

SPEAKING OF JUSTICE

News From The Florida Bar Foundation
 volume 1 issue no. 3

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STEVEN MARTINE

B.J. enjoys a light moment with Barbara Briggs, his attorney from the Legal Aid Society of Palm Beach County. B.J. is one of many students now benefitting from a recent settlement agreement Briggs helped negotiate with the Palm Beach County School Board.

Settlement agreement brings needed changes to Palm Beach County schools

by Nancy Kinnally

An eighth-grader at a West Palm Beach, Fla., middle school, B.J. is a popular student known for his dancing at pep rallies.

"He's doing great," said his mother, Staci Pearson. "He likes school. He reads better. He likes to stay after school."

But it wasn't always that way.

As a fifth-grader, B.J. was arrested three times at his elementary school, where his reading had not progressed beyond a first-grade level.

According to a complaint filed with the Florida Department of Education against the School Board of Palm Beach County by the Legal Aid Society of Palm Beach County, Southern Legal Counsel and the Southern Poverty Law Center, all three incidents involved situations in which B.J. allegedly responded to

see SETTLEMENT, p. 4



Leadership and Funding for Justice in Florida

Message from the President

I recently had the chance to speak to the Tallahassee Bar Association, and it was such a pleasure to hear how appreciated The Florida Bar Foundation is in Tallahassee for its support of the local legal aid community. I was impressed with the Association's exemplary commitment to pro bono service, which is, in fact, a requirement of membership.

Following my visit to Tallahassee, I participated in the Dade County Bar Association's kickoff of The Florida Bar's "One" campaign and was honored to present recognition to the many legal aid service providers in Miami-Dade County. The message of the campaign is powerful in its simplicity: Each lawyer is asked to take one pro bono client. The enthusiasm in the room for the campaign was palpable. The Association has a large percentage of lawyers already participating in pro bono service, as do many of the fine voluntary bar associations in Miami-Dade County.

The Foundation has an unwavering commitment to pro bono service. We

funded the study that served as the genesis of the "One" campaign, and we are following through with a number of the recommendations of the study by funding initiatives of legal aid service providers, and soon voluntary bar associations, to expand and improve their pro bono service programs. You can read more about the new Pilot Pro Bono Grant Program on page 7 of this newsletter.

As I write this message, I am again in Tallahassee, on behalf of the Foundation, to participate in the official kickoff of the "One" campaign at the Florida Supreme Court.

From a statewide perspective, we have over 61,000 lawyers residing in Florida. If each one took one client, think of how many lives would be changed. The clients, for the service that has been rendered, and the lawyers, for the opportunity to make a difference in the lives of individuals who would otherwise have no means of access to our civil justice system. If you are a lawyer, please make a resolution to be the one to make



Adele I. Stone, Esquire

a difference in the life of one pro bono client. Don't wait. Contact your local legal aid provider to sign up for a client today.

And if you can give of your financial resources as well as your time and would like to support the work of pro bono and legal aid staff attorneys on behalf of Florida's children, please give to the Foundation's end-of-year Children's Legal Services campaign. It's easy to give online at www.floridabarfoundation.org.

Have a wonderful Holiday Season,

The Florida Bar Foundation thanks all those who have contributed to the Lawyers' Challenge For Children



ISTOCKPHOTO

The Florida Bar Foundation wishes to thank the nearly 3,000 Florida lawyers and others who have responded to the 2009 Lawyers' Challenge for Children on their annual bar fee statement, by mail or through our updated Web site. Their generous donations totaled more than \$153,000.

In 2008, more than 2,500 children received assistance through the Foundation's Children's Legal Services Grant Program, which supports 23 children's legal assistance projects around Florida. With more than \$2.5 million in grants, nearly two dozen legal aid attorneys were able to help children with learning disabilities whose educational rights had been denied, as well as foster children aging out of the system, and children seeking access to health care, among others.

Those who have given to the 2009 Lawyers' Challenge for Children Campaign are listed at www.floridabarfoundation.org. If you did not contribute to the Lawyers' Challenge for Children this year and would still like to support the Foundation's Children's Legal Services Grant Program, you can do so through our end-of-year campaign or at any time by donating online at www.floridabarfoundation.org or by mailing your check in the enclosed envelope. One hundred percent of all funds contributed to the Lawyers' Challenge for Children and the Children's Legal Services end-of-year campaign are used to provide legal assistance to these needy children.

