

# SPEAKING OF JUSTICE

NEWS FROM THE FLORIDA BAR FOUNDATION  
Volume 8 Issue no. 3



MIKE OSSOLA

Mike, Carol and Myles Cornelius consider Carol's caregiver, Wendy Garcia, a member of the family. She stayed with them even after Carol's Medicaid HMO cut Carol's care hours.

## Florida Legal Services receives Goldstein Award for preventing Medicaid HMOs from limiting care based on family members' jobs

For three years Mike Cornelius had run a daily race from home to his full-time job and back again so he could take over from his wife Carol's caregiver, but on April 8, 2014, he got a letter from Carol's Medicaid HMO saying that it was reducing her care from 45 hours a week to 33, turning his exhausting routine into an impossible feat.

"Even before the decrease in hours, I was running absolutely crazy," said Mike, whose life had been upended in June 2010 when, on the last day of school, his 12-year-old son Myles came home from the park in

his quiet Tampa neighborhood to find his mother unconscious on the floor.

Carol Cornelius had two brain surgeries in the next 12 hours and spent two weeks in intensive care. She finally made it home by Thanksgiving, but the Carol who came home was not the one who'd fixed an after-school snack for Myles and sent him off to the park five months earlier.

Carol, now 60, has to have an alarm on her bed and chair in case she tries to stand up and walk, as she doesn't understand she is paralyzed on the right

side. She tries to have a conversation with a visitor, "but she can't," said Myles, who since the age of 13 has been providing, along with Mike, the more than 120 hours a week of his mother's care the Medicaid HMO doesn't cover.

"He's given more care to his mother than his mother has ever given him," Mike said.

In fact, it was based on "what you and your family are able to do" that the HMO said it was cutting Carol's hours. In an appeal hearing, the HMO testified that it was not responsible for providing care for

# Message from the President

At its June 16th meeting, the Foundation's board passed a resolution to position itself as "a strategic leader and catalyst in the cause of increased access to justice for all" with the primary goal of serving as "an agent of rapid, effective and high-impact change." The board also established a Strategic Planning Committee to ensure discussion about the progress on strategic goals and initiatives at every board meeting and to confirm that these efforts are consistent with the Foundation's mission. The results will likely include changes to some of our grant-making policies and grant programs. As the Foundation embarks on this "strategic reset," it is committed to proactive and open engagement with its grantees on all issues, including the use and allocation of the Bank of America settlement funds the Foundation received in April (see article below). The Foundation will share information and collect feedback via webinars, face-to-face meetings, e-mail and our website and will also work to keep other key stakeholders informed, as we recognize that partnerships and collaboration are critical to developing solutions. The Foundation is fully committed to transparency and accountability, and we welcome your questions, your input and your support. Finally, thanks to all sponsors and attendees at the Foundation's 40th Annual Reception and Dinner, and congratulations to all of the deserving award winners. It was a special and successful event and we look forward to the 41st!



Matthew G. Brenner



Bill Van Nortwick and Maria Henderson of Akerman LLP presented the Steven M. Goldstein Award for Excellence to Paolo Annino and students Justin Karpf, Megan Shoemaker and Steven Reardon of the FSU Public Interest Law Center, first runner-up.



Van Nortwick and Henderson presented the Goldstein Award to Kirsten Clanton, representing second runner-up Southern Legal Counsel.



Legal Services Corporation President James J. Sandman delivered the keynote address, which was sponsored by Carlton Fields.

## Foundation receives \$23 million from Bank of America settlement

In late April, The Florida Bar Foundation received \$23 million for foreclosure prevention and community redevelopment, as mandated by a 2014 national settlement between Bank of America and the U.S. Department of Justice and six states.

"Our staff is developing plans for the use of the funds and the grantmaking process," Foundation CEO Bruce B. Blackwell said. "We will continue to work closely with our Grants Committee and with key stakeholders. We are determined to be strategic about how these funds will be invested."

One of 56 legal assistance organizations receiving a total of \$490 million under the settlement, the Foundation has been consulting with its peer Interest on Lawyers' Trust Account (IOLTA) programs on strategies for the effective use of the funds. IOLTA programs in each state, the District of Columbia, Puerto Rico and the Virgin Islands received payouts based on poverty population.

The distributions were triggered by President Obama's signing into law an act extending federal tax relief through 2016 to homeowners who otherwise would have incurred income-tax liability from mortgage debt forgiveness they received under the consumer-relief provisions of the settlement. A fund set aside for tax assistance then became surplus.

The Foundation and most other IOLTA programs will allocate the funds over several years. Focusing on projects and initiatives with significant systemic impact, the Foundation will expand the scope of its grants beyond those programs it has historically funded.

