

The Government Lawyer Section R E P O R T E R

“No Higher Calling”

Spring 2004

Chair’s Message: Standing Proud

We call it the “Chair,” but no one really sits in it. Instead, if you are Chair of the Government Lawyer Section, you stand and run, because the year passes quickly. During my 2003-2004 tenure serving the public sector lawyers of Florida, I strived valiantly, and I am proud of our Section’s remarkable success.

Atop the list of our achievements is an unprecedented Continuing Legal Education (CLE) program in Washington DC. With lectures and tours at the Department of Justice, National Archives, U.S. Capitol, Supreme Court, and Library of Congress, and cherry blossoms blooming all around the Tidal Basin, “The Fed-

eral Seminar” was, from the beginning, destined to be a memorable event. It exceeded expectations. In their reviews, people repeatedly declared the program “the best CLE I ever attended.”

Of course, similar praise has been offered to our Section’s other CLEs, including our terrific “Practicing Before the Supreme Court” and “Practicing Before the Legislature” programs. Our “Government in the Sunshine” seminar has become so popular that a portion of the program will be made available by telephone as a free benefit of Section membership. Moreover, two new CLE initiatives are on the horizon. First, as the

sister seminar to “The Federal Seminar,” we will be hosting “The State Seminar” in Tallahassee in 2005. Second, we are planning a new seminar on “Becoming a Judge.”

Not all of our year’s accomplishments are as visible as CLE programs. But sometimes, the invisible things are just as important. Notably, conference calls and e-mail voting are now an established part of the way our section does business. Three two-hour meetings each year at the regularly scheduled meetings of The Florida Bar is hardly enough time to plan the events for an entire year – especially when the Chair must control a rowdy group of lawyers, armed only with a gavel.

One of the keys to success as Chair is knowing that at any moment your quorum could abandon him for the cocktail lounge. Such camaraderie, of

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A Message from the (Incoming) Chair



It is a great pleasure to serve as Chair of the Government Lawyer Section. I plan to continue the good work of our outgoing Chair, Keith Rizzardi and look forward to a productive year. I

think that the issue of Membership growth should continue to be a top priority of the section. In the world of The Florida Bar, membership numbers is the name of the game. I would like to continue to reach out to areas of the Governmental Bar that are still underrepresented in our section, including judges and law clerks, and fed-

eral employees.

I look forward to continuing our tradition of excellent CLE seminars and Joe Mellichamp has agreed to continue as CLE Chair. We have some interesting issue to tackle next year, including working with the Young Lawyers Division to implement tuition reductions for the Practicing with Professionalism, working on a new Governmental Practice Certification, and working on our law student initiatives.

Again, I look forward to working with everyone to improve this great section, and I call upon everyone to strive to make it even better. Let me know what ideas you have to serve our members better.

— *Booter Imhof, Chair-elect*

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THE GOVERNMENT LAWYER
SECTION REPORTER

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**ARTICLES FOR THE FALL
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Articles formatted for Word Perfect 5.0 OR
6.0 may be submitted on computer disc
with hard copy attached (or e-mailed to
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CHAIR'S MESSAGE

from preceding page

course, is a good thing, and enables our Executive Council to effectively represent the state's government lawyers on a number of controversial topics. This year, two controversial issues leap to mind. First, leaders of the Government Lawyer Section worked closely with the Young Lawyer Division to find a satisfactory compromise when the YLD proposed changes to the Rules Governing the Florida Bar. Second, our Section is now exploring the creation of a new Governmental Practice Certification, while strongly encouraging the Administrative Law Section to join us in the effort. In both cases, our Executive Council, after much debate and compromise, reached nearly unanimous votes approving the Section's future plans (see articles elsewhere in this issue).

Finally, at our 2004 Retreat, hosted at the Florida House, our state's embassy in Washington, D.C., the Section discussed two student outreach initiatives. The first is a recruitment fair. The idea is for the

Government Lawyer Section to host a full-day event allowing public-service minded students to meet and even interview with officials from government employers. Our second student-oriented initiative is to explore expansion of our affiliate membership program, and our Section will be working with a group of students at St. Thomas Law School who are founding a Government Interest Law Society. Watch for details in this and future newsletters.

