

The Florida Bar Out-of-State Division

State-to-State

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Winter 2025

- OOSD members connect in New York City
- Florida Continuing Legal Education Requirements (CLER)
- How legal aid and amended Rule 6-10.3 can help you help others
- Title IX risk and legal update

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Appellate Division of the Supreme Court Manhattan, New York City



The Appellate Division Courthouse of New York State, First Department (also known as Appellate Division of the Supreme Court of the State of New York) is a historic court house located at 35 East 25th Street in Manhattan, New York City.

Source: Wikipedia Commons

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Celebrating a successful 2024 and the OOSD's exciting plans for 2025

by Joy Heath, Raleigh, N.C.

To all our new and loyal Out-of-State Division members, I offer a hearty welcome to the new year and all the OOSD has planned for 2025.

Before celebrating the events to come, I should take a moment to reflect on a great 2024 for the OOSD. Last year, the OOSD offered some exciting CLE programming, which attracted great participation and continues to beckon you to log on to watch at your convenience.

One of the more unique CLE programs you'll find anywhere is the OOSD program recapping the haunting details and legal twists-and-turns of the tragic case of the murder of FSU law professor Dan Markel. The CLE is presented by true-crime author Steve Epstein who, after careful research, recounts the background facts and the riveting story of a case that has captured the attention of thousands both in and out of the Florida legal world. The OOSD offers one year of free membership to attendees who are not already OOSD members and great discounts for our existing OOSD members. This is a CLE like no other—join us using these links for attendance and CLE credit:

[CD/DVD Link](#)

[On-Demand Link](#)

OOSD continued its strong CLE traditions with a range of other practical offerings including an informative program on environmental law, among others. If you've not already taken advantage of these CLE offerings, we invited you to explore the options [here](#).



Joy Heath

President's message

In December 2024, the OOSD offered a “signature event” in New York City where OOSD members and friends gathered on Fifth Avenue for a swanky evening of networking. Our guests spent time connecting at our initial venue and then ventured on to enjoy The Yale Club at the invitation of our own Evan Azriliant. The night included the chance to connect with Yale, Dartmouth, and University of Virginia lawyers, among others. It was a special event to cap off a great year for our OOSD members, both new and not-so-new.

Now we look forward to March 6-7, 2025, and the chance to gather with The Florida Bar Young Lawyers Division at the beautiful Willard InterContinental in Washington, D.C. The OOSD Executive Council will convene in D.C., with plans to offer a CLE program. Please mark your calendars to join us in our nation's capital, and visit the Willard InterContinental's reservation page to reserve a room in our room block:

[Willard InterContinental Reservation](#)

- Select your dates of stay.
- Then select the “Rate Preference” dropdown bar. From the dropdown, select “Group Rate” and enter the code **FLB**.
- The rate of \$349 and \$35 fee will show as the rooming option. Proceed with booking as usual.

New OOSD members have expressed their enthusiasm for the year ahead, and I look forward to welcoming Mindi Wells as our incoming president. I know she will continue the great traditions of the OOSD and will likely add some new excitement to the year ahead. Let's go, OOSD!



Evan Azriliant and Joy Heath celebrate a successful OOSD gathering in New York City.

OOSD members connect in New York City

OOSD members gathered in New York City on December 5, 2024, at Andaz 5th Avenue to celebrate the holiday season and enjoy a networking reception. Special thanks to OOSD board member Evan Azriliant for his hospitality and organizing all of the logistics—we couldn't have done it without you!

Stay tuned for future OOSD networking events. We hope to see you soon!



Victoria Galante, Evan Azriliant, Amanda B. Shaffer, Rachel Katzin, Hillary Frommer, and Joy Heath



Rachel Katzin, Joy Heath, Evan Azriliant, Amanda B. Shaffer, Peter D. Lowitt, Tim Brown, Hillary Frommer, Eliona Jankulla, and Alissa Makower



Joy Heath, Alissa Makower, Evan Azriliant, and Tim Brown



Evan Azriliant, Joy Heath, Tim Brown, and Alissa Makower



Earn
2.5
hours of
CLE Credit!

2.5 General

The Florida Bar Continuing Legal Education Committee
and the Out-of-State Division present

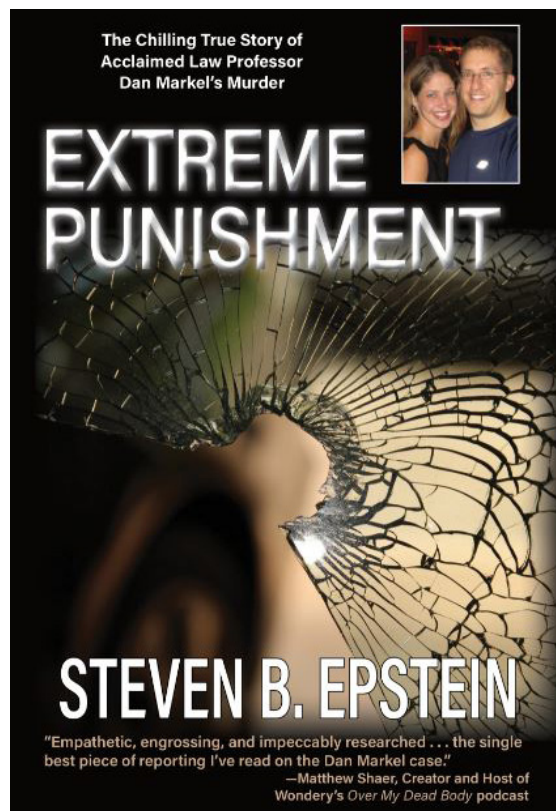
True Crime in the Courtroom: The Shocking Case of an FSU Law Professor Gunned Down by Hitmen

*Presentation summary: Steve Epstein, author of *Extreme Punishment: The Shocking True Story of Acclaimed Law Professor Dan Markel's Murder*, will provide an overview of the case, including the July 2014 murder, the joint police-FBI investigation, and four trials that ensued in a Tallahassee courtroom to hold every member of the conspiracy accountable. He will also discuss the underlying dynamics of the divorce case between Prof. Markel and his wife Wendi—also an FSU law professor—that led inexorably to the tragic events whose aftermath is still playing out in legal proceedings 10 years later.*

ON-DEMAND

[Download the audio of True Crime in the Courtroom or view the online seminar on demand here:](https://bit.ly/oosd-true-crime-cle)

<https://bit.ly/oosd-true-crime-cle>



Course No. 8647 • Intermediate Level

Certification Credit

Civil Trial: 2.5 hours
Criminal Appellate Law: 2.5 hours
Criminal Trial Law: 2.5 hours
Marital & Family Law: 2.5 hours



during each reporting cycle, the free [two-credit hour Florida Legal Professionalism course produced by The Florida Bar and approved by the Supreme Court of Florida](#).

