

FAMSEG

FAMSEG, the Family Law Section Email Group

October 2010



2011 Marital & Family Law Review Course January 28-29, 2011

The Family Law Section of The Florida Bar and the AAML Florida Chapter present: 2011 Marital & Family Law Review Course.

January 28-29, 2011 at the Disney's Yacht and Beach Club Resort in Orlando, Florida.

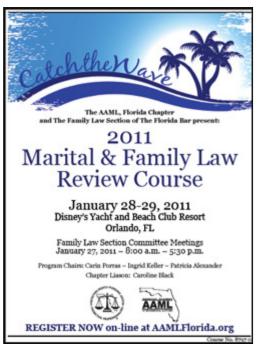
Family Law Section Committee Meetings January 27, 2011 - 8:00 a.m. - 5:30 p.m.

Program Chairs: Carin Porras - Ingrid Keller - Patricia Alexander

Chapter Liaison: Caroline Black

Register online now, click here.

Click Here to Download the Event Brochure.



Chair's Message

Dear Luis E,



Greetings Section Members! So much has happened since I authored the last Chair's Message to you it is hard to know where to begin. I am happy to report that the Family Law Section enjoyed an enthusiastic attendance at its Mid-Year Meetings in Orlando on September 22 - 23, 2010.



Newsletter Links

2011 Marital & Family Law Review Course

The Re-Definition of Family

Making A Difference Award Recipients

The Adoption Amicus
Brief

Stephens' Squibs

Article Headline

Quick Links

Section Executive Committee Officers (David L. Manz, Carin M. Porras and Elisha D. Roy) and I were happy to have the opportunity to attend various committees meetings and to see many returning Section members continuing their voluntary committee work, as well as to meet and greet new members. During the Section luncheon we learned that the Third District Court of Appeals had finally issued its opinion in Florida Department of Children and Families v. In Re: Matter of the Adoption of X.X.G. and N.R.G. It was fit and appropriate that former Section Chair Scott L. Rubin was present at the luncheon. At my request he delivered the exciting news that the Third District had affirmed the decision of Circuit Judge Cindy Lederman, unanimously concluding that there is no rational basis for this State's statutory ban on gay adoption contained Florida Statute 63.042(3) as it was violative of the equal protection provisions of Florida's Constitution. When **Scott** was Section Chair he persuaded the Florida Bar Board of Governors to authorize the Section to submit an Amicus Brief in support of Judge Lederman's ruling. Thereafter, The Florida Bar was obliged to defend its Board of Governors' decision before the Florida Supreme Court when The Liberty Counsel filed a petition to preclude the Section from filing its Amicus Brief. Scott L. Rubin. Section Amicus Committee Co-Chair Cynthia Greene and Executive Council member Luis E. Insignares all contributed to the authorship of the Section's Amicus Brief, which was quoted twice in the Third District's 42 page opinion. Kudos to **Scott, Cynthia** and **Luis** for their efforts, and a sincere, heartfelt and humble "thank you" from the Section to Jay White and Jesse Diner, former Bar Presidents, and The Florida Bar, Board of Governors, for having the courage and integrity to support the Section's request to file an Amicus Brief. The Executive Council was delighted when, Mayanne Downs, current President of The Florida Bar, and Scott Hawkins, President Elect, visited our Executive Council meeting on September 23, 2010 and acknowledged the Third District's ruling. If you

want to read the Third District's decision vou can do so by **clicking** here and/or listen to **Executive Council** member, Professor Sarah Sullivan's interview by **clicking here**.

During our Executive Council meeting we were fortunate to have Jonathan Sullivan. husband of Executive

www.woundedwarriorproject.org.



Kim Rommel-Enright and Robin J. Scher announced the very first winners of the Section's "Making a Difference" public recognition program for the month of October, 2010 during the Section's Mid-Year Meeting. Susan W. Savard has written profiles on each of these very deserving women, Jacqueline Marie Valdespino, Esquire of Miami, Florida, a Section member and Dr. Deborah O. Day, Psy.D., of Winter Park, Florida, an Affiliate Member, which explains how each has made a difference in their community and in the lives of Florida's families. If you know a candidate for this award, please go to the Section website at www.familylawfla.org to access the nomination form and award criteria. Membership App

Florida State Courts

The Florida Senate

The Florida House of Representatives

Commentator

Changes to Florida Alimony/Child Support Statutes

> Florida Statutes & Constitution



Call For Articles

FAMSEG is a monthly electronic newsletter.