Speaking of the future, it will soon be someone else's turn as Chair. I am confident that Patrick "Booter" Imhof, a seasoned veteran of many mad-scramble legislative sessions, is as prepared as anyone can be for full-year sprint that lies ahead. Booter will be supported by an outstanding pair of officers and long-time Section devotees, Pam Cichon from the City of St. Petersburg, and Judge Joe Lewis from Florida's 1st DCA. To them, and the rest of the Executive Council, I say thank you for serving the Section so well last year, and good luck next year. Now that my tenure as Chair is ending, I am going to go sit down.

— Keith Rizzardi, Chair

Future Seminar Opportunities

Submitted by Joseph C. Mellichamp, III, Carlton Fields Law Firm

Were you able to attend the section **Federal Seminar in Washington**? Have you heard what a great success it was? Are you on the edge of your seat waiting for information for future seminar opportunities? Well, here's the scoop.

The Federal Seminar that was conceived, planned and organized by our Chair was held in Washington, D.C. The seminar was a great success. Keith has indicated that he wants to do a similar seminar every two to three years. **The Practicing Before the Florida Supreme Court seminar** scheduled for June 11, 2004 is on schedule despite several setbacks that included the date being changed and several speakers having to cancel because of conflicts in their schedule. Booter Imhof's seminar **Practicing Before the Legislature** will be held in Tallahassee immediately

prior to the 2005 Legislative session, barring any intervening acts of the Legislature. **The Government in the Sunshine seminar** is tentatively scheduled to be presented in Tampa during the fall of this year. Roshawn Banks is well into the planning of a new seminar entitled **"So You Want To Be a Judge"**. This seminar will be presented in south Florida. There are several other seminars in the planning stages that will be presented in south Florida. The Chair-elect, Booter Imhof is looking for a volunteer to assist Joe Mellichamp and assume primary responsibility for the coordination of these new south Florida seminars. This assignment is a time consuming activity but with the assistance of Arlee Colman it can be rewarding. If you're interested, contact Booter Imhof.

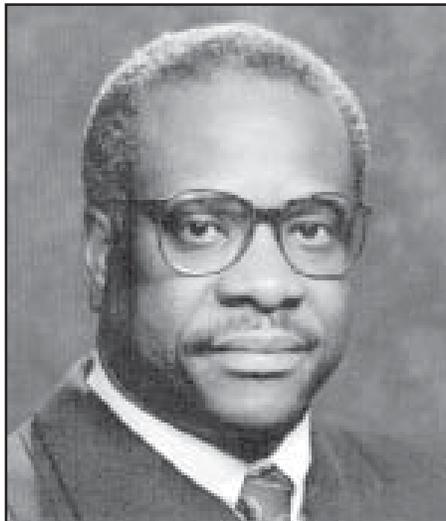
A Surprise Meeting with Supreme Court Justice Clarence Thomas

By Roshawn J. Banks, Asst. Broward County Attorney

On April 17-20, 2004, in Washington, DC, the Florida Bar Government Lawyer Section held its annual retreat and seminar, The Federal Seminar: Access and Information. The highlight for several members was being sworn into the US Supreme Court Bar, at the Court with all nine members of the Court present. Despite the brevity, the ceremony was quite exciting, especially since it immediately preceded oral arguments on the Guantanamo Bay prisoners' case, *Rasul v. Bush*.

The ceremony and oral arguments took place on Tuesday, April 20. It was the end of the retreat and seminar. I spent 4 days in Washington DC getting an inside view of what goes on in our nation's capital. I had brought my 14-year-old son to share in the experience. He was sitting a few rows behind me watching his Mom be sworn into the highest court in the land and listen to oral argument by Solicitor General Ted Olson. The Justices and lawyers volleyed back and forth on the question of whether the United States could indefinitely detain foreign nationals, with little recourse, in the name of being captured in connection with hostilities. I was in awe the entire time while observing each Justice's demeanor and listening to their many questions of each attorney appearing before them. But Justice Clarence Thomas appeared to be completely disinterested in the proceedings. This realization compounded my surprise at what happened at the conclusion of oral arguments.

Everyone stood to file out of the courtroom. My plans were to meet with the Government Lawyers Section for lunch and later our personal tour of the US Supreme Courthouse. My plans changed abruptly when one of the law clerks approached me and politely said, "Justice Clarence Thomas wishes to see you in chambers." In all honesty, the very first thing that went through my mind was "what could Supreme Court Justice



Thomas want from me?" (Did I mention that I am a young African-American female, and on that particular day was in a short suited skirt?) I managed to reply, "Are you kidding, that's pretty serious?" when the assistant continued, "he also requests to see the two gentlemen seated behind you." The two gentlemen behind me were Leonard Jackson and George Lewis, both African-Americans who had been sworn that morning also. I repeated to them what the assistant had said. Their eyes got about as big as mine had.

