

SPEAKING OF JUSTICE

NEWS FROM THE FLORIDA BAR FOUNDATION
Volume 8 Issue no. 1



EMILY GARRISON PHOTOGRAPHY

Brittney Carroll, fourth from left, is thriving as part of a loving family, thanks in large part to her legal team, which included Guardian ad Litem attorney Richard Dellinger and Florida Bar Foundation-funded legal aid attorney Ericka Garcia, who is now director of pro bono partnerships at The Florida Bar Foundation.

Long legal road leads to a permanent home for Brittney

Brittney Carroll, 11, smiles broadly and extends her hand to welcome a visitor to her family's Tallahassee farm, where she and six siblings help care for a menagerie including ponies, goats, chickens, and a cow named Buttercream.

Born with a host of medical disorders, Brittney spent years in and out of Orlando hospitals and medical foster homes until a Wendy's Wonderful Kids recruiter called to ask Brian and Shannon Carroll to consider adopting her.

"We told her, 'Yes, we would absolutely be interested in taking this little girl,' because we believe that all life is valuable and that all children deserve a loving family, whether they are going to pass away, whether they have special needs, no matter what the issues are," Shannon Carroll said.

In spite of their willingness to open their home to a child with special needs, the Carrolls encountered roadblocks in their effort to adopt Brittney. But Brittney had a Guardian ad Litem attorney who went to bat for her, and he in turn had the support

of a legal aid attorney funded in part by The Florida Bar Foundation.

"It was just a great tag team," Brian Carroll said.

Brittney's GAL attorney, Richard Dellinger of Lowndes, Drosdick, Doster, Kantor & Reed in Orlando, had been with her for eight years and worked with Ericka Garcia, then with the Legal Aid Society of the Orange County Bar Association, to provide Brittney with educational and developmental opportunities while in foster care and to make sure she would eventually find permanency.

Message from the President

Listed below are generous groups and inspiring individuals who have helped make The Florida Bar Foundation's work possible over many years. Those in our Lifetime Giving Societies have made major contributions to support the Foundation's mission of providing greater access to Justice. They include many Foundation Fellows who have taken their giving to the next level, along with Bar sections and divisions, corporate partners and others who believe in and support the important work we and our grantees do. Along the same lines, I extend my deepest gratitude to our own Bruce Blackwell, who not only is a member of our Gold Society and our Legacy for Justice, but who also is the worthy recipient of the 2016 Tobias Simon Award, The Florida Bar's highest public service honor. Bruce has given so much — in time, treasure and talent — over so many years, and we are extremely fortunate to have him as our executive director and by our side as we help in the effort to increase and ultimately ensure equal access to justice.



Donny MacKenzie

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BLACKWELL, from p. 8

"This has been a watershed year in Florida for bringing the shortcomings of access to the fore under the enlightened leadership of Chief Justice Jorge Labarga and the prior stellar leadership of our bar, including Gwynne Young, Eugene Pettis, Greg Coleman and now President Ramón Abadin," he said.

"The issue of access to the courts, as all recognize, is broader than a lawyer issue, but we, as lawyers, are and must be a catalyst for it. We need to effect a sea change in providing civil legal access not

only to the 3 million Floridians presently living in poverty, but the almost 80 percent who cannot afford a lawyer's services."

Blackwell learned at an early age that "each of us possesses the power to change at least one life, if not many lives, through our actions," as he wrote in his personal statement upon receiving the 2013 American Bar Association Pro Bono Publico Award. He and his brother were taken in by an aunt and uncle at the age of 11 after both of their parents died. He considers his aunt, Mattie Heagy, whose life he says

"centered on service," to be his mother.

When he became a lawyer, and throughout his career, he saw pro bono service as principal among his professional duties.

"With more than 40 years of pro bono service, Bruce Blackwell has not only provided direct representation of clients but also has recruited others to provide pro bono representation. Likewise, he has lobbied and strengthened and preserved the network of legal aid organizations serving the poor," Chief Justice Jorge Labarga said in his introduction.

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“The expertise of having a legal aid lawyer, funded through the Foundation and other sources, is huge for an advocate, because that is expertise that I would not have. I would not know how Children’s Medical Services has been treating other kids. I wouldn’t know how to work with CMS. That’s why we have legal aid law firms, so we can have specialists in these areas.”