Florida Continuing Legal Education Requirements (CLER)

by Mindi Wells, Columbus, Ohio

As lawyers licensed in Florida, we are required to complete a minimum of 30 credit hours every three years. At least three of the 30 credit hours must be in approved technology programs. At least five of the 30 credit hours must be in approved legal ethics, professionalism, substance abuse, or mental health and wellness; as part of the five credit hours, each member must complete, during each reporting cycle, the two-credit-hour Florida Legal Professionalism course produced by The Florida Bar and approved by the Supreme Court of Florida. **Excess credits cannot be carried over to the next reporting cycle.**

In addition to attending or watching CLE programs, credit may be earned by:

1. Lecturing at an approved CLE program
2. Serving as a workshop leader or panel member
3. Writing and publishing in a professional publication or journal



Mindi Wells

President-elect's message

4. Teaching (graduate law or law school courses)
5. University attendance (graduate law or law school courses)

For out-of-state attorneys, it is important to note that courses approved by other state bars are generally acceptable for use toward satisfying Florida's CLE requirements. Submit your CLE transcripts or requests for credit to clemail@floridabar.org. Be sure to include your name and Florida Bar number in your email.

Some attorneys may be exempt from Florida's CLE requirements. Rule 6-10.3(c) lists all valid exemptions, which are:

1. Active military service
2. Undue hardship (upon approval by the Board of Legal Specialization & Education)
3. Nonresident membership (see rule for details)
4. Full-time federal judiciary
5. Justices of the Supreme Court of Florida and judges of district, circuit, and county courts
6. Inactive members of The Florida Bar

A list of all programs approved by The Florida Bar can be found [here](#).

Additional information can be obtained from the [CLE FAQs](#) or by contacting:

Email: clemail@floridabar.org
Phone: 850/561-5842
Fax: 850/561-9421



LEGALfuel
The Practice Resource Center
of The Florida Bar

manage your practice.
fuel your business.

Visit
LEGALfuel.com
to find out how.

Get involved with OOSD!



Photo: flickr.com/photosdonkeyhotey/5665486591



**GET
INVOLVED!**

JOIN A COMMITTEE!

We have a variety of committees. All committees meet virtually. To learn more or to join a committee, email the chair listed below.

✓ **AWARDS & RECOGNITION COMMITTEE** – Identifying and promoting opportunities to recognize Division members. Contact [Tim Chinaris](#).

✓ **COMMUNICATIONS** – Charged with modernizing the division's outward facing communications. Contact [G. C. Murray II](#).

✓ **CONTINUING LEGAL EDUCATION** – Identifying topics and speakers of interest to out-of-state practitioners; moderating CLE events (both remote and in-person). Contact [G. C. Murray II](#).

✓ **MEMBERSHIP OUTREACH & EXPANSION** – Promoting division membership; developing a strategy to communicate with members that will encourage retention of membership; identifying opportunities for networking events (both remote and in-person). Contact [Don Workman](#).

✓ **INFORMATION & TECHNOLOGY** – Publishing the division's award-winning newsletter; managing our social media channels. Contact [Don Workman](#) or [Tim Brown](#).

✓ **SPONSORSHIP** – Identifying potential sponsors for member events, newsletter, CLE programs, etc.; developing a communication piece to promote sponsorship opportunities. Contact [Emily Young](#).

✓ **WEBSITE** – Identifying opportunities to enhance and promote our website; developing content. Contact [Natasha Dorsey](#).

Ready to get involved? [Click here](#) or scan the QR code.

Mission of the Out-of-State Division

The purpose of the Out-of-State Division of The Florida Bar is to provide an organization for all Florida Bar members who reside outside of the state of Florida. The division focuses not on any specific practice area, but rather on the common interests and needs of out-of-state Florida Bar members as a whole. The division works toward the goal of ensuring equitable treatment for in-state and out-of-state Florida Bar members. This is accomplished through education, legislative, and administrative review; the production and update of a website for division members and the public at large; and the publication of a newsletter sent to the division's membership.

Amended Rule 6-10.3 and legal aid: How legal aid and the new rule can help you help others

by Jeffrey D. Harvey, Orlando, Fla.



JEFFREY D. HARVEY

Why did you go to law school? That is a question I frequently ask law students. If you are reading this, chances are you have been asked that question at least a dozen times. And if you are like 90% or more of the law students I have encountered, your answer is probably something like “to help people” or some other answer that is focused on making society better. Unfortunately, many lawyers a few years into their career see those ideals of their *why* overshadowed by things like billable hours, the business of law practice, and other demands on a lawyer’s time, such as the requirement to earn CLEs.

Thankfully, “The [Florida] Supreme Court has recently authorized Florida lawyers to receive an hour of general CLE credit for every hour of pro bono service performed, not to exceed five credits per three-year reporting cycle” (*Florida Bar News*, Jan. 8, 2025). How the rule works and how to get credit online was recently published in the *Florida Bar News*. You can find the article [here](#).

Now that you have five hours of time back, perhaps you can use that time to return to the *why* you went to law school in the first place. So, where do you begin? I suggest contacting your local legal aid. Not only do they have a significant number of clients who need your help, but they also provide a lot of support in a busy practice where risk and time are two main concerns.

Removing barriers to pro bono participation

Legal aid organizations can address common misconceptions that deter attorneys from engaging in pro bono work. One frequent concern is liability.

Many law firm leaders hesitate to approve pro bono cases due to fears of malpractice exposure. However, legal aid organizations typically provide primary malpractice insurance for pro bono cases. For example, Community Legal Services (CLS) covers up to \$1 million in *primary* malpractice insurance. So, if there is an issue, the legal aid has you covered (also, malpractice cases against pro bono attorneys are very rare).

Another misconception is the perceived lack of resources for handling pro bono cases. Legal aid organizations can provide substantial support, including client communication, document review, legal research, and

“Pro bono work is an extension of the social contract between the legal profession and society, embodying a lawyer’s role in supporting the community.”

drafting assistance. They can cover case expenses like filing fees, expert fees, and postage. They can provide education in unfamiliar areas of law (often for CLE credit). One of the least known supports is that legal aid firms can offer continued representation when the volunteer is no longer able to assist with a case. At CLS, when pro bono lawyers have been overcome by life circumstances, we have taken the case back. So, you do not have to worry about “what if I get too busy?”

Unique and innovative approaches with added value

Most legal aids will not only match you to a pro bono opportunity that meets your unique circumstances, but many also have developed structured programs that can provide volunteers with additional value, beyond the positive feeling you get when helping those in need. In 2022, Community Legal Services launched the Pro Bono Peer

Academy, a ground-breaking initiative designed to train and support lawyers committed to pro bono work. This program offers attorneys six months of online and virtual training in a particular practice area, mentorship from experienced practitioners, staff support, and malpractice insurance coverage—all in exchange for taking on one or two pro bono cases. Since its inception, the Peer Academy has expanded to include five practice areas and has become highly competitive, with attorneys vying for limited spots in its spring and fall sessions. Graduates of the Peer Academy often describe the experience as personally fulfilling and also professionally rewarding. The benefits of the program are wide-ranging. Clients get help.