Of course, we accepted the Justice's request. As we walked behind where the Justices sit and down the corridor, I was absolutely giddy. I thought, "I am going to be in a Supreme Court Justice's chambers." I was thrilled and thinking of what the chances were of being requested to meet a Supreme Court Justice? And that the Justice would be Clarence Thomas. Why had he summoned us, three black attorneys? As we continued to his chambers I started to wish this request had come from any other Justice besides Thomas. I started to think of his decisions on affirmative action cases, his reputation in the black community as a "sell-out" for the entire African American community, even his nonchalant attitude on

the bench as evidenced that morning. Once again, in all honesty, I started to dread this meeting with Justice Thomas. It actually crossed my mind that the three of us may be chastised for being here! I would soon learn that I was wrong, wrong, wrong, and that my perceptions of Justice Thomas were more than a bit unfair.

We were escorted directly to Justice Thomas' chambers. He pleasantly, almost overly cheerful greeted us at the door. We introduced ourselves and sat down. I sat on a couch across from the Justice while he talked about his childhood. I was very busy still taking it all in and looking around the Justices' chambers. George Lewis did much of the talking at first. I think Leonard and I were on one wavelength of utter awe, pure amazement and disbelief. I listened to Justice Thomas talk about speaking with a Gullah dialect and not recognizing its semblance to people of Caribbean descent until later in life. Justice Thomas was so personable, down to earth, and with a very healthy, hearty laugh. Every time he laughed, he leaned way back in his chair, tilted his head back, and let out a sincere roar of a laugh. It was only then that I really started to relax, and accepted that this was really happening.

Justice Thomas took a more serious tone as he began to tell us how he had experienced newly desegregated libraries in Georgia. With a passion burning in his eyes, he told us how nothing had stopped him from getting a library card and being able to use it. Every roadblock he encountered, he sidestepped. For example, blacks still were not allowed to use the restroom in the library. So, Justice Thomas said he would go before going into the library, so he could stay as long as possible. He wanted nothing to keep him from learning what others, whites in particular, were learning. This was his struggle. Briefly, we talked about that and of continuing struggles. Then, we arrived at the heart of the discussion:

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JUSTICE THOMAS

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affirmative action and Michigan Law School.

We sat quietly as Justice Thomas looked us straight in the eye and said, "I know racism is there. I know discrimination exists." As if I was not already enthralled, I craned to hear what was next. I had no idea what he was going to say or what to expect. Suddenly, he made a sweeping motion with his arm across the table as if to say, "lets put that aside now." He took pen and paper as he sketched out his message to us. While he sketched he spoke, "There are many white Americans who start well ahead of minorities. The minorities fighting to get into Michigan Law School, "elitists", either started equal to or are now equal to or not far behind the white American. Do they really need affirmative action? Can affirmative action help?" He continued, "They will be okay in life." His sketch was a little stick figure, well behind two others. "This kid needs our help. The black child who starts well behind everyone else." He explained that this child has to overcome many struggles, whether it is poverty, racism, bad parents, or whatever. This child could only overcome the obstacles with help from outside. This child, after playing catch-up, reaches a point where he has come far but has yet to go much further. Justice Thomas then drew a line, bringing the stick figure up to the other two. Now the child has to compete with his black counterpart fighting Michigan Law School and the whites who started leagues ahead of him. Justice Thomas said, "Who is my cause? Who do I have to help? Should we give up on this kid way back here from the start?" gesturing to the stick figure in back. "Do we give up way

back here, deciding he is never going to make it, so why bother?"

At this point I finally understand where "my" Justice Thomas is coming from. Realize, I said, "understand", but not agree. Realize also that I said "my" Justice as I speak of Clarence Thomas. By now, I was smiling, as this man of whom I had many derogatory thoughts now became somewhat of a hero to me. Because I believe he was saying that there are other potential Clarence Thomas' in this world, and they are not always the black person competing to get into the Harvard or Michigan law schools. They are kids, like him, the ones you think may never make it. It is to this group of people that Justice Thomas reaches out. He believes in his core that one can go from "rags to riches", "can succeed in the face of adversity", and can "achieve the American dream" to coin a few well-worn clichés. And he believes one can do these things even if one is a minority. We went so far as to ask him how he reaches these kids, as they are not often mentioned in the briefs before the Court. He then told of his involvement with the Horatio Alger Foundation. I began to feel proud to have Justice Thomas on the bench, despite my belief that you do not help the students fighting Michigan Law School in the name of helping those who may be the ones lagging behind the students fighting Michigan Law School.