Article Headline Areas of Interest

The Florida Bar Career Center - Your destination for exciting Legal job opportunities and the best resource for qualified candidates within the Legal Industry.

The Florida Bar Online Directory - The online directory provides links to court, state and federal Web sites and many other online resources attorneys use. This directory has the most current Florida Bar member information available with daily updates. *(In this section you will find: Members; Committees, Officers, & Sections; Court Admin. & Clerks: Courts: Courts -

Be sure to read FAMSEG's regular feature, Stephens' Squibs, next month to learn about the Florida Supreme Court's recent decision impacting the equitable distribution of passive appreciation on a nonmarital home. That recent decision resolves the conflict between the Second District Court of Appeals in Kaa v. Kaa, 9 So.3d 756 (Fla. 2d DCA 2009) and the First District Court of Appeals in Stevens v. Stevens, 651 So.2d 1306 (Fla. 1st DCA 1995).

State & Federal Government.)

Other articles in this month's **FAMSEG** include **Scott L. Rubin's** personal perspective on the Florida Department of Children and Families v. In Re: Matter of the Adoption of X.X.G. and N.R.G. decision: and Patricia Kuendig's article on "The Re-Definition of Family."



Federal; Judicial

Associations; Legal

Groups, Law Schools & Legal Aid; Rules; and

Fortunately Tropical Storm Nicole bypassed The Florida Keys and in its wake left us with beautiful weather for the Section's In-State Fall Retreat entitled "PASSPORT TO PARADISE" conducted in conjunction with the Florida Chapter of the American Academy of Matrimonial Lawyers Annual Retreat at the Casa Marina Resort in Key West. We kicked off the weekend with a Thursday evening catamaran cruise. On Friday Craig

CLE Calendar 2010

Looking for additional **CLE Credits?View other Available Family Law CLEs**

Hudson, **Esquire** a legal malpractice attorney and Blair Campbell, of Coastal Insurors, presented an informative seminar titled (ironically in light of Tropical Storm Nicole) "NAVIGATING

THE PERFECT STORM: LEGAL **MALPRACTICE IN**

FAMILY

LAW."[1] Later that afternoon the Florida Chapter and the

Section waged the "Battle of the Bartenders." Each side fielded three teams. The Section's Bartending "Dream" Team was comprised of: Patricia Alexander and Rob Boyd; Carin M. Porras and Douglas A.

Greenbaum; and Kathryn M. Beamer and David A. Riggs who

competed in four categories. The Section swept the competition winning three of the four categories for "Best Ingredients" and "Best Drink" (won by Patricia and Rob) and "Best Name" (won after a "name off" tie by Carin

M. Porras and Douglas A. Greenbaum). Section members relaxed,

soaked up the sun. and socialized throughout the weekend. On Saturday the Section members competed in a Scavenger Hunt in downtown Key West that challenged our intellect, ingenuity, and feet in pursuit of "Pinky" a pink coconut Flamingo and answers to various riddles. The team of "Captain Booty and his Scooties" comprised of Captain Booty (David L. Manz, current Florida Chapter President and Section Chair Elect}, Summer Hall (Section Program Administrator), Avonelle Mackerell, Cassie Manz, **Kyle Berzner** and I won the Scavenger Hunt. The Retreat was capped

by a well attended "Pirates in Paradise" themed dinner where we all had

CASE LAW UPDATE (1127)

with Eddie Stephens,

Telephonic Seminar

November 3, 2010 Time: 12:00 - 2:00pm

Brochure Register

MECHANICS OF BOARD CERTIFICATION EXAM

November 17, 2010 Time: TBA

Brochure (forthcoming)

PRACTICAL AND **THEORETICAL ASPECTS OF EVIDENCE FOR THE FAMILY LAW PRACTICTIONER** (1105)

Full-Day LIVE CLE / Webinar Ft. Lauderdale, the opportunity to "shake a booty."