Lawyers get CLE, training in a new area, and a cohort of peers and mentors. With the experience they gain from handling pro bono cases, and a network of peers and mentors, many lawyers go on to expand their practice, taking on for-profit clients in a new area of the law.

Closing thoughts

While some attorneys focus solely on meeting the minimum pro bono requirements, and some embrace a broader vision of service, there are many who have yet to get involved. Pro bono work is an extension of the social contract between the legal profession and society, embodying a lawyer’s role in supporting the community. It’s probably why you went to law school. Lawyers that do pro bono work share that it rekindles their passion for the law and reminds them of the reasons they pursued a legal career. The amendments to The Florida Bar’s pro bono rules present a significant opportunity for lawyers to get back to the reason why they became a lawyer in the first place. I know getting involved in pro bono for the first time may seem daunting; it was for me too, but rest assured legal aid’s role in the practice of law is to make taking that first step easier.

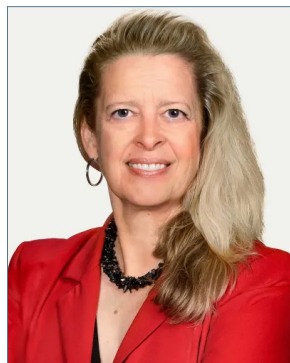
Title IX risk and legal update

by Harold E. Johnson, Stephanie P. Karn, and James Shewey, Richmond, Va.

[Title IX](#), enacted as part of the Education Amendments of 1972, is a federal civil rights law that prohibits sex-based discrimination in any education program or activity receiving federal financial assistance. Its primary objective is to ensure that no individual is excluded from participation in, denied the benefits of, or subjected to discrimination under any educational program on the basis of sex.



HAROLD E. JOHNSON



STEPHANIE P. KARN

For years, claims related to Title IX and reverse Title IX claims have impacted the insurance liability landscape. While there will be differing opinions on this decision, from an insurance and risk perspective, having one consistent approach and clarity for Title IX coordinators should reduce the risk of lawsuits.

In April 2024, the U.S. Department of Education under the Biden administration issued a [Final Rule](#) expanding Title IX's scope to include protections against discrimination based on sexual orientation and gender identity. This rule aimed to address sex-based harassment, including sexual violence, and ensure that LGBTQ+ students received equal protection under the law. The regulations, which were set to become effective on August 1, 2024, marked a significant shift in how educational institutions were required to address issues of sexual harassment and discrimination.

However, these expanded protections faced [immediate legal challenges](#). Several Republican-led states filed lawsuits arguing that the Department of Education had overstepped its authority and that the new regulations infringed upon states' rights and individual freedoms while also impermissibly expanding the definitions of both discrimination on the basis of sex and sexual harassment. In response, federal courts issued injunctions preventing the enforcement of the new Title IX rules in multiple states, leading to a fragmented legal landscape.

On January 9, 2025, Chief Judge Danny Reeves of the U.S. District Court for the Eastern District of Ken-



JAMES SHEWEY

tucky vacated the Biden administration's Title IX rule nationwide. [Judge Reeves ruled](#) that the Department of Education exceeded its constitutional authority by redefining "sex" to include gender identity and sexual orientation. He also cited violations of the First Amendment, particularly concerning compelled speech related to the use of gender-aligned pronouns, while also deeming the rule "arbitrary and capricious."

The ruling has been met with mixed reactions: [civil rights advocates and LGBTQ+ organizations](#) express concern over the potential rollback of protections for vulnerable students while [supporters](#) of the rule view the decision as a restoration of the original intent of Title IX.

The recent injunction does not mandate that institutions tailor their policies to fit the 2020 Title IX regulations. However, as a result of the injunction, the 2020 regulations supply the standard that colleges and universities must meet when addressing sexual assault and sexual harassment in their education programs. Most institutions implemented changes to their Title IX policies in anticipation of the 2024 Final Rule. Many of those changes may be permissible under the 2020 regulations, and thus, it may not be necessary for institutions to completely revert to their prior Title IX policies. Schools that have questions or ambiguities regarding the risks associated with various policy provisions in the wake of the injunction should consult counsel for guidance.

This article is reprinted with permission from the Williams Mullen newsletter, January 15, 2025.

Please note: This newsletter contains general, condensed summaries of actual legal matters, statutes, and opinions for information purposes. It is not meant to be and should not be construed as legal advice. Readers with particular needs on specific issues should retain the services of competent counsel. For more information, please visit our website at www.williamsmullen.com or contact any member of our team.

Out-of-State Pro Bono Service Award winner *advocates for at-risk children*



JENNIFER LITTLE

Dallas attorney Jennifer Kathleen Little is the 2025 out-of-state recipient of The Florida Bar President's Pro Bono Service Award. Ms. Little is senior manager of attorney development with Haynes Boone.

As part of the Statewide Guardian ad Litem Office's multidisciplinary team, Little has dedicated 200 volunteer hours to helping Florida's most vulnerable children. Little started volunteering with the Office as guardian ad litem in 2020. Despite the challenges resulting from the COVID-19 pandemic, Little jumped right in. In 2021, Little was assigned a sibling group of three young children, all of whom are autistic and have special needs. Little has collaborated seamlessly with a fellow guardian ad litem volunteer and retired pediatric nurse to ensure the children receive the specialized services they require. Little and her team have gone above and beyond to provide support and encouragement to the children's caregivers, who often work around-the-clock in support of their clients. This holistic approach to advocating for the children is deeply beneficial to their well-being and demonstrates Little's deep and unabating commitment to serving her clients.

The OOSD congratulates Ms. Little and recognizes her service to the citizens of Florida.

Division News

Mark your calendar

[Young Lawyers Division Board of Governors Out-of-State Meeting](#)

March 6-7, 2025
Willard InterContinental
Washington, D.C.

[Annual Florida Bar Convention](#)

June 25-28, 2025
The Boca Raton
Boca Raton, Florida

2025
Mar. 6-7
June 25-28

Beyond the calendar

by G. C. Murray II, Dulles, Va.



G. C. MURRAY II

Welcome to 2025 and the opening column of *The Evolving Esquire*! As we embark on a new year, it's the perfect time to reflect on growth—not just as individuals but as mem-

bers of a dynamic and ever-changing profession. This column has always been about navigating the unique challenges and opportunities lawyers face, and there's no better theme to start the year than resolutions.