Justice Thomas continued to discuss race and his feelings of being somewhat out of touch with the black community due to his work. After work, he tends to his young nephew whom he encourages to excel in music, sports, and of course his studies. Again he became serious and we continued to talk about issues in the black community such as teen pregnancy, black role models, hip-hop, the black prison population, and even the

bling-bling mentality. He laughs heartily as he informs us that his nephew walks around talking about identifying with the "bling-bling" culture. An hour had passed and we were still talking. I became comfortable with the reality of speaking with a Supreme Court Justice and I was even glad that it was Justice Clarence Thomas.

Feeling comfortable, I was able to ask Justice Thomas about his seeming disinterest in the morning's arguments. Justice Thomas explained his position. He said that he is there to hear and listen and only after can he make a decision. He does not wish to get into a hypothetical or argue with the attorneys. He will ask questions only if it would help him better understand an issue. He told us that he once engaged an attorney who had become intimidated by the other Justices' questioning. The attorney started to retreat from his argument that there was no other purpose in cross burning but to racially intimidate. Justice Thomas' asked questions to keep the attorney focused on that proposition. He encouraged us to strive for excellence always, in court and out.

I told Justice Thomas that I had brought my son along, and would love for the two of them to meet. Justice Thomas howled his hearty laugh, "go get him, bring him in." He summoned one of his assistants to escort me to my son and return. I returned but without my son Dion, as he was touring the Supreme Court with the Section. Justice Thomas said that he has an open door for us. If we are ever again in Washington we should feel free to stop by and see him. He gave us his assistant's name and number. I left his chambers with a newfound respect, appreciation, and understanding of Justice Clarence Thomas.

At dinner that evening, a fellow government lawyer section member posed the question, "how can a Justice who does not believe in affirmative action, participate in affirmative action by inviting the only three African-Americans at the swearing-in ceremony to his chambers?" We all took the opportunity to discuss racism, affirmative action, discrimination, and Justice Clarence Thomas. I look forward to continuing the dialogue.



Ethics Questions?

Call The Florida Bar's

ETHICS HOTLINE

1/800/235-8619

Join the Government Lawyers Section
at
The Florida Bar Annual Meeting
Boca Raton Resort, Boca Raton, FL

See the complete
brochure in your
May Bar Journal.

June 25, 2004

2:00 p.m. - 5:00 p.m.

Government Lawyers Section - Executive Council
Meeting
Veranda IV

6:30 p.m. - 8:00 p.m.

Government Lawyer Member Reception
Royal Palm Ballroom VII
(Co-Hosted with Out-of-State Practitioners and
International Section)

Sheryl G. Wood Wins Claude Pepper Award



The Government Lawyer Section is proud to announce that Sheryl G. Wood, General Counsel for the South Florida Water Management District, is the recipient of the 2004 Claude Pepper Outstanding Government Lawyer Award. During a 15-year career at her agency, Ms. Wood rose from an

entry-level contract attorney to become the human resource attorney, the procurement director, the deputy general counsel, and now the general counsel. She oversees a staff of 47 people, navigating the agency through the many controversial legal issues

associated with South Florida's flood control system and the Everglades restoration. She is an active participant in the American Bar Association, a charter member and past Chair of The Florida Bar's Government Lawyer Section, and a member of the Palm Beach County Bar Association's Lawyers for Literacy Committee. Ms. Wood also volunteers for Ballet Florida and Leadership Palm Beach County, and was instrumental in establishing the Advocacy for the Arts project, whereby lawyers provide *pro bono* services to fledgling arts organizations in minority and low-income communities. Her volunteer work earned Ms. Wood the 2002-03 Palm Beach County Community Service Award from the Legal Aid Society of Palm Beach County. As a graduate of Florida's primary and secondary schools, who subsequently earned degrees from Florida Atlantic University and Stetson University College of Law, Ms. Wood's Florida roots are deep, and her career of service to the people of Florida is worthy of our State's highest annual honor to an outstanding government lawyer.

Dean Butterworth Speaks Out With a Vision for Government Lawyers

By Leonard Jackson

In a recent interview, former Attorney General and founder of the Government Lawyer Section, Robert Butterworth spoke out on the importance of encouraging today's law students to become tomorrow's Government lawyers. Currently, Mr. Butterworth is the dean of the St. Thomas University School of Law. Dean Butterworth discussed the current interest in public law by law students, and the impact that government law is having on the legal community.

