received a \$149,000 general support grant from The Florida Bar Foundation and a \$62,018 Children's Legal Services grant, as well as \$17,000 for legal aid attorney salary supplementation.

First runner-up for the Goldstein award was a successful effort by the Florida Legal Services Florida Institutional Legal Services Project to establish due process rights for people with developmental disabilities. The project received an award of \$10,000, plus a \$1,000 training scholarship. Second runner-up was The Consortium Project by Legal Services of Greater Miami Inc., which received \$5,000, plus a \$1,000 training scholarship.

Bruce B. Blackwell begins as Foundation's chief executive

Orlando, Fla., attorney Bruce B. Blackwell began serving July 1 as the full-time CEO and executive director of The Florida Bar Foundation.

A founding shareholder with King, Blackwell, Zehnder & Wermuth P.A. in Orlando, Blackwell is a past president of the Foundation, the 2011 recipient of its Medal of Honor Award and the 2013 recipient of the American Bar Association's Pro Bono Publico Award for outstanding service. Prior to becoming president, Blackwell served on the Foundation's board for 10 years and on The Florida Bar Board of Governors for four years.

Blackwell has taken on the leadership of the Foundation at a time when funding is short and access to justice is difficult for most Floridians, especially those with lower and fixed incomes.

"My service to The Florida Bar Foundation was the most meaningful of the many leadership positions I've been fortunate to hold in my career, but I never would have imagined myself in this role," Blackwell said. "This was a call I just had to answer, as the Foundation is simply too important. Florida needs a healthy Florida Bar Foundation more than most people will ever know. But I do know, and I will do all within my power to make it so."

The Foundation is the only funder linking 30 legal aid organizations in Florida to form a comprehensive, statewide legal services delivery system. It also provides funding for projects to improve the administration of justice. Through its leadership and funding, the Foundation has been instrumental in bringing about advances from a statewide, Web-based case management system for legal aid, to the creation of a statewide plan to combat human trafficking, to the establishment of the Innocence Project of Florida, which has used post-

conviction DNA evidence to bring about the exonerations of 14 innocent men who spent a combined 268 years in prison.

Throughout his career, Blackwell has performed more than 500 hours of pro bono work per year, handling some of the Legal Aid Society of the Orange County Bar Association's most difficult cases. He has raised money and lobbied Congress and the Florida Legislature to support legal services for the poor. As OCBA president and a member of The Florida Bar Board of Governors, he persuaded other lawyers to serve the poor and increase their pro bono work.

He has received the OCBA's highest award, the William E. Trickle, Jr., Professionalism Award, the ABA's Grassroots Advocacy Award, the Florida Council of Bar Association Presidents Outstanding Voluntary Bar President Award, and twice received the President's Pro Bono Service Award for the Ninth Judicial Circuit from the president of The Florida Bar. A fifth-generation Floridian, Blackwell is a past president of the Florida Supreme Court Historical Society.

"I can think of no other lawyer who has done more to advance the cause of access to justice in Florida, and no one better to help move the Foundation forward," said 2013-14 Florida Bar Foundation President John Patterson. "He will be a remarkable leader for the Foundation, and I am very grateful that he was willing to take on this role."

Blackwell graduated from Florida State University with his bachelor's degree in 1968 and earned his law degree from the FSU College of Law, graduating with honors in 1974.

He replaces Jane E. Curran, who had served as the Foundation's executive director since 1982 and is now executive director emeritus.



"While we are met with great challenges, we also see great opportunity. We intend to employ partnerships, technology, leadership and outside-the-box thinking to help make sure that in Florida the phrase 'justice for all' means what it says."

— Bruce B. Blackwell

Florida Bar Foundation welcomes new directors



Florida Bar President-elect **Ramón A. Abadin** is a partner in the Miami office of Sedgwick LLP. He is a past president of the Cuban American Bar Association and has served on The Florida Bar Board of Governors, the American Bar Association's Standing Committee on the Federal Judiciary, and on the Third District Court of Appeal Judicial Nominating Commission. He is a recipient of the G. Kirk Haas Award from The Florida Bar, awarded to one attorney a year, the Haitian Lawyers Association Significant Contribution Award, and CABA's Passing on the Leadership Award. He earned his bachelor's degree at Tulane University and his law degree at the Loyola University New Orleans School of Law.



Florida Legal Services President **Cleveland Ferguson, III**, is deputy chief administrative officer for the city of Jacksonville. He serves on The Florida Bar's Vision 2016 Taskforce and previously served on the Young Lawyers Division Board of Governors and the editorial board of The Florida Bar Journal. He also served on several American Bar Association committees, including the NGO & Not-for-Profit Organizations Committee. He earned his bachelor's degree at Nova Southeastern University and his law degree at the Florida State University College of Law. He also served as a chaired professor of law at Florida Coastal School of Law and is widely published in the areas of constitutional, commercial and international law.



Miami attorney **Patricia Acosta** chaired The Florida Bar's Media & Communications Law Committee from 2012-2014 and has served as a member of the American Bar Association's First Amendment and Litigation Committee, as well as its Forum Committee on Communications Law. A long-time advocate for the legal rights of the working poor, Acosta has received numerous awards recognizing her commitment to public service and outstanding pro bono legal representation. She earned her bachelor's degree in political science with honors from Florida International University and her law degree from the University of Miami School of Law.



Judge **Suzanne Van Wyk** is an administrative law judge with the Florida Division of Administrative Hearings. She previously was in private practice at Bryant Miller Olive and has served as assistant general counsel to the Florida Department of Community Affairs, as assistant county attorney with the Leon County Attorney's Office, and as a staff attorney for the Florida Building Commission and the Florida Senate, Committee on Community Affairs. Van Wyk chaired the Voluntary Bar Liaison Committee of The Florida Bar and serves on the board of the Florida State University College of Law Alumni Association. She graduated with honors from the FSU College of Law in 1994 and has a master's in urban and regional planning, also from FSU.



Tallahassee attorney **Daniel H. Thompson**, a shareholder with Berger Singerman, is a former member of the executive council of the Environmental and Land Use Law Section of The Florida Bar. He previously served as deputy secretary of the Florida Department of Environmental Protection. Thompson has served as president of the Legal Aid Foundation of the Tallahassee Bar Association and as president of Florida Legal Services. He was a designated director of The Florida Bar Foundation from 2011-2013. Thompson earned his bachelor's degree from Yale University and his law degree, with honors, from the Florida State University College of Law.

At-large directors serve a maximum of two, three-year terms, with one-third selected by the Board of Governors of The Florida Bar, one-third by the Foundation board, and one-third by the Florida Supreme Court. For a complete list of Foundation directors, visit www.floridabarfoundation.org/about/board-of-directors.

Florida Bar approves \$6 million loan

The Florida Bar Board of Governors July 25 approved a \$6 million loan to The Florida Bar Foundation to be made in two installments of \$3 million each. The maximum term of the loan will be seven years, starting with the initial disbursement of funds. The loan will help the Foundation continue to carry out its mission of providing greater access to justice, with \$1 million of each draw to be used directly or indirectly to increase access to justice through the use of innovative technology and the training and support of legal aid providers and pro bono attorneys in its use.

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we help legal aid help those least able to afford a lawyer.

We are The Florida Bar Foundation,

and we believe the justice system works best when it works for everyone.