I extend my sincere thanks to Susan E. Greenberg, who served as Retreat Education Chair, for her efforts in securing such fine speakers and for fashioning such an informative program; and to Kathryn M. Beamer, who served as the Retreat Chair. and our wonderful program administrator, Summer Hall, for all of her hard work in



planning and organizing the event. Special kudos are extended to **Susan Stafford**, the Florida Chapter's Program Administrator and Chapter President **David L. Manz** for their assistance in planning and co-ordinating

a delightful joint retreat.

Our Retreat was enhanced by the efforts of our Sponsorship Committee Chair, Patricia Kuendig, and the very generous contributions of our sponsors: Blair Campbell, Coastal Insurors; Berenfeld Spritzer Shechter & Sheer who were represented at the



Retreat by Melissa Goldberg; Regions Morgan Keegan Trust, who was represented by George Lange who was kind enough to attend our Executive Council meeting and finally, our bronze annual sponsor Appelrouth Farah & Co. who hosted a cocktail reception at the conclusion of the Scavenger Hunt, especially to Ed Sachs and Stewart Appelrouth who attended our dinner. The Section's sincere thanks to all of our Retreat sponsors for their time and financial support.

Last week the 2011 Marital & Family Law Review Course brochure

announcing this year's theme topics and speakers was sent out, so be sure to register and reserve your room at Disney's Yacht and Beach Club Resort for **January 28 - 29, 2011** as soon as possible. If you can, be sure to attend the Section Committee meetings on January 27, 2011.

Finally, be sure to "SAVE THE DATE" on your 2011 calendar so that you can attend the Section's Out-of-State Spring Retreat "ESCAPE TO WINE COUNTRY" April 6th - 11th, 2011 at the beautiful Tuscan themed Villagio Inn & Spa in Yountville, Napa Valley, California. The educational seminar is "ADDICTION: ITS EFFECT UPON YOUR CLIENTS AND THEIR CASES." You can learn more by clicking on here.

[1] If you could not attend but are interested in the topic, you can obtain C.L.E. credits by purchasing the program C.D. through The Florida Bar.

Hope you have a Happy Halloween. Stay happy, healthy and safe,

November 19, 2010 Time: 9am - 5pm

Brochure Register

FAMILY LAW ETHICS: A VIEW FROM THE BENCH

Telephonic

December 8, 2010 Time: 12:00 - 2:00 pm

Brochure (forthcoming)
Online registration not yet available

Article Headline Nicole L. Goetz



Is pleased to announce the opening of her new practice.

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Ms. Goetz practices

DIANE M. KIRIGIN, CHAIR FAMILY LAW SECTION THE FLORIDA BAR

exclusively in marital and family law at the trial and appellate level, and she provides assistance to other attorneys on complex legal issues and appellate matters.

Co-Editors: Luis E Insignares & Eddie Stephens

The Re-Definition of Family

By Patricia C. Kuendig, Esq.

I was born into a family of divorce. Each parent had previously been married to others and I had three older siblings - two from my father's first marriage and one from the same two parents. My parents divorced at a time when I wasn't old enough to sustain any memories of them together. Shortly thereafter, my father remarried.

There are two schools of thought on my family dynamic. The typical response that I receive when I share this information is one of pity. I have even had someone interpret it as "a dysfunctional and broken family." My family, on the other hand, prefers to view ourselves as



lucky. Not only are we survivors for weathering each storm without losing love and affinity for one another, but our inner circles have expanded to include so many amazing people. My family consists of my siblings (and it is taboo in my family to ever utter the term "half-siblings"), my parents and their extended families, my late stepmother's extended family, and my older sisters' mother's extended family. Wow. I really am so lucky.

I am not a proponent of divorce. I don't encourage anyone to end their marriage. If a prospective client sits in front of me and is unsure about whether their marriage is truly "irretrievably broken," I refer them to a qualified mental health professional that can help them with the decision. To the contrary, however, I do not think divorce is bad. Not everything in life is good or bad. Divorce or separation is a fact of life for many families and the challenge is to make it more positive than negative for the entire family (yes, even the dreaded opposing party). I like to tell clients that I do not break up families; I help to "reorganize" them.