When asked his thoughts about law students being affiliate members of the Government Lawyer Section, Dean Butterworth stated that not only is it a good idea to consider law students for affiliate membership, but also pre-law students at the undergraduate level as well. According to Dean Butterworth, "many people go to law school for public interests." In Dean Butterworth's view, many law students and potential law students could be encouraged and helped by the Government Lawyer

Section through mentoring.

Indeed, mentoring of law and pre-law students could help these students, not only with choosing an area of law in which to practice, but also by providing practical financial guidance. As Dean Butterworth stated, "the Government Lawyer Section could guide them [law and pre-law students] in such a way as to not have that high of a debt upon graduation. Perhaps they can obtain paid clerking positions with state attorneys, public defenders, county attorneys, and other local government law agencies."

Thus, there is much that can be learned from the Government Lawyer Section by up and coming lawyers. Yet, Dean Butterworth also sees a role for the Section to play in the legal community as a whole. Dean Butterworth admits that while there is the perception that lawyers have chosen their profession for "the money", in fact, government lawyers are an example of those doing good things for the public good. Moreover, Dean Butterworth believes that government lawyers can and should have more of an impact on the legal community. One way of having such an impact is being more active in the Florida Bar, including in leadership roles. "There should be more people from the Government Lawyer Section on the Board of Governors," he said, to enable government lawyers to provide our very unique insight as public servants to the Board.

Therefore, government lawyers have more than just the responsibility to try to impact the legal community around us – we also have a responsibility to those who are following in our footsteps. There will always be another generation of attorneys right behind us, eager to make an impact on society. The question now becomes, are we willing to provide them the guidance they need to help shape the world ahead?

Leonard Jackson is the Chair of the Government Lawyer Section's Membership Committee.

New organization prepares students for careers as government lawyers

By Dan Rudez

Two events spawned a new organization at St. Thomas University School of Law in the fall of 2003. One was the arrival of our new dean, former Attorney General Bob Butterworth. The other was a program by our career services office revealing that over 30 percent of our school's graduates begin their careers working for the government in some capacity. As a result, student leaders at St. Thomas created the Government Interest Law Society, focused on educating future government lawyers to better serve the citizens of our community and the State of Florida.

GILS plans to encourage discussions of policy and politics at the national, state and local level. Three programs will help us achieve these goals. First, the organization plans to

host speakers, who can provide us with a ground level understanding of what it means to work in the public sector. Second, GILS plans to create a venue where policy papers, addressing various state and local government law issues, can be made available to the students and discussed. Lastly, the group hopes to put all of this accumulated knowledge to good use on behalf of the community; for example, by helping financially challenged communities acquire grant monies.

These areas of interest may evolve and change, but the vision of the students at St. Thomas is clear – to develop an organization that enhances legal work in the public sector and provides future government lawyers with an enriched understanding of the field.

Ethics Questions?
Call The Florida Bar's
ETHICS HOTLINE:
1/800/235-8619

Being Professional Means Knowing When to Compromise

By Keith W. Rizzardi

In years past, our Section has successfully resisted proposals that would have substantially altered The Florida Bar's Continuing Legal Education (CLE) requirements for government lawyers. When the Young Lawyers Division (YLD) proposed two changes to The Rules Regulating The Florida Bar in Fall 2003, the Section spoke out again.

Two issues were recently debated. First, the YLD proposed an increase in the basic course requirements. Second, they proposed a major overhaul of the Practicing With Professionalism program, and sought to eliminate the deferral granted to government lawyers from this program. In the end, the leaders of the Section and the YLD achieved a compromise that will benefit public sector practitioners for many years to come.

No Increase in Basic Course Requirements. Government Lawyer Section leaders strongly opposed the plan to increase basic course requirements. For many years, our Section maintained its position that YLD basic courses tend to be too private sector oriented, and that government lawyers are better served by having the flexibility to choose other CLE courses more relevant to their practice areas. Fortunately, we were able to obtain a deferral from basic courses, allowing government lawyers to choose courses other than the basic classes for as long as they stayed in public practice. That deferral remains in place.