But let's break free from the January-only mindset. Resolutions aren't confined to the first of the year; they're about continuous improvement, a concept lawyers know well. Whether it's mastering time management, embracing new technology, or finding ways to sustain well-being in a high-pressure field, every step forward strengthens not just your practice but also the people you serve.

Let's use this inaugural column of *The Evolving Esquire* in 2025 as a reminder that growth doesn't have a deadline. Together, we'll explore strategies, insights, and ideas that will keep us all moving forward—one resolution at a time.

As February dawns, many of us have already set aside our New Year's resolutions, either abandoned in the whirlwind of busy days or quietly postponed for another time. But here's a little secret: resolutions are not confined to January. In fact, for lawyers, every day can be an opportunity to reassess, refocus, and recommit to personal and professional growth. February—nestled in the post-holiday calm—is a perfect moment to revisit the goals that align with your values and your career.

Become the ever-evolving lawyer

Lawyers, especially those practicing in the ever-demanding fields of law, often find themselves so absorbed in the needs of their clients that personal aspirations can take a back seat. However, approaching resolutions with a mindset of continuous growth rather than seasonal pressure can redefine how we view progress. Every case, every client meeting, and every challenge presents an opportunity to realign priorities and embrace habits that enhance your practice and personal well-being.

A fresh framework for lawyer resolutions

Here are some practical, mid-year resolutions for lawyers looking to refresh their routines and revitalize their practice:

- 1. Prioritize time management:** Lawyers live by deadlines, but effective time management goes beyond calendaring. Reassess how you allocate your time. Could streamlining client intake or using legal project management tools like Clio or Trello help you regain precious hours? Focus on carving out uninterrupted time for both deep work and self-care.
- 2. Focus on professional development:** Whether it's attending CLEs, joining bar association committees, or learning about new areas of law, there's always room to grow. Challenge yourself to explore something outside your comfort zone—perhaps a trend like AI in the legal profession or sustainability in law practice management.
- 3. Reconnect with your network:** Set a goal to reach out to a few colleagues, mentors, or clients each month. This isn't just good for business; it's good for your mental health. Building

genuine connections can inspire you, create referral opportunities, and provide fresh perspectives on common challenges.

- 4. Commit to well-being:** Lawyer burnout is real. Use this time to implement small changes, like a lunchtime walk, mindfulness practices, or ensuring you leave your desk at a reasonable hour. Your mental health and physical health are vital for sustaining a thriving career.
- 5. Review your practice's processes:** Consider conducting an audit of your workflows. Are there outdated methods slowing you down? Embracing legal tech solutions or reevaluating your fee structures can create efficiencies and enhance client satisfaction.

Resolutions are about momentum, not perfection

The beauty of resolutions is that they don't demand perfection—they require progress. In a profession that prizes precision and rigor, it can be liberating to approach your personal goals with a bit more flexibility and grace.

As we move through February and beyond, remember: you don't need the promise of a new year to redefine your priorities. Every day brings with it the possibility of a fresh start. So, why wait until next January to implement the resolutions that could improve your practice and your life? Start today—your future self will thank you.



Is your EMAIL ADDRESS current?

Log on to The Florida Bar's website (www.FLORIDABAR.org) and go to the "Member Profile" link under "Member Tools."

Florida real property and business litigation report

by Manuel Farach, West Palm Beach, Fla.

To our readers,

Below you will find a synopsis of recent cases involving real property and business litigation. They were prepared by Manny Farach, a member of The Florida Bar Board of Governors. We hope you enjoy this article.



MANUEL FARACH

Parrott v. Neway (In re: Parrott), Case No. 21-10718 (11th Cir. 2024).

Failure to comply with the signature requirement for a federal appeal is non-jurisdictional.

Hidroelectrica Santa Rita S.A. v. Corporacion AIC, SA, Case No. 23-12519 (11th Cir. 2024).

Arbitrators do not exceed their powers if they are interpreting the contract, even if the interpretation may be erroneous.

VFS Leasing Co. v. Markel Insurance Company, Case No. 22-13338 (11th Cir. 2024).

Pursuant to Florida Statute section 673.4141(3), a drawer is discharged of its payment obligation when a jointly issued check is accepted by a drawee bank.

In Re: Amendments to The Florida Rules for Court Appointed Arbitrators, Case No. SC2024-0442 (Fla. 2024).

Florida Rule for Court-Appointed Arbitrators 11.010 is amended to clarify that sole or chief court-appointed arbitrator must be a member in good standing of The Florida Bar for the preceding five years unless the parties agree in writing that the sole or chief court-appointed arbitrator may be an individual who has been for the preceding five years a member in good standing and eligible to practice law in any United States jurisdiction, and a non-licensed individual who is not currently disbarred or suspended from practice in any jurisdiction may

serve as a non-chair arbitrator on an arbitration panel with the written agreement of all parties.

In Re: Amendments to Rules Regulating The Florida Bar – Rule 6-10.3, Case No. SC2024-0964 (Fla. 2024).

The Florida Supreme Court approves minor revisions of the Bar's proposal for pro bono credit and holds that Florida Bar members can earn up to one hour of general credit hour for every hour of pro bono service up to a total of five credits per three-year cycle.

In Re: Amendments to Florida Rule of General Practice and Judicial Administration 2.535, Case No. SC2023-1170 (Fla. 2024).

The Florida Supreme Court amends the Rules of General Practice regarding transcripts.

City of Gulf Breeze v. Brown, Case No. SC2022-0741 (Fla. 2024).

A municipality's management agreement for a golf course permitted the municipality to retain extensive control of the property and operations and thus satisfied the requirement of Article VII, Section 3(a) of the Florida Constitution, which provides that property must be both owned and "used exclusively by" a municipality in order to be exempt from taxation.

In Re: Amendments to Florida Rules of Civil Procedure, Case No. SC2023-0962 (Fla. 2024).

The Florida Supreme Court leaves in place the proportionality requirements for discovery, requires objections to discovery be made with "specificity" and "including the reason" for the objection, requires objections to state whether documents are being withheld based on the objection,

adds enforcement under Rule 1.380, limits discovery being sent before party's compliance with initial disclosures are satisfied, and exempts trial continuances and extension of case management orders from Rule 1.090.

In Re: Amendments to Florida Rule of Civil Procedure 1.510 and New Florida Rule of Civil Procedure 1.202, Case No. SC2024-0662 (Fla. 2024).

The Florida Supreme Court further refines Rule 1.510 to hold that a response is due no later than 40 days after service of the motion and that "[a]ny hearing on a motion for summary judgment be set for a date at least 10 days after the deadline for serving responses," and further refines new Rule 1.202 regarding conferral before filing motions, including providing for sanctions.

In Re: Certification of Need for Additional Judges, Case No. SC2024-1721 (Fla. 2024).

The Florida Supreme Court certifies the need for two additional judges for the district courts of appeal, 23 circuit judges, and 25 county judges.