As a child of divorce and a blended family, I encourage my clients to think positively, particularly about things they cannot change. For instance, a former spouse cannot control whether their ex moves on and even remarries. Provided the "other woman" or "other man" is a decent person, the client should be happy that their children are exposed to another good role model that may show them extra love and support. Can anyone, particularly an innocent child, be loved too much or by too many people? I don't think so.

I am sharing my philosophy, or re-definition of family, with the family law section because we all deal with families in turmoil on a regular basis. We can all help our clients and patients to thrive emotionally and be proud of their families well beyond the conclusion of their case. Let's care not just about the amount of money we can secure for a client's support or which assets they receive in equitable distribution, but also about their well-being, and their children's well-being, after they walk out of our offices that last time.

"Making a Difference" Award Recipients October, 2010

By Susan W. Savard, Attorney at Law

The Family Law Section of the Florida Bar publicly acknowledges, through the monthly 'MAKING A DIFFERENCE" award, those individuals who have made a difference in the lives of the underserved or disadvantaged within our State. The individuals who receive this award either provide outstanding *pro bono* services or engage in other types of outstanding volunteer community activities and pursuits that improve the lives of Florida's children and families. The recipients for the award for October, 2010 are Jacqueline M. Valdespino, Esq. and Deborah O. Day, Psy.D. A brief description of the pro bono services and volunteer work of each individual appears below. Congratulations to each recipient, and thank you for your past and continued efforts on behalf of the children and families of Florida.

Jacqueline M. Valdespino, Esq.

Jacqueline has a passion and commitment to professionalism and to protecting the rights of children. Her commitment to Florida's children began before she became a lawyer. Jacqueline volunteered as a pro bono Guardian ad Litem in dependency and delinguency proceedings during her undergraduate college years, and also while attending law school. Once she was admitted to the Florida Bar, Jacqueline continued to serve as volunteer Attorney Guardian ad Litem. In her first year of private practice, she received the Put Something Back Pro Bono Service award in recognition of her outstanding commitment and service to



the disadvantaged of Miami-Dade County. She has received this recognition each year since that time. In 1997 she was honored as the Put Something Back Guardian Ad Litem of the year.

Jacqueline was appointed as a *pro bono* Guardian ad Litem in a particularly contentious family law case. Through her devotion, the child's voice was heard through numerous post dissolution trials, appeals and remands. The appointment spanned over a period of 7 years and 23 court file volumes, yet Jacqueline continued to accept additional volunteer appointments during this time. Since 1992, she has been appointed through Miami Legal Aid Society or at the request of the Family Division judiciary in forty-eight *pro bono* Guardian ad Litem cases. In 1999 when the First Family Law American Inn of Court requested volunteers to act as Guardians ad Litem in domestic violence cases, Jacqueline was among the first to volunteer her services. Jacquie truly practices her profession in the unselfish pursuit of "Justice for All!"

In 2003 the Florida Supreme Court awarded her the Tobias Simon Award for her pro bono services and the ABA awarded her the Ann Liechty Child custody Pro Bono Award for her tireless work for children caught in contested family cases.

In addition to offering legal services to the indigent, Jacqueline has served on the Board of Directors of the Child Abuse Prevention Program. The CAP Program provides education to school children throughout Miami-Dade County in an effort to prevent child abuse.

In 2004, Jacqueline began the Share the Light Project. This project was established to serve the many needs of orphaned Columbian children. For the past six years, Share the Light has purchased clothing and shoes for 180 orphaned children and presented them at a holiday party. Jacqueline and volunteers from both the United States and Canada have travelled to Bogota, Columbia, where the packages are presented to the children. Jacqueline spearheads not only the fundraising, but also the purchasing, organization and delivery of the gifts. Share the Light was expanded in 2007 and volunteers now also make and distribute not only meals to the homeless on a monthly basis, but also hygiene kits. Many family lawyers and judges join in the **FEED THE NEEDY** efforts; Marcia Soto, Dori Foster-Morales, Maryanne Kircher, Lucy Pineiro, the Honorable Deborah White-Labora, and the newly elected Samantha Ruiz-Cohen

Jacqueline also works zealously to make sure that indigent clients have competent lawyers. She devotes time to educating volunteer lawyers, not only because she is committed to raising the level of the profession, but also because she recognizes that training of others is crucial to the work required to protect our children. Jacqueline gives of her time freely when called upon to speak or organize continuing education seminars. She has participated in the Florida Bar Family Law Section Pro Bono Mentor Program assisting young lawyers in family law cases. Her commitment to professional development extends beyond our state boundaries. This past summer she produced a Presidential CLE program for the American Bar Association's National meeting in Washington DC relating to representing children in child custody cases.