Meanwhile, a quarter-point increase in the federal funds rate in January so far has not increased IOTA revenue as hoped, while the Foundation has exhausted its reserve, drawn on income from its endowment, taken a loan from The Florida Bar and utilized disaster and building funds to keep grant funding level. It has notified its grantees that it will allocate \$7.7 million to grants in 2017, the same amount it allocated in 2015 and 2016.

# Kathleen Schin McLeroy receives Medal of Honor Award for a Lawyer

**T**ampa attorney Kathleen Schin McLeroy received the 2016 Medal of Honor Award, the Foundation's highest honor, in the lawyer category.

A shareholder with Carlton Fields and a member of the Florida Commission on Access to Civil Justice, McLeroy was honored for her innovative ideas to increase Interest on Trust Accounts (IOTA) revenue, her successful efforts to preserve county funding for legal aid, her leadership of organizations supporting pro bono at the national, state and local level, as well as more than 20 years of direct services to pro bono clients.

"Kathy's advocacy begins at home and extends throughout the United States," said Maria Henderson, who served with McLeroy on The Florida Bar Foundation board and who, like McLeroy, is a past president of the Foundation.

McLeroy has chaired Carlton Fields' nationally recognized pro bono committee since 1999; served four three-year terms on the Bay Area Legal Services board, including two terms as president; chaired the American Bar Association (ABA) Business Law Section's Pro Bono Committee; served on the ABA Commission on Interest on Lawyers' Trust Accounts (IOLTA) and was a liaison to the ABA Standing Committee on Pro Bono and Public Service. She currently co-chairs The Florida Bar Standing Committee on Pro Bono Legal Services; serves on The Florida Bar's Vision 2016 Commission; and chairs the inaugural board of directors of the Florida Justice Technology Center (FJTC), a statewide non-profit dedicated to increasing access to justice through the innovative use of technology. The center was created with a \$725,000 grant from The Florida Bar Foundation.

While McLeroy's Medal of Honor Award nominators and supporters remarked on the breadth and scope of her leadership positions, they also pointed to significant outcomes for legal aid and pro bono services that could be traced directly to



JUDY WATSON TRACY

Kathleen Schin McLeroy received the Foundation's Medal of Honor Award for a Lawyer from Dudley Goodlette of Florida Lawyers Mutual Insurance Company, the award sponsor.

McLeroy's initiatives. Bay Area Legal Services (BALS) Executive Director Dick Woltmann and former Florida Bar Foundation President Drew O'Malley noted McLeroy's critical role in bringing about a change to the Florida Bar rule governing Florida's IOTA Program that has yielded tens of millions of dollars in additional IOTA revenue in Florida.

"Kathy, a former banker with an MBA, determined that banks were placing IOTA funds in accounts with interest rates far lower than those they offered commercial customers," they wrote. "Kathy's proposed changes to the Florida Bar rule on trust accounts included a requirement that lawyers deposit the funds only into accounts that provide interest comparable to what the bank's commercial customers receive."

Woltmann and O'Malley also noted that McLeroy helped lobby the Florida Legislature to retain county funding for legal aid and enlisted former Gov. Bob Martinez in the successful effort, preserving approximately \$8 million in annual funding for Florida legal services programs.

Judge Catherine Peek McEwen of the U.S. Bankruptcy Court for the Middle

District of Florida remarked about McLeroy's constant efforts to improve upon existing pro bono and self-help efforts, including her efforts to secure funding from the ABA Business Law Section to improve a Foundation-funded "Bankruptcy Basics" video and her ideas that led to a Tampa-area judicial summit on pro bono.

Her work has been recognized with numerous awards including The Florida Bar President's Pro Bono Service Award, the Hillsborough County Bar Association's Jimmy Kynes Award for Outstanding Pro Bono Service, and the Outstanding Pro Bono Service Award from the Hillsborough Attorney Volunteer Efforts Program. She was also honored in 2001 with The Florida Bar Foundation's inaugural President's Award for Excellence.

"I am humbled by my selection to receive the Medal of Honor Award from The Florida Bar Foundation," McLeroy said. "I consider it the greatest honor of my professional career to have my name listed with its prior recipients, many of whom I have had the opportunity to know and all of whom I deeply admire."



MIKE OSSOLA

*“I think it’s the only right thing to do. You take your wedding vows and you say, ‘in sickness and in health.’ I love my wife. What can I say?”*

– Mike Cornelius



JUDY WATSON TRACY

*“They’ve proposed a rule that clearly states that a caregiver’s work schedule can’t be the reason for denial of long-term-care services.”*

– Cindy Huddleston  
Florida Legal Services Inc.

the “convenience” of a family member so that he could work, or look for work. The appeal was denied.

“Frankly, I was met with a stone wall,” Mike said. “I thought I had hope but in the end there was none.”