Evanston Insurance Company v. Everest Denali Insurance Company, Case No. 2D2023-0205 (Fla. 2d DCA 2024).

Nothing under Florida's Assignment for Benefit of Creditors Act, Florida Statutes Chapter 727, requires an evidentiary hearing before approving a settlement agreement affecting claims in the assigned estate.

Pulles v. Onorato, Case No. 3D23-2106 (Fla. 3d DCA 2024).

A trial court does not abuse its discretion in denying a late filed request for jury trial when "discovery has been taken in preparation for a

bench trial, [re-setting the case for jury trial] would be prejudicial to the Plaintiff and the expense of a jury trial would be more substantial to the Plaintiff.”

Village of Palmetto Bay v. Miami-Dade County, Case No. 3D24-0230 (Fla. 3d DCA 2024).

A COVID-era ordinance which suspends timing requirements for construction project approvals is valid and does not invalidate the project’s funding.

Barcelo v. Little Paket Corp., Case No. 3D24-0983 (Fla. 3d DCA 2024).

Punitive damages are reserved for outrageous conduct notwithstanding allegations of breach of fiduciary duty, conversion, and conspiracy.

Quintana v. Rodriguez Family Investment Partnership, LLP, Case No. 3D23-968 (Fla. 3d DCA 2024).

Post-maturity payments do not automatically toll the operation of Florida Statute section 95.281 (mortgages must be foreclosed within five years of maturity or 20 years if maturity is unascertainable).

Ofer v. Ajar Holdings, LLC, Case No. 3D24-1852 (Fla. 3d DCA 2024).

Florida Rule of Civil Procedure 1.420(a)(1) prohibits a party from escaping a court conservatorship over real property by filing a Notice of Voluntary Dismissal.

Celsius Holdings, Inc. v. Strong Arm Productions, USA, Inc., Case No. 4D2023-0452 (Fla. 4th DCA 2024).

Damages for breach of contract to deliver stock are typically measured on the date of breach but may be measured at another date when there exist extraordinary circumstances.

Massachusetts Educational Financing Authority v. Fernandez, Case No. 4D2024-0288 (Fla. 4th DCA 2024).

A county court ruling in a lawsuit which contains multiple independent claims, each of which is within the statutory amount of the county court, has subject matter jurisdiction to

enter a judgment on all the independent claims even if the total dollar amount of the judgment is in excess of its statutory authority.

Gomez v. Nichols, Case No. 3D23-1694 (Fla. 3d DCA 2024).

A trial court may look beyond the four corners of the complaint when examining a receiver’s motion to dismiss a suit brought against him for violation of his receivership duties, and the standard of review of an order determining such a motion is abuse of discretion.

Trujillo v. Garcia, Case No. 3D24-1125 (Fla. 3d DCA 2024).

A *lis pendens* should be used only when litigation directly affects the title of real property and not in cases where the plaintiff is merely seeking money damages.

Rogers v. Zingale, Case No. 1D2022-3549 (Fla. 1st DCA 2024).

The heightened notice requirements under Florida Statute section 196.193(5) apply to the denial of homestead tax exemptions notwithstanding that Florida Statute section 196.151 mentions the word “homestead” and section 196.193(5) does not.

City of Titusville v. Speak Up Titusville, Inc., Case No. 5D2023-3739 (Fla. 5th DCA 2024).

A municipal referendum requiring clean water which allows enforcement actions to be brought in the name of the affected water body is expressly preempted by Florida Statute section 403.412(9)(a) (“A local government regulation, ordinance . . . may not . . . grant any legal rights to . . . a body of water . . . that is not a person or political subdivision as defined in [Florida Statute] s. 1.01(8) . . .”).

Bergeron Environmental and Recycling, LLC v. LGL Recycling, LLC, Case Nos. 4D2022-2159 & 4D2022-3155 (Fla. 4th DCA 2024).

A broad jury trial waiver contained in a joint venture agreement which states it applies to “any litigation based hereon or arising out of, under, or in connection with this agreement” can be enforced by non-signatories in a suit regarding the agreement.

Incident365 Florida, LLC v. Ocean Pointe V Condominium Association, Inc., Case Nos. 3D22-2239, 3D22-2240 & 3D22-2241 (Fla. 3d DCA 2024).

When considering the definitions of “contractor” in section 489.105(3) and “building contractor” in section 489.105(3)(b) and the statutory context, six of the seven contracted tasks performed by a remediation company did not require a contractor’s license.

McLane Foodservice, Inc. v. Wool, Case No. 3D24-0566 (Fla. 3d DCA 2024).

A party seeking to depose a high-level corporate officer notwithstanding Florida Rule of Civil Procedure 1.280(h) must demonstrate that it has exhausted other discovery methods, that the existing discovery was inadequate, and that the proposed deponent has unique, personal knowledge of discoverable information.

LAD Commercial, LLC v. Eagle Trace at Vero Beach Homeowners’ Association, Inc., Case No. 4D2023-1100 (Fla. 4th DCA 2024).

A cause of action for breach of contract accrues according to the terms of the contract, and accordingly, a claim for invoices under a contract for continuous services with no fixed time of payment remains within the statute of limitation if the underlying contract sets forth that the agreement continues to accrue at the time of withdrawal, termination of employment, or completion of services.

Rapid Surplus Refund, LLC v. Ryan & Rick, LLC, Case Nos. 4D2024-0079 and 4D2024-1182 (Fla. 4th DCA 2024).

A superior lienholder, i.e., one whose lien was recorded before the mortgage that was foreclosed, is not a “subordinate lienholder” under Florida Statute section 45.032 and is not entitled to surplus foreclosure funds over the owner of the property.

Continued, next page

Forrey v. Marlin Construction Group, LLC, Case No. 6D2023-2559 (Fla. 6th DCA 2024).

A finding of bad faith conduct to support an award of fees and costs must be predicated on a high degree of specificity in the factual findings and the amount of the award of attorneys' fees must be directly related to the attorneys' fees and costs that the opposing party has incurred as a result of the specific bad faith conduct.

BAM Trading Services, Inc. v. State of Florida, Office of Financial Regulation, Case No. 1D2023-3371 (Fla. 1st DCA 2024).

The First District clarifies that its standard of review of agency action is based on Florida Statute section 120.68(1) and not *State v. Murciano*, 163 So. 3d 662, 664–65 (Fla. 1st DCA 2015).

Advanced Design & Construction Co. v. Zein, Case No. 3D22-2078 (Fla. 3d DCA 2024).

An argument that a settlement agreement satisfied all outstanding obligations is belied by the portions of the settlement agreement which state that a portion of the judgment is non-dischargeable, that the "judgments" were released except for a set amount, and that the creditor was permitted to pursue "immediate collection."

Lopez v. Mel-Mont Medical, LLC, Case No. 3D23-1068 (Fla. 3d DCA 2024).