We thank you once again for being up to the challenge, and so do Florida's children.



Third-year law student Paige Van Ness, left, discusses a case with Carolina Guacci, a visiting instructor and staff attorney at the University of Miami School of Law Children and Youth Law Clinic, and Olga Porven, right, also a staff attorney at the clinic.

The face of the future: Law students, faculty advocate for Miami Foster Youth

by Gabrielle Davis

For most kids, turning 18 is an exciting and much-anticipated milestone, but for thousands of Florida's youth who are aging out of the foster care system, becoming a young adult is the beginning of a grim reality.

"Many foster care teens become homeless or unemployed, or they experience substance abuse and unplanned pregnancies because of all the vulnerabilities and challenges of aging out," said Bernard Perlmutter, director of the University of Miami School of Law's Children & Youth Law Clinic, a Florida Bar Foundation grantee.

The Foundation contributed \$133,000 in funding, through its Children's Legal Services Grant Program, to the law clinic's Statewide Foster Children's Advocacy Project. The law clinic also receives \$25,000 from the Foundation's Law School Civil Clinic Grant Program.

"It's important to advocate for them and enforce their legal rights so they'll have better outcomes," Perlmutter said.

The in-house law clinic has worked since 1995 to protect the rights of foster teens preparing to live independently.

A single client can face legal hurdles ranging from housing and disability issues to denial of Road-to-Independence benefits, which provide support until age 23 for youth aging out of foster care.

In one case, the clinic is representing a young man with severe medical problems whose Road-to-Independence benefits were cut.

"He had to take a medical leave from school, but the Department of Children and Families said he wasn't attending school so he doesn't get his benefits," Perlmutter said.

That is why it is so important to "represent the whole client," said Perlmutter.

Working proactively with other Foundation grantees, the clinic formed an interagency work group to examine a Florida statute designed to support the educational needs of foster children by

requiring school districts to work with the Department of Children and Families to tailor education for foster care children.

"The state hasn't implemented the statute as it was intended," said Kele Williams, the law clinic's associate director who helped lead the group.

Williams published a report – with funding from the Foundation – on the statute's implementation.

"It's an effort on a systemic level to improve educational outcomes of children in Florida," Williams said.

"And it is a landmark," Perlmutter added. "It gave us a snap shot on how the districts help the educational needs of children in foster care. And it should be a catalyst for those that are not."

The law clinic also serves as a classroom for second- and third-year law students who, alongside the university's law professors, work on everything from client interviews and the interagency work group to trials and appeals.

For course credits and hands-on pro-bono work experience with clients, each student handles at least three of the 50 to 60 cases the law clinic takes on every semester, Perlmutter said.

But besides the credits and training, the law clinic encourages a better understanding of pro bono work.

"For a lot of these children and young adults in foster care, [the law clinic] represents the only channel for their voices to be heard," said law student Brett Goldblatt. "Frequently, they feel as though they are trapped in a system where they are rendered helpless. However, from my personal experience, these children appear empowered just knowing that someone is there to further their interests."

After their work with the law clinic, many of the students practice public interest law.

"Even if some of them go to the big firms or Wall Street, they are very committed to doing pro bono work," Perlmutter said.

situations physically – by slapping, kicking or kneeling people.

But there is more to the story.

For example, the complaint says, a school police officer charged B.J. with battery for slapping a student who had been using racial slurs against him all morning and had thrown tape at him.

A violence prevention expert who later reviewed the case compared the school's response to "prosecuting the victim of a hate crime." Also, B.J. was not receiving the special education and related services to which he was legally entitled. When he later received those services, which provided him with emotional and behavioral support, he demonstrated significantly improved behavior.

B.J.'s mother credits Barbara Briggs, supervising attorney for the Legal Aid Society of Palm Beach County's Educational Advocacy Project, with turning B.J.'s situation around.

"If it wasn't for Ms. Barbara I would have gotten nowhere at all," Pearson said. "And he would have never gotten help."

Some people say B.J. has changed, but Briggs doesn't think so.

"I think people started reacting to him differently and allowed the B.J. who was always there to come forward," Briggs said. "And instead of looking at him as a difficult kid with problem behavior, they look at him as a kid with challenges they can help improve. And that's what positive behavioral intervention does."