He turned to a private attorney, who referred him to Florida Legal Services Inc. (FLS) in January 2015. FLS reviewed other long-term-care hearings and found similar outcomes.

“When we looked back at hearing cases for long-term care, it was shocking the facts we saw,” FLS staff attorney Cindy Huddleston said. “Their appeals were being denied.”

FLS, whose funding comes primarily from The Florida Bar Foundation, filed a brief with the Second District Court of Appeal challenging the legality of equating a family member’s employment with “convenience” and of AHCA’s allowing contracted Medicaid HMOs to set such policies, which are supposed to be under the purview of the agency itself.

Beyond helping the Cornelius family, Huddleston and fellow FLS attorneys Kathy Grunewald and Anne Swerlick wanted to set a nationwide precedent to force state agencies to take responsibility for unlawful actions and policy pronouncements of HMOs participating in Medicaid Waiver programs, which are designed to allow the elderly and disabled to live at home instead of in an institution by providing cost-effective services.

“It’s cheaper to care for folks at home instead of putting them in a nursing home, so it just makes financial sense for the state to do that,” Huddleston said. “So it’s a win-win all around, but the HMOs have to realize that they can’t save money on the folks who need to be getting those services.”

Olga Bzdyk, an 82-year-old widow with end-stage Alzheimer’s, was another such person.

Her daughter, Karen, had taken care of her at her Miami home for six years

while working 60 hours a week, but Karen reached her breaking point after herniating two discs trying to lift her mother and running out of money for in-home care when she couldn’t be at home.

The same Medicaid HMO that had cut Carol Cornelius’ hours capped Olga Bzdyk’s at 58 hours a week, which was not enough to allow Karen to maintain her job, much less go to the grocery store or pharmacy or conduct the routine errands necessary to take care of herself or her mother.

In Bzdyk’s case, FLS not only represented her before the Third District Court of Appeal, but it also filed a Petition to Initiate Rulemaking, formally asking AHCA to adopt a rule that prohibits HMOs from denying services based on a family member’s job.

In November 2015, AHCA issued financial sanctions against the HMO over its handling of the Bzdyk case and announced its renunciation of HMO policies that base medical necessity on the work schedule of an enrollee’s family member.

“We were very pleased when they reacted to the petition for rulemaking,” Huddleston said. “They’ve proposed a rule that clearly states that a caregiver’s work schedule can’t be the reason for denial of long-term-care services.”

For their work, the FLS attorneys received first place in The Florida Bar Foundation’s Steven M. Goldstein Award for Excellence, which recognizes a project of significant impact work undertaken by a grantee of its Legal Assistance for the Poor grant program. The award was presented at the Foundation’s 40th Annual Reception & Dinner June 16 in Orlando and comes with \$25,000 for Florida Legal Services to use at its discretion, plus \$3,000 earmarked for staff training.

“Florida is in the beaker of a national experiment requiring thousands to obtain life-essential long-term-care services through HMOs,” the attorneys wrote in their application for the award. “Although over 100,000 Floridians are enrolled in

this experiment, Florida has not imposed adequate controls on the HMOs who deliver services and takes a hands-off approach to enforcing HMO contracts. In turn, HMOs push responsibility for services onto family members beyond the family's capabilities. Advocates nationwide are looking to Florida for leadership on these issues."

Huddleston said it's important now to get the word out that AHCA has set the new policy. "There are a half million people just with Alzheimer's in the state now," she said.

Mike Cornelius is pleased to have been involved in a project that is helping others, but he admits that he went into the fight for his own family's survival and to keep his wife out of a nursing home, where he feared she'd become catatonic.

"I think it's the only right thing to do," he said. "You take your wedding vows and you say, 'in sickness and in health.' I love my wife. What can I say?"



Wendy Garcia, Carol Cornelius' in-home caregiver, puts Carol through her exercise routine.

MIKE OSSOLA

## Lynn Drysdale receives Curran Distinguished Service Award

Jacksonville Area Legal Aid staff attorney Lynn Drysdale received the 2016 Jane Elizabeth Curran Distinguished Service Award for achieving impactful results for thousands of clients affected by predatory lending and other unethical, illegal and unscrupulous practices, for protecting the rights of homeowners, and for providing testimony to legislative and other government bodies in an effort to reform industries that trap Americans in a cycle of poverty.

"It is truly an honor to be mentioned in the same breath as Jane Curran," Drysdale said. "It is hard to think of anyone in the country who has done more for legal services and our client community than Ms. Curran."

Named for the Foundation's first executive director, the award recognizes individuals who, over their careers, have achieved meaningful, effective and lasting increases in access to civil justice for the poor in Florida. Drysdale is the first recipient

since Curran received the inaugural award in 2015. This year's award was presented by outgoing Foundation President Donny MacKenzie, a partner with Holland & Knight, which sponsored the Curran Award.