Jacqueline is a Fellow of the American Academy of Matrimonial Lawyers. She continues her tireless advocacy for children and to the improvement of the practice of family law. Jacqueline has received the following honors and awards: 2003 G. Kirk Hass Humanitarian Award; 2003 Put Something Back Pro Bono Project, "Special Recognition"; 2003 ABA Ann Liechty Child Custody Pro Bono Award; 2003 Florida Bar President's Pro Bono Service Award; 2003 Tobias Simon Pro Bono Service Award; 2002-2003 The First Family Law American Inns of Court Best Team Leader Award; 2001-2002 The First Family Law American Inns of Court Congeniality Award; 2001 Ray H. Pearson, GAL Award; 1999-2000 The First Family Law American Inns of Court Congeniality Award; 1993 to Present, Put Something Back Pro Bono Service Award.

Deborah O. Day, Psy.D.

In addition to her clinical and forensic practice in psychology, Dr. Day has contributed enormous amounts of time as a volunteer not only in her profession, but also to the legal profession and to the community. In her professional affiliations, she has served in numerous roles with the Florida Psychological Association, including President of the Central Florida Chapter from 2001-2002, Chair of the Ethics and Domestic Violence Committees, and has volunteered her time to the Florida Chapter of the Association of Family and Conciliation Courts as a Board member from 2001 - 2008. She also served as the Vice President of Florida Chapter of



AFCC in 2006, and the Chair of the 2004 and 2005 AFCC Conference Committees.

Dr. Day has donated her time and professional services to numerous non-profit organizations which include services to the Kids House of Seminole

County as a Board member from 2001 - 2006 and as *pro bono* Clinical Director from 2002 - 2005. She has served as a volunteer consultant to the Children's Home Society from 1991-1993, as an Advisory Board member for Family Focus of Seminole County from 1992 - 1997, the Sexual Abuse Treatment Program from 1992-1997, and to **HEAT** (Help End Abuse Today), whose main goal is to prevent child abuse through education.

Dr. Day has also been appointed to numerous prestigious positions including her service on the Judicial Nominating Committee for the Supreme Court from 1997 - 2000, as a member of the Mediation Ethics Advisory Committee from 2002-2009, and by appointment by the Florida Supreme Court as a mediator of the Child Welfare Standards and Training Council from July, 1990 to August, 1993.

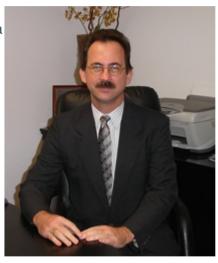
Dr. Day has selflessly devoted her time to improve the lives of Florida families by serving the legal community in many and varied roles. She has served as Chair of the Community Service Workshop of the Orange County Domestic Violence Task Force Commission from 2004 to the present, as a committee member of the Orange County Coalition Victim Services Committee and with the Orange County Bar Association as a volunteer with the Family Law Committee and the Child Care Committee. She has also been a contributor and guest speaker for the George C. Young First Central Florida Inn of Court and the Central Florida Family Law American Inn of Court, as well as a frequently invited guest speaker to the annual Judicial College. She has donated her time and expertise as a member of the Florida Bar Bounds of Advocacy Committee.

Perhaps most notably, Dr. Day has been a frequent and long standing volunteer and contributor to the Family Law Section of the Florida Bar. She has served on numerous and varied standing committees, including as Vice Chair of the Litigation Support Committee from 2004 - 2005 and Co-Chair from 2008-2009; as a member and Vice Chair of the Domestic Violence Committee from 2004-2005 and from 2007-2008; as a member of the Legislation Committee, Continuing Legal Education Committee, Parental Responsibility and Timesharing Ad Hoc Committee, and as a special Advisor to the Chair, both in 2009 and 2010 in the areas of children's issues and domestic violence.