For Briggs, one of 23 attorneys in Florida whose work is funded by The Florida Bar Foundation's Children's Legal Services Grant Program, B.J.'s story was nothing new. In fact, when his case came to her attention, she was already working on the complaint as a systemic means to counter a trend in schools – a trend toward dealing with children with emotional, behavioral and learning disabilities by referring them to the juvenile justice system. Instead, schools are supposed to be providing

these kids with counseling, social work and psychological services and applying positive behavioral interventions in accordance with the Individuals with Disabilities Education Act (IDEA).

The complaint cites telling statistics from Palm Beach County:

- Data discovered through a 1997 case against the school board showed that students with disabilities received school-related referrals to the juvenile justice system at more than five times the rate of students without disabilities.
- Between the school years beginning in 1999 and 2004, the number of out-of-school suspensions in Palm Beach County had risen by 14 percent, while the student population had increased by only 8.3 percent.
- In 2006-07, 10 percent of all juvenile court referrals in Palm Beach County were school-based.

In many cases, such as that of 12-year-old Pascal, schools were simply ignoring students' individualized education plan (IEP) as required by the IDEA.

Eligible for the gifted program as well as social/emotional services, Pascal got neither when he enrolled in middle school because the school for which he was zoned didn't offer them. Instead of sending Pascal to a school that did, school officials simply removed those services from his IEP.

Pascal's mother Ellen Hollingworth says her son was the victim of repeated bullying at the school, but whenever things escalated, he was always the one punished. By the end of the school year, he had been suspended for 33 days. Although she had tried to express her concerns to school officials, nothing changed until Briggs took the case.

"After she got involved, things started getting done," Hollingworth said. "Things got better, way better. He got put in his proper classes."



NANCY KINNALLY

"I think the positive outcomes of something like this can be seen in more kids staying in school, more kids graduating, and reducing the stress on families, because it's incredibly stressful when your child is suspended or arrested."

– Barbara Briggs
Legal Aid Society of Palm
Beach County

Once he was enrolled in the gifted program at a new middle school, where he also received social/emotional support, Pascal was soon recognized as a model student. At his teachers' recommendation, he was inducted into the National Achievers Society, an academic honor society for minority students.

"This is the kind of kid we should be investing in," Briggs said. "He's our future. I mean, he's very bright. He can be an engineer, a scientist, a physicist."

In Palm Beach County, the outcome of Legal Aid's advocacy was a settlement agreement that will fundamentally change

the way children like B.J. and Pascal are served in the school system. In keeping with the agreement, the school board has contracted with a consultant who is providing technical assistance and training in positive behavioral interventions and supports. Federal stimulus money is being used to train about 200 school staff members, including principals, assistant principals, teachers, support staff, and even bus drivers and cafeteria workers.

"The school district came to the table willing, ready and interested in settling," Briggs said. "They really are looking to improve the educational

outcomes of the kids and to reduce out-of-school suspensions and punitive consequences, especially for kids with disabilities."

She expects statistics to reflect these improvements. And she believes there will be a drop in the costs to the juvenile justice system of children being referred to court and delinquency programs.

"I think the positive outcomes of something like this can be seen in more kids staying in school, more kids graduating, and reducing the stress on families, because it's incredibly stressful when your child is suspended or arrested," Briggs said.

Foundation welcomes new board members

Jewel White Cole, J. Blair Culpepper, Leo J. Govoni and Philip N. Kabler were appointed to three-year terms July 1. This year's new designated directors Mayanne Downs, president-elect of The Florida Bar, and Cristina Alonso, president of Florida Legal Services, will be featured in the winter 2010 issue of *Speaking of Justice*. We appreciate their service, and that of all of our directors.



An attorney with the Pinellas County Attorney's Office, **Jewel White Cole** earned her master's degree in urban and regional planning from the University of Florida and her juris doctor from the University of Florida College of Law. She has served as a member of the Florida Supreme Court/ Florida Bar Standing Committee on Pro Bono Legal Service, is the immediate past president of The Florida Bar Young Lawyers Division and has served as president of the Clearwater Bar Association and a director of the Clearwater Bar Foundation.



Retired banker **J. Blair Culpepper** has served as director, senior vice president and director of marketing of First National Bank of Central Florida in Winter Park. He earned his bachelor's degree and MBA at the University of Florida, and did graduate studies at the LSU School of Banking and Harvard Business School. He is a past public member of The Florida Bar Board of Governors and a current member of The Florida Bar's Ninth Circuit Grievance Committee and the Florida Supreme Court Commission on Professionalism.