Compromising on Practicing With Professionalism. Historically, the basic CLE requirements were included in the Bridge the Gap program. That program was tailored to private sector practice, and designed to help young lawyers transitions from law schools to law firms. Our Section was highly critical of the expense and relevance of the multi-day program, and when the Florida Bar made the program mandatory, government lawyers were granted a deferral. However, the Bridge the Gap program was eliminated in 1997.

In its place, the YLD developed Practicing With Professionalism, known as PWP. Some lawyers still equate PWP with Bridge the Gap, but the two are not the same. In fact, when the YLD proposed a modification to the Rules Regulating The Florida Bar that eliminated the government lawyers' deferral from PWP, continued opposition by the Government Lawyer Section made little sense, for three reasons.

First, recent changes to PWP have resulted in an entertaining one-day program, focused on ethics and professionalism, and offered in locations throughout the state every year. Second, professionalism CLE credits are already mandatory, and the PWP program satisfies those requirements. Third, increasing lawyer professionalism is a major objective of The Florida Bar and the Florida Supreme Court, and PWP is widely supported by leading lawyers in the state. Our Section shares that concern for lawyer professionalism, and hosted the very first professionalism program in The Florida Bar. Rather than spending time and energy opposing a short, relevant, utilitarian and politically popular program, the leaders of the Government Lawyer Section sought to ensure that program served the interests of all members of The Florida Bar, including government lawyers.

Demanding relevance to and CLE tuition reductions for government lawyers. During discussions with the YLD leaders, the Government Lawyer Section made two requests. First, we asked that the program remain broadly designed for all lawyers. The YLD agreed, and assured us that they had no intention of allowing PWP to morph back into Bridge the Gap. Second, being well aware of the budget crunch facing Florida's governmental employers, and further sensitized to the financial hardships faced by debt-ridden law school graduates who join the public sector, the Government Lawyer Section repeatedly voiced its concerns about

the cost of PWP. Although the Continuing Legal Education Committee establishes CLE fees, the YLD agreed to join the Government Lawyer Section in advocating salary-based tuition reductions for young lawyers. Leaders of other sections, including the Criminal Law and County, City and Local Government Law Sections, also shared these concerns. Over the coming years, you are encouraged to add your voice to the chorus of people insisting that PWP remain relevant and affordable to Florida's government lawyers.

Turning the Basic CLE Course Deferral Into an Exemption. Our reasonable positions on PWP generated much goodwill, and allowed us to achieve a long overdue change to the Rules Regulating the Florida Bar. As noted above, government lawyers are deferred from basic CLE courses for as long as they remained in government service. This deferral produced silly results. For example, one of our distinguished recipients of the Claude Pepper Award, the Government Lawyer Section's highest annual award, recently left public service and became a private consultant. Despite over 25 years of experience and a new private practice tailored to his expertise, our award-winning attorney learned that his deferral had expired, and that he was required to take basic CLE courses.

With the new rule changes, this type of rigid rule-produced outcome will never happen again. Instead, government lawyers who stay in public service for six years or more – enough time to vest in the Florida and Federal retirement systems – will be wholly exempted from the basic CLE course requirements. The rule is based on the assumption that these lawyers will be sufficiently well-trained by their other CLE classes, and that they will develop a specialized practice that renders the basic CLE courses irrelevant to their expertise. Of course, lawyers can still voluntarily choose to take the YLD's basic courses.

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BEING PROFESSIONAL

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Some Section members still believe that we should have fought this rule change all the way to the Florida Supreme Court. As Chair, I listened carefully to those voices, but I respectfully disagreed – and so did the

Section's Executive Council, which overwhelmingly approved the compromise.

The bottom line is simple. In the near-term, young lawyers joining public service will be only modestly burdened by the Practicing With Professionalism requirement, and in the long-term, those same young lawyers, and all other government law-

yers, will be exempted from all other basic CLE courses if they stay in government service for six years or more.

There is virtue in compromise.

For more information on the Bridge the Gap and Practicing With Professionalism programs, see *In Re Florida Bar Amendments*, 524 So.2d 634 (Fla. 1988) and *In re Florida Bar Amendments*, 702 So.2d 1258 (Fla. 1997).

Government Lawyer Section Slate of Officers for 2004 - 2005

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Compendium of Recent Attorney General Opinions

By Stephanie A. Daniel, Senior Assistant Attorney General

The following Opinions of the Attorney General may be of interest to Government Lawyers. The full text of the opinions may be accessed at www.myfloridalegal.com.