A party cannot combine damages from both the civil and criminal usury statutes, and furthermore, is limited to an award of damages from the statute which it pled.

PAJ Investment Group, LLC v. El Lago N.W. 7th Condominium Association, Inc., Case No. 3D23-2116 (Fla. 3d DCA 2024).

An easement appurtenant cannot exist when the claimed easement holder is a "stranger" to, i.e., does not own, the dominant estate even if the easement contains broad language.

Investcom Construction, LLC v. Plaza Del Prado Condominium Association, Inc., Case No. 3D24-1119 (Fla. 3d DCA 2024).

A case being placed into administrative "inactive status" by the Clerk does not allow a party to revoke a later filed Notice of Voluntary Dismissal.

Calvert v. Surrency, Case No. 5D2024-1232 (Fla. 5th DCA 2024).

A non-party to an arbitration agreement may, in limited circumstances, compel arbitration under estoppel principles "(1) when the signatory's claims allege 'substantially interdependent and concerted misconduct' by the signatory and the non-signatory or (2) when the claims relate directly to the contract and the signatory is relying on the contract to assert its claims against the non-signatory."

Evans v. Gulf Landings Association, Inc., Case No. 2D2022-3709 (Fla. 2d DCA 2024).

A previous case must have been fully litigated and have concluded in a final judgment for the law of the case doctrine to apply.


City National Bank of Florida v. Signature Land, Inc., Case No. 5D2023-0308 (Fla. 5th DCA 2024).

The officious intermeddler doctrine (there is no duty of restitution to a party who benefits another party without being asked to do so) applies during contract negotiations such that a party that obtains rezoning of land it wants to purchase does not have a claim for restitution against the landowner when it is not able to close the purchase.


Osborne v. Drees Homes of Florida, Inc., Case No. 5D2023-2978 (Fla. 5th DCA 2024).


A claim against a homebuilder for defective stucco is not subject to arbitration when the arbitration clause is limited to items covered under the homeowner limited warranty and stucco is not one of the warranted items.


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Board of Governors' updates

We want you to stay informed on actions taken by The Florida Bar Board of Governors. So, here are the latest Board of Governors' updates.

The Florida Bar Board of Governors met on December 13, 2024, in St. Augustine. Major actions and reports received included:

The board approved the creation of The Florida Bar Standing Committee for Corporate Counsel to promote professionalism among corporate counsel lawyers, provide tailored and practical legal education, serve as a platform for networking and sharing best practices, and address "the unique challenges and opportunities" faced by in-house legal counsel. Additionally, the committee is charged with enhancing the participation, representation, and involvement of corporate counsel attorneys within The Florida Bar, ensuring their interests are well-represented in the Bar's initiatives and activities. [Read more in the Bar News.](#)

The board voted to approve proposed changes to the Internal Operation Procedures (IOPs) of the Rules of General Practice and Judicial Administration Committee, the Appellate Court Rules Committee, the Criminal Procedure Rules Committee, and the Code and Rules of Evidence Committee. The revisions are designed to make the rule development process more uniform and efficient and grew out of the recommendations from a Bar-commissioned study in August 2022, "Evaluation of Development and Review of Court Rules Proposals by The Florida Bar Rules Committees" by outside consultant Lisa Kiel, a former Florida state courts administrator.

In other action, the board voted to approve a proposed revision to Rule 1-12.1 (Amendments to Rules; Authority; Notice; Procedures; Comments), to authorize the Bar to file a response to comments filed in rules petition cases within 30 days of the comment deadline. Another proposal to enhance efficiency, proponents state that the revision would eliminate a procedure that currently requires the Bar to file a "motion for leave to respond to comments."

The board also voted to approve a proposed revision to Standing Board Policy 15.91. Within subdivision (b), the revisions would delete subdivisions (1) and (2) that require the Bar to provide copies of a respondent's replies to Bar counsel and grievance committee inquiries. Many times, a complainant will respond and dispute the answer or reiterate information Bar investigators already have, causing confusion according to Bar staff. Complainants will still receive regular updates.

In addition, the board voted to approve proposed amendments to Rule 20-5.2 (Duty to Update). The proposed amendments would require Florida registered paralegals, instead of The Florida Bar, to report any changes in their registration status to their supervising attorneys or employers.

In other action, the board voted to approve two new member benefits:

- **ADR Support:** A practice management service designed for full-time mediators and arbitrators. The company provides "administrative support, including client communication, scheduling, invoicing,

bookkeeping, case management, marketing, and IT support," according to ADR promotional material. The company is offering to waive a \$7,500 standard set-up fee for qualifying Florida Bar members.

- **PATLive:** The Tallahassee-based company offers a virtual receptionist and communications support. Florida Bar members would receive a 10% discount, and the company would pay the Bar \$150 for every member who signs up and \$5,000 toward Bar initiatives, and participate in the Annual Florida Bar Convention.

The Florida Bar Board of Governors met January 17, 2025, in Tallahassee. Major actions and reports received included:

In his remarks to the Board of Governors, Chief Justice Carlos Muñiz said that the justices have been watching the recent civil procedure rule changes closely for their impact to the courts. He stated that they are open to further refinements and are aware the changes are significant. The goal was to reduce the cost of litigation and make the courts function more efficiently. He also reported on the Supreme Court's December 12 certification of the need for 50 additional judgeships, which includes 25 county court judges, 23 circuit judges, and two Sixth District Court of Appeal judges. He stated that the courts have made a robust legislative budget request that calls for significant technology enhancements and more due process resources, among other things. For more on the chief justice's remarks, read the [full article in the Bar News.](#)

Continued, next page

BOG UPDATES:
from preceding page

In other business, the board voted to accept the latest audited Florida Bar financial statement for the fiscal year ending June 30, 2024. Conducted by Maudlin and Jenkins in accordance with auditing standards generally accepted in the U.S. and applicable standards in the Government Auditing Standards, the audit was reviewed with the Audit Committee.

As part of the report, the auditors issued a clean opinion. Highlights include:

- The Florida Bar's total net position increased approximately \$6.7 million (or 9%) in FY24 as compared to FY23. The increase was largely caused by strong investment performance resulting in positive returns on The Florida Bar's investments. The market value adjustment on investments

noted an approximate increase of \$3.9 million, and The Florida Bar generated realized investment income of nearly \$2.5 million.

- Total operating revenues for FY24 increased by approximately \$500,000 (or 1%) as compared to FY23. The increase in FY24 was primarily due to increased membership. Total operating expenses increased by approximately \$3.3 million (or 7%) in FY24 as compared to FY23. A 5% raise to eligible employees, effective September 2023, along with the addition of two division directors and the filling of several vacant positions, and additional client security fund claims largely contributed to the noted increase.