Clearwater resident **Leo J. Govoni** is president of Boston Asset Management Inc. and co-founder of The Center for Special Needs Trust Administration Inc. He earned a bachelor's in economics from Framingham State College in Massachusetts. Govoni serves on Stetson University's Board of Trustees and Board of Overseers, as well as the Executive Committee Board of Stetson's College of Law. He also has served on the Special Commission on Lawyer Regulations and as a member of The Florida Bar Grievance Committee.



As senior vice president and general counsel with AMJ Inc. of Gainesville, **Philip N. Kabler** practices in the areas of business and real estate law. He earned his bachelor's degree at Brandeis University and his juris doctor at the University of Pennsylvania Law School. Kabler has served as a board member of the Alachua County Child Advocacy Center, and of the St. Francis House, where he was on the executive committee. He has served as vice president and a member of the executive committee of the Miami Coalition for the Homeless.

On the front lines: Legal aid attorneys give immigrant children a voice

by Gabrielle Davis

Just over a year ago, it seemed the doors of opportunity were always shut to Xiomara Medrano.

With her mother unable to support her, the 16-year-old Tampa high school student was living with strangers, working as a waitress to pay the rent.

She lost her job because of her undocumented status, but she told no one, fearing she would be deported back to her native El Salvador.

Then one day in the middle of a fashion design class at Leto High School, Medrano broke down in tears.

"I could handle it for a little while. But the day I had to pay the rent was coming and I didn't have the money," Medrano said.

It seemed another door had been closed until a social worker Medrano met through a high school counselor put her in touch with Gulfcoast Legal Services' Children's Immigration Legal Defense (GLS CHILD) last September.

"They gave me more freedom and opportunity to be here," Medrano said.

Medrano represents thousands of immigrant children who have traveled to the United States with their families or guardians in hopes of a better life. Some, like Medrano, end up struggling to make it on their own and living in constant fear of deportation. Others fare even worse, falling victim to abuse or neglect.

These children are often detained, then deported back to their home countries, unaware they are protected by the law and may be able to remain in the United States legally.

GLS CHILD is providing a voice for immigrant children who have fallen through the cracks in the Tampa Bay area. Supplemented with a \$72,100 Children's Legal Services grant from The Florida Bar Foundation, GLS CHILD represents

immigrant children seeking asylum, as well as those who have been victims of crimes.

After the program's launch in September 2007, GLS immigration attorney Mariam Ahmedani started looking for potential clients. The following year she was joined by new GLS attorney Adriana Dinis.

They didn't have to go far.

After contacting The Florida Department of Children and Families, outreach centers, Guardian ad Litem and foster-care programs, and hospitals, the cases started pouring in.

The agencies were aware of the growing number of immigrant children walking through their doors, but had no idea what to do about it.

"No one knew who to call," said Ahmedani, who helped develop the project. "I imagine this is a problem all over this state. I almost feel we've just scratched the surface."

The two-attorney legal aid team is working through more than 70 cases, mostly special immigrant juvenile status (SIJS) cases, where the children have been abandoned, abused or neglected, which allows them protection and the right to stay in the United States.

In order to obtain SIJS, a state court must determine that it wouldn't be in the best interest of the child to continue living with his or her parent(s) or legal guardian(s), nor to be returned to his or her country of origin, Ahmedani said.

Upon such determination, there's a slew of paperwork and forms to fill out – mainly visa applications – so the child can obtain legal status. In some cases, the children are adopted or go on to live in foster care.

Still on her own, Medrano has made great progress since she shed tears that day in class and the social worker she now



JAY CONNER

On her own since she was 16, Xiomara Medrano used to live in fear of deportation. Now, with Special Immigrant Juvenile Status, she is enrolled at Hillsborough Community College and working part-time on campus.

calls her "angel" put her in touch with her attorneys, Ahmedani and Dinis.

At the time, Ahmedani was serving two years at Gulfcoast Legal Services as an Equal Justice Works Fellow with support from The Florida Bar Foundation. She has since been hired as a staff attorney, and she and Dinis have closed 64 cases through GLS CHILD to date.

An 18-year-old freshman at Hillsborough Community College, Medrano is living at a women's shelter in Tampa, and she recently landed a part-time job on campus. Having worked since she was a young girl, she enjoys being self-sufficient.