"The Adoption Amicus Brief: Working Together for Florida's Children"

By Scott Rubin, Miami, FL

It was just another day of Bar meetings until I got the text from Laura Davis Smith telling me that the Third District Court of Appeal had affirmed the so-called "gay adoption case." I started beaming ear to ear. My partner, Terry Fogel, was the first person I told. My wife Gladys was the first person I texted. Then, I rushed over to the Section luncheon to share the news. On the way, I ran into President Mayanne Downs and President-Elect Scott Hawkins. I told them the news and thanked them for their support when I appeared in front of the Board of Governors. I also emailed Jesse Diner to thank him for



everything that he did to help make this wonderful event happen.

Many times, when good things happen, it is as a result of the efforts of many people working together. Such was the case in this situation. First, Judge Cindy Lederman wrote a magnificent Final Judgment which so clearly spelled out the best interests of the affected children. Next, the Executive Committee of the Family Law Section was the first of what would be three bodies to vote unanimously in favor of the Section taking an amicus position in support of the Final Judgment. I next called a special telephonic meeting of our entire Executive Council where approval was once again unanimous.

With the unanimous vote of the Executive Council in hand, I flew to Tallahassee to appear before the Board of Governors to request permission for the Family Law Section to take an amicus position in the case. Bar staff was exceedingly helpful and accommodating. Bar Counsel Paul Hill explained to me precisely the standard to be used by the Board of Governors in determining whether to permit the amicus filing.

Appearing before the Board of Governors was an awe-inspiring experience. The leaders of The Florida Bar were sitting in judgment of whether there was constitutional authority for the Family Law Section to take an amicus position supporting the best interests of children in Florida. Several governors stood to speak in favor. Jesse Diner, then-President Elect, was a strong supporter of our position, as was then-President Elect Designate Mayanne Downs. Ervin Gonzalez and others also spoke in favor. No one spoke in opposition. The vote to allow the Section to proceed was unanimous.

After receiving approval from the Board of Governors, approval still had to be obtained from the District Court of Appeal. None of the parties objected to the Family Law Section taking an amicus position, and the Third District granted our motion.

The brief initially was drafted by **Cynthia Greene** and **Luis Insignares**. After I reviewed it, I made some changes. The three of us appear on the brief as authors.

Attending the oral argument was an amazing experience. The Court was sitting at the Florida International University Law School. Elliot Scherker of Greenberg Traurig argued persuasively on behalf of the children. I had the privilege of sitting next to the adoptive father and talking to him before, during and after the argument. He has truly been the best thing ever to happen to those two little boys.

Then came the waiting. Weeks passed, then months. Finally, the opinion was released. The Family Law Section brief had been quoted twice in the opinion. Those quotes make it apparent to me that the Family Law Section, the Board of Governors and The Florida Bar were able to make a difference for the better in the lives of many children in Florida, but, more specifically, in the lives of two little boys in Miami. What had been just another day of Bar meetings became one of the days that I was proud to be an attorney and even prouder to be a part of the Family Law Section.

Stephens' Squibs - Family Law Case Updates By Eddie Stephens

<u>Click here</u> to read a summary of Florida Marital and family law case updates from **September**, **2010**. Stephens'

Squib of the Month:

Sanchez v. Hernandez, 35 Fla. L. Weekly D2019 (Fla. 4th DCA 2010). Order modifying primary residential parent reversed. There must be a substantial change of circumstances not reasonably contemplated by parties at time of final judgment. Father needed to demonstrate more than merely an acrimonious relationship and a lack of effective communication in order to effectuate a modification.

Wanted: Your Submissions Articles

Have you just finished a case or appeal where you had to become well-versed in a particular family-law issue? Well, how about sharing your genius with the rest of us?!





The Journal

To be considered for publication in The Florida Bar Journal, the article should be scholarly and relate in some manner to family law. It should be twelve to fifteen pages in length, complete with endnotes.

Contact co-editor: **Sarah Sullivan** at <u>ssullivan@fcsl.edu</u> Or co-editor: **Amy Hamlin** at **ahamlin@helpisontheway.cc**

The Commentator

Commentator articles are theme-specific. Upcoming theme issues include: Children's Issues, Tax Issues, Hot Tips, Alimony, and Agreements.

Send your Commentator submissions to **Laura Davis Smith** to **Ids@greenesmithlaw.com**.









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