In other action, the board:

- Approved a Disciplinary Procedure Committee proposal to revise Rule 3-7.4 (Grievance Committee Procedures) to make it clear that a majority vote of a grievance committee is required for all decisions,

not just those related to a probable cause finding, sponsors note.

- Approved amendments to Bylaw 2-3.11 (Electronic Meetings) adding language that makes the bylaw more consistent with Roberts Rules of Order and to remove any ambiguity that [Florida Bar] committees can vote by email.
- Voted to appoint Jacksonville attorney Lynn Drysdale and Miami attorney Miriam S. Ramos to serve three-year terms, beginning July 1, 2026, on the FFLA Board of Directors.
- Voted to appoint board member John Schifino, representing the 13th Judicial Circuit, to the Executive Committee.

The Board of Governors also participated in the 2025 Pro Bono Awards ceremony featuring the Chief Justice's Awards and The Florida Bar President's Pro Bono Service Awards at the Florida Supreme Court. [Learn more about the award winners](#) or watch the ceremony on the [Florida Channel](#).



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Welcome to the new year!



TIM BROWN

Welcome to *State-to-State*, our principal means to communicate with you. We feature articles from members in Florida and elsewhere who share ideas and articles of interest to out-of-state members.

Our contributing authors appear prominently, and we include the information you'd like others to read about your practice.

Our lead article this edition is from Jeffrey Harvey who discusses Florida Bar CLE requirements, including amended Rule 6-10.3 and how the new rules present a significant opportunity for lawyers to get back to the reason why they became a lawyer in the first place.

Authors Harold E. Johnson, Stephanie P. Karn, and James Shewey wrote an article explaining the expansion of Title IX's scope to include protections against discrimination based on sexual orientation and gender identity as well as the resulting lawsuits arguing that the Department of Education had overstepped its authority and that the new regulations infringed upon states' rights and individual freedoms.

President Joy Heath's message provides a reflection on the division's activities from 2024, including the division's CLE offerings as well as a recap of the "signature event" held in New York City where OOSD members and friends gathered on Fifth Avenue for a swanky evening of networking. It was a special event

to cap off a great year for our OOSD members, both new and not-so-new. Looking ahead, President Heath also announces the chance to gather with The Florida Bar Young Lawyers at the beautiful Willard InterContinental in Washington, D.C., March 6-7, 2025, with plans to offer a CLE program.

G. C. Murray II provides the latest installment of his *Evolving Esquire* series focusing on mid-year resolutions for lawyers looking to refresh their routines and revitalize their practice, which can be found on page 11.

Lastly, Manuel Farach provides a summary of recent case law involving real property and business litigation on page 12. We appreciate his ongoing contributions to *State-to-State*.

Please visit the updated Out-of-State Division website at flabar-outofstaters.org. It contains a number of new features in an easier-to-use format. You also can search for and view articles on the website. You should receive a link via email to each edition of the newsletter that allows you to view the edition online in color at your desk or on your mobile device. Check it out! You can also find us on X (formerly Twitter) @TFBOutofState, Facebook @ TheFloridaBarOutofStateDivision, and now on LinkedIn at <https://www.linkedin.com/company/floosd/>.

Help us to help you: participate in the Out-of-State Division. By doing so, you'll help other out-of-state lawyers wherever they are around the world. We've mentioned in the past the reach of the OOSD. We're here to help you wherever you practice. And

we'd love to meet you. The result should be a win-win for everyone. We challenge you to think of new ideas on how the OOSD can continue to improve services to Florida lawyers practicing out of state. The Bar provides great support and opportunities for its members.

Our OOSD president, the other officers, and executive council members are here to support the needs of out-of-state Florida Bar members. Please feel free to contact the OOSD leadership. The Out-of-State Division is here to help you turn our shared interests into a strong professional practice. We're not shy—we want to help your practice. Most important—please join and get involved!

Author! Author!

The Out-of-State Division offers its membership a valuable forum for the exchange of information on legal issues affecting our interstate practices. To be truly effective, it is essential for a large cross section of our members to contribute articles, news, and announcements to this newsletter.

For those of you who would like to see your work in print, the rules for publication are simple: The article should be related to a subject of general interest to legal practitioners with multijurisdictional practices. Articles focused on your home state are less appealing than issues impacting a number of jurisdictions.

Please send documents in MS Word format via email to Don Workman, dworkman2024@gmail.com. Please help your colleagues to get to know you by including a brief biography with contact information, and include a head and shoulders photograph. Your photo and bio will be kept on file and need only be submitted once.



State-to-State

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State-to-State is devoted to Florida and multijurisdictional legal matters. It is editorially reviewed and peer reviewed for matters concerning relevancy, content, accuracy, and style. *State-to-State* is sent electronically to approximately 15,000 legal practitioners throughout the United States.

Statements or expressions of opinion or comments appearing herein are those of the contributors and not of The Florida Bar or the division.

The deadline for the **SPRING 2025** issue is **APRIL 11, 2025**. Articles should be of interest to legal practitioners with multijurisdictional practices. Please submit articles in a Word format via email to Don Workman, dworkman2024@gmail.com. Please include a brief biography with contact information and a photograph of the author. If a digital photo is not available, please mail a print to The Florida Bar, OOSD, 651 East Jefferson Street, Tallahassee, FL 32399-2300.



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Contributing authors

The Out-of-State Division appreciates the articles submitted for this edition by our contributing authors. They can serve as a resource to fellow division members who might have a question regarding these authors' areas of expertise or if a referral is needed.

Tim Brown, associate editor of State-to-State, is a senior in-house attorney at the National Automobile Dealers Association (NADA) with extensive experience in public policy, regulatory, antitrust compliance, and international and government affairs. He can be reached at 703/821-7039 or tbrown@nada.org.




Manuel Farach is a shareholder with Mrachek, Fitzgerald, Rose, Konopka, Thomas & Weiss PA in West Palm Beach, Florida. He represents businesses and individuals seeking help with complex real estate, business, and appellate issues. Mr. Farach is triple board-certified by The Florida Bar in real estate law, business litigation, and appellate law, and past chair of the Florida Supreme Court Committee on Standard Jury Instructions for Contract Cases. He is chair of the 19th Circuit Judicial Nominating Commission and past chair of the Fourth District Court of Appeal Judicial Nominating Commission. Mr. Farach also serves as chair of the ABA's Real Property Litigation Committee and is a Fellow of the American College of Real Estate Lawyers where he serves as chair of the Bankruptcy and Real Estate Litigation Committee. He can be reached at 561/721-1343 or mfarach@mrachek-law.com.