**– Richard Dellinger
Lowndes, Drosdick, Doster,
Kantor & Reed, P.A.**

Things were starting to look up for Brittney in foster care, thanks to Garcia and Dellinger’s advocacy, but then she ended up being hospitalized for eight months. One day Dellinger was told that Brittney didn’t have long to live, so he went to see her and was surprised to find that not only was she going to live, but she was asking to go home. Dellinger immediately called on the Florida Department of Children and Families to get Brittney out of the hospital, where he felt she was essentially being warehoused.

“The foster mom wouldn’t take her back, so we got her out of the hospital and found another medical foster home that would take her,” Dellinger said, “It was a good home, but still just a foster home.”

Dellinger and Garcia succeeded in getting her enrolled in school for the first time in years. There she received speech and other therapies, had the chance to interact with peers, began walking, and quickly moved from a nonverbal to a verbal classroom.

As a developmental disabilities attorney working under a Florida Bar Foundation Children’s Legal Services grant, Garcia made sure Brittney had an individualized education program (IEP) that provided her access to all of the educational services to which she was legally entitled.

“That’s one area where Ericka was really helpful with her expertise,” Dellinger said. “Because I’ve never done an IEP, but we worked together, and Ericka went out to the school and met with the teachers and developed that IEP.”

Garcia said Brittney was starting to blossom being around teachers and other children.

When Wendy’s Wonderful Kids found the Carrolls, Dellinger began advocating for something Brittney had never had before – a family that would be hers forever.

But when Brittney made her first visit to the Carrolls’ farm in June, she quickly ended up back in the hospital. And because Children’s Medical Services, the state

agency responsible for managing Brittney’s medical care, had not transferred her care to Tallahassee, Shannon had to hop onto an ambulance and return with her to Orlando, where she stayed by Brittney’s side for a month in the hospital.

Shannon, who homeschools her children while Brian manages a Chick-fil-A restaurant, had never been separated from her children for more than a couple of days. Feeling homesick and overwhelmed, she had moments of uncertainty. That’s when Dellinger’s role became critical to the success of the adoption. The episode made it clear that if Brittney was going to live in Tallahassee, CMS had to transfer her medical care there, but the agency was refusing.

“Feet were dragging,” Brian said, adding that he and Shannon did not want to push too hard for fear of appearing angry and being judged unfit to parent Brittney.

As Brittney’s advocate, Dellinger had no such fears. He demanded a conference call with all the agencies involved in Brittney’s case to arrange for her medical care be transferred.

“Richard was really good about being the guy who was behind us and fighting the fights that we’re not so comfortable taking up, and saying, ‘This child needs to go home. This child needs permanency,’ ” Shannon said.

After a status hearing to which the CMS caseworker didn’t show up, Dellinger consulted with Garcia and another legal aid attorney and they agreed that he could ask the judge to have her court-ordered to appear.

The strategy worked. Within 24 hours the judge held another hearing, at which the caseworker agreed to have Brittney’s medical care transferred.

On Sept. 11, just three months after Brittney fell ill in Tallahassee, her adoption was finalized. Now a student at Gretchen Everhart, a Tallahassee school for special needs children where she gets the therapies

she needs, Brittney recently went camping near Ocala along with her family on a trip organized by the school. Brittney got to try her hand at archery, tie dye a T-shirt, go to a dance and play in the pool.

"We've done a lot of firsts," Shannon said. Like riding an escalator, which gave Brittney the giggles, or going skating, which Brittney did in her wheelchair with Shannon pushing her.

At home, though, the wheelchair in which Brittney used to spend most of her time sits unused in a corner of the dining room. Brittney instead has the freedom to play with her dolls and dress-up clothes, or sit on the floor petting her dog Fez. As she saunters about the house, she flashes her wide grin almost any time she makes eye contact with another person, which is often in a household of nine. Just one sign points to her serious medical condition: the little backpack Brittney wears holds her food, which is dispensed to her all day through a tube.

The Carrolls don't feel as though they alone could have cared for Brittney.

"To be honest, anybody could love her. She's an awesome kid," Shannon said.

But she and Brian know Brittney is better off having a family than being in a medical foster home, where she eventually would have aged out, at which point she most likely would have been sent to live in an institution.

"She had a medically trained foster home," Shannon said. "Her need was to find an adoptive family, somebody who would be with her forever, and who would commit to love her long-term, regardless of her disability, and that's what we told them we were. We're no more, we're no less than this."

After witnessing Brittney's adoption Dellinger left in a hurry before his emotions got the best of him.

"I felt like I was losing my kid. I had to leave pretty quick," he said. "But it's good. Right now she is in the best place. She is exactly where she needs to be, with a great family, a wonderful family."