2004-02: State employee ordered into military active duty other than for training is entitled to a leave of absence, receiving full pay for the first 30 days. After that time, the employing agency may supplement the military pay in an amount necessary to bring the employee's total pay to the level earned at the time the employee was called to active duty. The period of military leave is governed by the Uniformed Services Employment and Reemployment Act which limits reemployment rights, with certain exceptions, to a cumulative period not to exceed five years. Employees are entitled to continued coverage of all health insurance and other existing benefits under the federal act.

2004-04: Law enforcement officer acting as an "authorized person" pursuant to section 810.08(3), Florida Statutes, may communicate order to leave private property on behalf of the private landowner.

2004-05: Members of a municipal firefighters pension board may not simultaneously serve on another pension board due to dual office-holding prohibition in section 5(a), Article II, State Constitution.

2004-06: Municipality is authorized by section 112.048(2)(a), Florida Statutes, to pay former city council member retirement benefits described therein prospectively from the date of his requisition for such payments, but may not pay such benefits retroactively to the date of the council member's last service on the city council, unless such dates coincide.

2004-07: Municipal building offi-

cial charged with issuing permits and certificates of occupancy and administering city's building code is an officer for purposes of constitutional dual office-holding prohibition in section 5(a), Article II, State Constitution.

2004-09: Emergency medical services records of a city's fire-rescue department that contain patient examination and treatment information may only be released in certain circumstances and to the persons specified pursuant to section 401.30(4), Florida Statutes. City commissioner is not authorized by the statute to review such records.

2004-10: Retired teacher who is reemployed may not graft the later period of service onto the earlier one for which the teacher was compensated in order to increase the rate of terminal pay for accumulated sick leave to be paid for the subsequent service. Calculation of terminal pay would begin anew.

2004-11: Copies of optically scanned ballots cast in a municipal election are public records that may be produced pursuant to a public records request, subject to statutory restrictions on the handling of such ballots only by the supervisor of elections or his or her designee.

2004-15: Audio tape recordings of staff meetings made at the request of the executive director of a public agency by a secretary for use in preparing minutes of the meetings are public records subject to Florida's Public Records Law.

2004-16: Absent a specific exemption for the records of the Division of Alcoholic Beverages and Tobacco, the division is not authorized by the provisions of section 455.229, Florida Statutes, to redact from its records information that is made exempt by that section.

2004-17: Municipality may provide health insurance to its commissioners pursuant to section 112.08, Florida Statutes. Such a benefit is generally considered to be compensation.

2004-18: Supervisor of elections must maintain the confidentiality of personal information made confidential under section 119.07(3)(i), Florida Statutes, appearing in petition or campaign papers, if requested in writing by the officer, employee, justice, judge, or other person who may avail himself or herself of the statute's protection.

2004-19: Records of city's economic development department are public, except for those records or portions clearly falling within the exception set forth in section 288.075(2), Florida Statutes, and requested in writing to be held confidential. Such records may not be treated as confidential prior to receipt of a written request.

2004-20: Property appraiser is precluded by section 119.07(3)(i), Florida Statutes from making the technology available to the public enabling a user to view a map which would indicate the location of law enforcement officer's home, since such a document would reveal confidential information, if the property appraiser has received a written request for confidentiality from the officer.

2004-22: Anonymous letters to city officials regarding city employee misconduct are public records and may not be destroyed except in accordance with retention schedules approved by the Department of State.

2004-23: Sheriff may use an online or Internet auction service to dispose of personal property subject to disposition under the Florida Contraband Forfeiture Act.

The Federal Seminar: A Recap

On April 19th and 20th, the Section hosted “The Federal Seminar: Access and Information” in Washington, D.C., a two-day CLE jam-packed with tours, speakers, and a little socializing. What promised to be an interesting CLE opportunity developed into a truly unique opportunity to sample some of the best facilities and hospitality the Nation’s Capital has to offer.

The first day opened with an informative session in the Main Building of the U.S. Department of Justice, where an insightful lecture on the Freedom of Information Act and the interplay between public records laws and privacy concerns was followed by a tour of the grand facility. The quality of the program was evident in the active participation of the attendees, who posed questions on disclosure of private financial information, attorney work-product, and

classified government documents. The lecture, which took place in the Great Hall, was followed by a tour of the Hall itself (including the infamous near-nude statues that were covered in 2002 over obscenity concerns), the courtyard, the library, and other parts of the office complex.