Jeffrey D. Harvey is the CEO of Community Legal Services, the largest legal aid in Florida. He is a decorated military leader; service to his country spanned deployments in both Iraq and Afghanistan from 2001-2009, and response in Florida to Hurricanes Irma, Michael, and Ian. In addition to a JD from Stetson, he has an MBA from American Military University, a Master's in Leadership from Murray State University, a Master's in Strategy from the U.S. Army War College, and an undergraduate degree from Boston College in political science and theology. His leadership within CLS has resulted in the Orlando Business Journal naming him a "Veteran of Influence" in 2019 and "CEO of the Year" in 2021, one of Central Florida's Most Influential Leaders in 2024, as well as CLS being honored as "Best Place to Work" as voted by staff three years in a row from three different publications. He can be reached at (407) 480-4512 or jeffh@clsmf.org.


Joy Heath, president of the Out-of-State Division, is a partner at Williams Mullen in Raleigh, North Carolina. She focuses her practice on the representation of clients in the health care industry. She assists providers in monitoring and responding to opportunities to develop new capacities and advises on state-specific issues related to private equity arrangements, large-scale transactions, and a range of health care development initiatives. She can be reached at 919/559-3904 or jheath@williamsmullen.com.



Harold E. Johnson is a partner with Williams Mullen. As chair of the firm's Education Practice, Mr. Johnson works with educational institutions on various matters, both inside and outside the courtroom. He advises colleges and independent schools regarding board-level governance; Title IX investigations and compliance in the areas of sexual assault and athletics; FERPA and privacy issues; student conduct codes and disciplinary proceedings; endowment management and the Uniform Prudent Management of Institutional Funds Act (UPMIFA); employment disputes and tenure denial decisions; policies regarding free speech and political speech on campus; Department of Education and/or Office of Civil Rights investigations; facilities management, as well as risk management and insurance needs. He can be reached at 804/420-6447 or hjohnson@williamsmullen.com.



Stephanie P. Karn is a partner with Williams Mullen. She focuses her practice on employment matters, issues involving colleges and universities, and general litigation. Ms. Karn advises employers, including colleges and universities, on ways to avoid litigation and/or reduce exposure to litigation claims. She provides counseling on all aspects of employment law, including compliance with employment statutes and regulations; drafting and implementation of policies, handbooks, and employment agreements; harassment prevention training; employee investigations; and employee termination. She can be reached at 804/420-6013 or skarn@williamsmullen.com.



Continued, next page

Catherine Peek McEwen is a U.S. bankruptcy judge for the Middle District of Florida, Tampa Division, and is co-chair of The Florida Bar Pro Bono Legal Services Committee. One of Judge McEwen's mantras is that "judges admire pro bono volunteers."



G. C. Murray II, Esq., DPL, is the secretary of the Out-of-State Division. Affectionately called Coach GC, he is a nationally recognized, award-winning attorney renowned for his leadership, diversity, and nonprofit management expertise. Beyond his legal practice, Mr. Murray is a dynamic speaker and executive coach, providing workshops and keynotes across the Western Hemisphere on various topics, including leadership, development, and operations. In his column, *The Evolving esquire*, he shares insights and strategies for lawyers aiming to elevate their practice, ethics, and community impact, empowering them to not just navigate but create greater change. He can be reached at 202/793-4748 or gc@association.law.



James Shewey joined RCM&D, A Unison Risk Advisors Company, in 2006, bringing a depth of commercial insurance experience to his position. In his current role as the firm's market leader for the Richmond office, Mr. Shewey is responsible for working with the team to generate new sales opportunities and revenue growth in the geographic market. In addition to his role as market leader, he also serves as RCM&D's education practice leader, providing strategic direction and service alignment for K-12 schools, colleges and universities, and consortiums. He can be reached at 800/346-4075.

Mindi Wells is a workplace attorney, investigator, and trainer with Wells Law, LLC in Columbus, Ohio, where she draws upon her over two decades of experience in human resources, organizational leadership, and operations management to support small businesses in navigating the day-to-day challenges they face. Prior to forming Wells Law, Ms. Wells served as the chief operating officer/deputy administrative director for the Supreme Court of Ohio. In addition to teaching at the undergraduate and graduate levels, she is also a frequent presenter and trainer on employment law, HR topics, and Title IX. Ms. Wells has been a member of The Florida Bar since 2004 and currently serves on the Executive Council of the Solo and Small Firm Section and is president-elect of the Out-of-State Division. She can be reached at 614/702-7473 or mwells.esq@gmail.com.



Donald A. Workman, editor of State-to-State, is an out-of-state representative on The Florida Bar Board of Governors and an OOSD past president. His practice areas include business bankruptcy, creditors' rights, debtor reorganizations, general insolvency, stockbroker liquidations, and commercial litigation. He can be reached at 703/400-3637 or dworkman2024@gmail.com.

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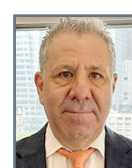
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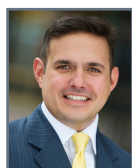
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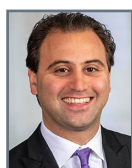


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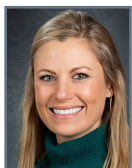


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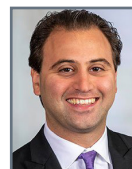
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If you're not already a member of the Out-of-State Division, we invite you to join us.
As of July 12, 2024, we have 1,067 members throughout the U.S. and abroad.

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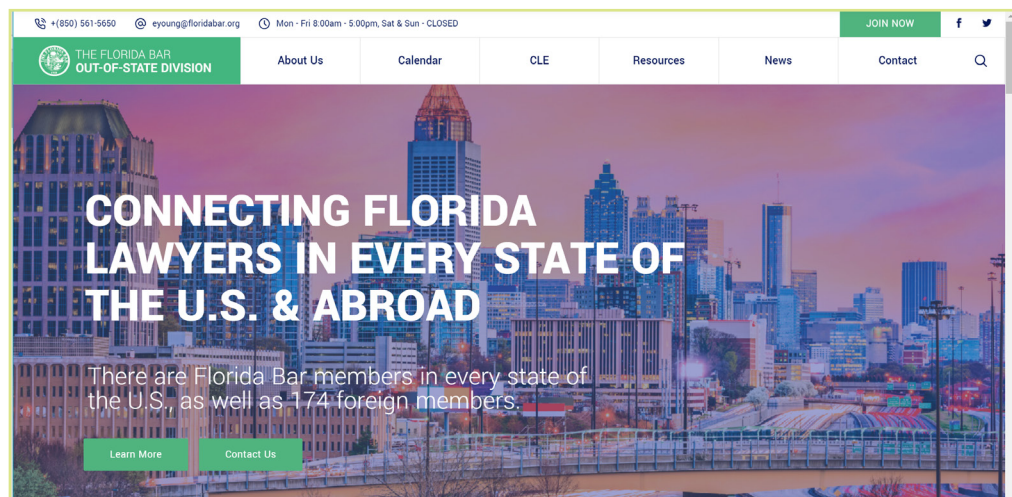
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