Brittney with her legal team, from left, Abigail Adkins, case coordinator with the Legal Aid Society of the Orange County Bar Association; Ericka Garcia, then Legal Aid Society developmental disabilities attorney; and pro bono attorney Richard Dellinger. Garcia is now director of pro bono partnerships at The Florida Bar Foundation.

COURTESY OF RICHARD DELLINGER

These are tender words from a lawyer who on any given day is handling \$300 million trust cases and dealing with corporate giants.

"I work for large companies and wealthy individuals, but I treat cases for the poor just like I do any of the rest of them," said Dellinger, who keeps about three pro bono cases going at a time and is also serving this year as president of the Legal Aid Society of the Orange County Bar Association.

Dellinger said his collaboration with Garcia on Brittney's case is a great example of the importance of legal aid to the success of pro bono attorneys.

"The expertise of having a legal aid lawyer, funded through the Foundation and other sources, is huge for an advocate, because that is expertise that I would not have. I would not know how Children's Medical Services has been treating other

kids. I wouldn't know how to work with CMS. That's why we have legal aid law firms, so we can have specialists in these areas," he said.

Garcia, who is now director of pro bono partnerships for The Florida Bar Foundation, is working to facilitate the development of programs that will tap into the power of lawyers like Dellinger who are willing to make pro bono a part of their practice. And she plans to help strengthen the bridges between private pro bono efforts and legal aid.

"In Brittney's case and in many others, I have seen it work," Garcia said. "I look forward to helping make sure it happens on a more widespread and routine basis, and to helping ensure that the system is dynamic and well-oiled and that we're all-systems-go for kids like Brittney and for many others in need of civil legal assistance."

Laid off legal aid lawyer worked pro bono, helped win \$17 million verdict

To most Floridians the town of Felda in Hendry County is little more than an overlooked dot on a state map, but to five women who worked in the Moreno Farms packing house there it became their own little corner of Hell.

Maria del Carmen Aguilar, one of five plaintiffs recently awarded a \$17.4 million verdict against Moreno Farms, lived in terror knowing that the men who had sexually harassed and in some cases raped female workers at the plant were still free and might run into her.

"Here I am more in peace," the 27-year-old said from her native Mexico, to where she had retreated before the case went to trial, and from where she returned to testify in federal court in a U.S. Equal Employment Opportunity Commission sexual harassment and retaliation case against her former employer.

Even before she made the journey from her rural village to the federal courthouse in Miami, Aguilar knew she would never see a penny of any verdict. Moreno Farms had long since been dissolved, and its owners had vanished. But coming back to Florida was her only chance to have her day in court.

"Although at the time we were scared, now we can do something so that they can't continue doing the same thing to other women," Aguilar said. "We are not going to stay quiet. It was very important to me to be in front of a judge and for people to see that we were present."

Aguilar and her former coworkers were represented by Victoria Mesa-Estrada, at first as a legal aid attorney with the Florida Legal Services Migrant Farmworker Justice Project, which is funded by The Florida Bar Foundation, and later as a pro bono attorney with Mesa & Coe Law in Lake Worth, Fla.

Mesa-Estrada and her fellow legal aid attorney Vanessa Coe were laid off just months before the trial because of cuts in



Left to right, plaintiffs Ana Francisco and Sandra Lopez, attorney Victoria Mesa-Estrada, plaintiff Maria del Carmen Aguilar, EEOC attorneys Beatriz Andre and Dan Seltzer, and plaintiff Ligia Martinez.

COURTESY OF VICTORIA MESA-ESTRADA

the Foundation's funding for the Migrant Farmworker Justice Project that came as a result of the drying up of revenue from Florida's Interest on Trust Accounts Program.

At that point Mesa-Estrada had been working on the case for two years, during which she had gained the women's trust.

"Either I stayed on the case, or the case was going to completely fall apart," she said. "The charging parties were not going to appear if I was not there."

Because local law enforcement had declined to pursue the female workers' claims of rape and sexual harassment, Mesa-Estrada had filed charges on their behalf with the U.S. Equal Employment Opportunity Commission, which in turn completed an investigation and filed the lawsuit. The agency had recently made vulnerable populations such as migrant workers a priority.

Robert Weisberg, regional attorney for the EEOC's Miami District Office, said losing the involvement of attorneys like Mesa-Estrada is a blow to his agency's efforts.

"The cutbacks to programs such as the Migrant Farmworker Justice Project at

Florida Legal Services in my mind can be really devastating to the access that some of the most vulnerable workers in the state of Florida have to the legal system," Weisberg said. "They have developed relationships with the members of the community so that these workers will have a level of trust in interacting with them."