"It's just amazing seeing the smile on these kids' faces when you tell them they have [legal] status," Ahmedani said. "That they can work, they can go to school. It's tremendously rewarding."

New grant program supports expanded pro bono efforts

A study funded by The Florida Bar Foundation found Florida lawyers don't lack the desire to provide pro bono legal services, they just lack the time.

The September 2008 report, "Pro Bono: Looking Back, Moving Forward," found more than 60 percent of the lawyers surveyed cited "lack of time" as a reason they didn't participate in pro bono work.

With two working parents in many professional households, volunteering often takes a back seat, said the study's author, Kelly Carmody of Arizona-based Carmody and Associates.

In response to the study, the Foundation has launched a new Pilot Pro Bono Grant Program.

Eight legal aid programs throughout the state received a total of \$478,000 in Foundation grants to implement new or enhanced models for their pro bono programs, and more will be funded in December.

"The goal is to test the proposals we selected to see how they can improve or expand pro bono legal services, and to see

if they could be useful in other programs," said Paul Doyle, director of the Foundation's Legal Assistance for the Poor and Law Student Assistance grant programs.

Several programs are offering defined, limited assistance pro bono opportunities, like staffing legal advice clinics or hotlines on the weekend.

Bay Area Legal Services offers a pro bono program at the courthouse where lawyers can come in during their lunch hour to provide legal advice to the clients. And in Brevard County, lawyers can commit a half day to see clients at Brevard County Legal Aid.

First District Court of Appeals Judge William A. Van Nortwick, who chairs the Florida Supreme Court/The Florida Bar's Standing Committee on Pro Bono Legal Service, said the Foundation is breathing new life into pro bono.

"Without the Foundation's commitment to pro bono legal services none of this would have been possible," Van Nortwick said.



Judge William A. Van Nortwick

Foundation President-elect John Noland expects the new grant program to have far-reaching effects down the line.

"If the Foundation's success at finding the solutions to issues confronting Legal Aid is any indication, I'm confident that the Pilot Pro Bono program will result in the development of effective methods that can be replicated throughout Florida and beyond," Noland said.

Mortgage foreclosure defense gets support from Florida AG

Florida Attorney General Bill McCollum and The Florida Bar Foundation recently launched a mortgage foreclosure defense grant program using funds from a settlement the Attorney General's office reached in October 2008 with Countrywide Financial.

A total of \$4 million will be available over two years to fund additional lawyer and paralegal positions devoted to providing free assistance to homeowners facing foreclosure who cannot afford an attorney.

Florida has the fourth highest rate of foreclosures in the nation.

"Florida's legal services organizations have been overwhelmed with the sheer volume of distressed homeowners seeking assistance, so we are extremely pleased that funds from this settlement will provide them with

additional resources to help these clients stay in their homes," Foundation President Adele Stone said. "We also appreciate that the attorney general has placed his confidence in The Florida Bar Foundation as the administrator of the program."

The funds are being distributed through the Foundation in the form of annual grants awarded to legal aid organizations and will support as many as 23 attorney positions. The grants vary in size depending on the number of foreclosures experienced in a particular area. A total of \$2 million was awarded in August, and it is anticipated that another \$2 million will be awarded in 2010.

"The high number of foreclosures in Florida has left our homeowners vulnerable to fraud and desperate for assistance," McCollum said. "I know that the assistance these attorneys will provide



Attorney General Bill McCollum

will mean a world of difference to the homeowners they help."

For a complete list of grantees, visit www.floridabarfoundation.org.

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The Florida Bar Foundation is the only statewide organization that provides funding for Legal Aid and promotes improvements in addressing the civil legal needs of the poor.



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FOUNDATION FACT

The Florida Bar Foundation, through its Improvements in the Administration of Justice Grant Program, has funded a pilot project in the Escambia County School District designed to reduce referrals from schools to the juvenile justice system while maintaining a safe and appropriate learning environment. Up to \$945,000 has been authorized over three years to fund the project, which is being administered by the Collins Center for Public Policy. The pilot project will explore the effectiveness of a variety of strategies, including restorative justice, Saturday detentions and mediation.

SPEAKING OF JUSTICE

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Every day, in every city in Florida,
we help Legal Aid help those least able to afford a lawyer.

We are The Florida Bar Foundation,
and we believe the system works best when it works for everyone.



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