The group reassembled at the National Archives Building, for another tour and lecture with stops in the research wing of the building and, of course, the Rotunda housing the “Charters of Freedom” – the Declaration of Independence, Constitution, and Bill of Rights. As part of the tour, we received an education on the Archives’ monumental task of preserving the documents it receives and the processes by which a member of the public may access many of those documents of “historic significance” – from recorded oral arguments before the Supreme Court to a great-

grandmother’s Ellis Island records.

Anticipated by some as being the highlight of Day One, the group proceeded to the Hart Senate Office Building for the beginning of our tour of the U.S. Capitol, where two members of Senator Bill Nelson’s staff led our contingent throughout much of the building. After a short ride on the congressional subway, we entered the Capitol to see the Old Supreme Court Chamber, the Old Hall of the House, and of course, the Rotunda. The staffers provided a great deal of information regarding the history of the complex, taking care to point out the former desk locations of such notables as then-Congressmen Abraham Lincoln and John Quincy Adams. Touring the Capitol is a remarkable experience and a must for any visitor of our Nation’s Capital.

The afternoon closed with a panel discussion and reception at Florida House, our state’s “embassy” in Washington. An elegantly restored row house located behind the Supreme Court, Florida House serves as a “home away from home” for Floridians in Washington. The session, co-hosted by the Out-of-State Practitioners Division, opened with a three-member panel providing insight into the lobbying process. Following the panel discussion, attendees were treated to appetizers and beverages as we kicked back and enjoyed what turned out to be a gloriously beautiful Washington evening – an appropriate end to a spectacular day.

Day Two kicked off bright and early, as the group assembled at the Supreme Court building for a day filled with once-in-a-lifetime experiences. After enjoying a continental breakfast in the Law Clerks’ Cafeteria, the group was led into the Chamber, where a number of Florida Bar members were officially sworn into the U.S. Supreme Court Bar. The event continued with two sets of oral arguments before the Court, the most notable being the consolidated argu-



Supreme Court Nominees: L-R (Back row) Keith Rizzardi, Perry Adair, Judge Joseph Lewis, Allan Grossman. (Middle row) George Lewis, Leonard Jackson, Rashawn Banks. (Front row) Clark Jennings, member of the US Supreme Court moving the nominations of the government lawyers, Francine Ffolkes, and Cherry Shaw.

ments in *Rasul v. Bush* and *Al Odah v. United States*, which sought to determine federal court jurisdiction over challenges to the detainment of prisoners held at the Guantanamo Bay Naval Base. Verbal exchanges between certain justices certainly added intrigue to the event, and all would agree that we were fortunate to have attended oral arguments on an issue of such important contemporary significance.

Even lunch at the Court was an experience. Justice Clarence Thomas invited three Government Lawyer Section members who were admitted that day to the Supreme Court Bar to his chambers for a private meeting. Others had the opportunity to dine with General William Suter, Clerk of the U.S. Supreme Court, who delighted in telling us war stories about his time at the Court, including some of the more colorful events surrounding *Bush v. Gore*. To this day, I still cannot believe the true hospitality that welcomed us at the Court that day.

Our trip to the Court concluded with a brief tour of the building, followed by a discussion of Supreme Court practice and the role of amici briefs. The dialogue, led by attorneys from the Solicitor General's Office and the National Association of Attorneys General, explored the logistics of Supreme Court practice and the ways in which individuals and groups can voice their opinions through amici briefs.

Wasting very little time, the group

was led to the final event of the Seminar, a tour and lecture at the Library of Congress. The tour revealed the grand majesty of the Library, constructed over a century ago to safely house the research arm of Congress. At the conclusion of the tour, we listened to a member of the Senate Judiciary Committee Staff discuss the "Restore FOIA" initiative and the resources available through the Congressional Research Service. Before we knew it, the session, and indeed the Seminar itself, was over.

I cannot overemphasize the remarkable accomplishment that was The Federal Seminar. Entering the

two-day event with sizeable expectations, I am astounded at how much the programs exceeded those expectations. Sincere thanks are extended to Keith Rizzardi, Arlee Colman, and everyone else whose considerable efforts made The Federal Seminar a supreme success. As a public servant in Washington, I am now truly inspired to expand my involvement with the Section, and help advance the issues faced by our members. I encourage you to maintain an active membership in the Section and to lend a hand with programs that might benefit from your particular expertise.



General William Suter, Clerk of the U.S. Supreme Court speaks with the Government Lawyer group in the Law Clerk's dining room of the U.S. Supreme Court. Government Lawyer Section Chair, Keith Rizzardi (right) and SC member Clark Jennings offer their support.

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