He points out that the EEOC's only offices in Florida are in downtown Miami and downtown Tampa, far from the rural areas where migrant workers live and work, and his agency's ability to do outreach work is limited by its own funding challenges. Legal services offices, on the other hand, have been actively engaged in migrant farmworker communities for decades.

"If legal services attorneys don't exist in those areas, the likelihood that we're going to be able to effectively seek justice for these people is really going to be diminished," Weisberg said. "They are going to be less likely to come forward, at the outset and throughout the case."

Greg Schell, a Harvard Law graduate and managing attorney of the Migrant Farmworker Justice Project, has seen his program's funding – which comes solely

from The Florida Bar Foundation – cut from \$861,052 in 2010-11 to \$274,558 in 2014-15, making it just 31 percent of what it was just four years ago. His staff has gone from six attorneys and two outreach paralegals to two attorneys and no support staff.

Schell, 62, is afraid the other young attorney who works for him will soon leave in search of more stable work.

“That’s the nature of this slow water torture we’re having,” said Schell, who is among the nation’s leading farmworker advocates.

“We’re going to have to be very smart in what we do, and be very careful in what we undertake, and be very efficient,” Schell said.

The Moreno Farms case is an example of one that serves a larger purpose, even though there were only five plaintiffs. That’s why the MFJP continued to cover expenses on the case with Florida Bar Foundation funds even after Mesa-Estrada was no longer on staff.

“Impact work is not necessarily having a class action. It’s sometimes sending a signal to a defendant community that certain behaviors are unacceptable and will result in some serious sanctions,” Schell said.

The multi-million-dollar, albeit uncollectable verdict, was covered in statewide, national and even international media, including daily newspapers, trade press such as Business Insurance, and Mexican television, which is why pursuing the damages trial was important, even though the defendants were not going to appear.

“We firmly believed that this was a message that needed to get back to the community, that these women knew that they had rights, and that there was an agency willing to step up and vindicate their rights somehow,” Mesa-Estrada said. “But we also needed to send a message to the agricultural industry, so that they realized

that these practices are not acceptable and that they needed to start looking into their procedures and oversee their employees as they should.”

Meanwhile, still burdened with her student loans as she works to build her practice and continues to handle a few other legal aid cases she couldn’t bring herself to abandon, Mesa-Estrada nonetheless became a Florida Bar Foundation Fellow just a couple of months after her legal aid paycheck stopped by pledging \$1,000 to the Foundation, payable over 10 years.

“Even after being laid off, I am still committed to the principles of the Foundation, and I want to continue supporting that, even if it’s only a few dollars a year,” she said.

BLACKWELL, from p. 3

“Beyond his work with the Foundation, Mr. Blackwell has donated thousands of hours of direct pro bono services. He has consistently and successfully handled cases that are complex, contentious and even controversial. The Legal Aid Society of the Orange County Bar Association has a knack for handing Blackwell its difficult cases.”

Senior Judge Emerson R. Thompson Jr., immediate past president of The Florida Bar Foundation, said Blackwell is “the epitome of the servant leader.”

“Throughout his professional and personal life he has always used his skills as an attorney to help the underserved,” Thompson said. “He has donated his talents, time and money to help others without fanfare. He truly believes that the life he lives speaks for him. Sir Winston Churchill wrote: ‘We make a living by what we get. We make a life by what we give.’ He was talking about Bruce.”

“Even after being laid off, I am still committed to the principles of the Foundation, and I want to continue supporting that, even if it’s only a few dollars a year.”

**– Victoria Mesa-Estrada
Mesa & Coe Law, P.A.**

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SPEAKING OF JUSTICE

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COURTESY OF THE FLORIDA BAR

Blackwell receives 2016 Tobias Simon Award

When Florida Bar Foundation CEO Bruce B. Blackwell accepted the 2016 Tobias Simon Award at the Florida Supreme Court Jan. 28, he shared The Florida Bar's highest public service honor with all of those who endeavor to ensure justice for those least able to afford an attorney.

"I accept this award on behalf of all my brothers and sisters who toil daily as volunteers, as legal aid lawyers, paralegals, staff, court personnel and clerks who help pro se litigants and on behalf of the thousands of Floridians whose lives have been changed because a Florida lawyer cared – and cares – and will keep on caring," Blackwell said.

He also recognized the contributions of each of the seven Florida Supreme Court justices and of Florida Bar leaders.

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