"She has leveled the playing field for thousands of folks backed up against the proverbial wall, and she has made significant, meaningful and positive differences in the lives of many," MacKenzie said. "The virtues we celebrate and the ideas expressed in this award are embodied in this remarkable person."

Focusing on consumer protection advocacy, such as abuses in the payday lending industry, Drysdale is nationally recognized for her expertise in foreclosure defense and regularly testifies before the Florida House of Representatives and Senate, speaking on behalf of consumers and homeowners.

"Lynn Drysdale is an exemplary lawyer who has chosen to dedicate her legal career to the service of others. She is



Lynn Drysdale of Jacksonville Area Legal Aid received the Jane Elizabeth Curran Distinguished Service Award from Past Foundation President Donny MacKenzie of award sponsor Holland & Knight.

JUDY WATSON TRACY

focused, compassionate, and a formidable advocate for those less fortunate," said Jim Kowalski, president and CEO of Jacksonville Area Legal Aid. "We are very proud of Lynn, and honored the Foundation chose her to receive this award."

# Kevin Gay receives Medal of Honor Award for a Non-Lawyer

**K**evin Gay, CEO and founder of Jacksonville, Fla.-based Operation New Hope, received the 2016 Medal of Honor Award, the Foundation's highest award, in the non-lawyer category.

A Jacksonville native, Gay left the corporate world and founded Operation New Hope in 1999 to help rebuild Jacksonville's challenged urban communities and give ex-offenders the opportunity to successfully transition home and lead productive lives.

"Kevin has demonstrated both great commitment and success in providing aid to those in our legal system who need it the most," said Wm. J. Sheppard, who nominated Gay and who was the recipient of the Foundation's 2004 Medal of Honor Award in the lawyer category.

Operation New Hope is a faith-based nonprofit community development corporation with a two-pronged business model that includes the development of affordable housing and workforce development focused on the reintegration of ex-offenders. In 2003, President George W. Bush selected Operation New Hope as the pilot site for the Ready4Work program, a prisoner reentry program that has since been introduced in 16 U.S. cities and has been hailed by former President Bill Clinton and President Barack Obama.

Participants attend a comprehensive four- to six-week career development training course featuring employment and life skills and are partnered with a case manager, who provides guidance and support, referrals for community assistance, life coaching and follow-up drug screening. While recidivism rates are nearly 70 percent within three years nationally, Jacksonville's Ready4Work program has a recidivism rate of less than 35 percent. Meanwhile, it has a 70-percent retention rate in its workforce programs, which involve partnerships with more than 300 businesses in Jacksonville and the surrounding area.



Kevin Gay received the Foundation's Medal of Honor Award for a Non-Lawyer from Dudley Goodlette of Florida Lawyers Mutual Insurance Company, the award sponsor.

JUDY WATSON TRACY

Operation New Hope has helped more than 3,700 ex-offenders reenter their communities and workforce and has indirectly served their 7,200 children. The organization's Breaking the Cycle program provides training, counseling and support for the family members of those who have been incarcerated. And in just over a decade Operation New Hope has restored or built close to 80 homes in the urban neighborhoods of Historic Springfield and East Jacksonville.

Gay is also a founding member of Reconcile Jacksonville, an organization promoting interracial community interactions, and has served on many community boards, including that of Habijax, one of the largest Habitat for Humanity affiliates. He has received numerous awards, including the Neighborhoods USA Notables Award, the Jacksonville Business Journal's Ultimate CEO Award, and most recently, the OneJax Humanitarian Award for 2016. He has served on the Florida Department of Corrections Prisoner Re-Entry Advisory Board, on President Barack Obama's Advisory Council for the White House

Office of Faith-Based and Neighborhood Partnerships, and on the transition teams for Jacksonville mayors Alvin Brown and Lenny Curry.

"As a Jacksonville native and influential community leader, Kevin serves with a genuine spirit of compassion for our city and people," Mayor Curry wrote in his support letter for Gay's nomination. "Since 1999, his vision, leadership and efforts through Operation New Hope have been an inspiration, not only here on the First Coast, but also across the nation."

The Medal of Honor Award in the non-lawyer category recognizes an individual who has made an outstanding contribution to improving the administration of justice.

"I am very fortunate to have been given the opportunity to advocate for justice for those coming home from jails and prisons. So to receive this award from The Florida Bar Foundation is a tremendous honor. It is also very humbling when I think of my many heroes in the legal community who use their incredible talents, time and resources to ensure justice for so many around our great state," Gay said.

# Coleman, Kowalski receive President's Award for Excellence



Past Florida Bar Foundation President John Patterson presented Jacksonville Area Legal Aid President and CEO James A. Kowalski Jr. and Past Florida Bar President Gregory W. Coleman with the Foundation's 2016 President's Award for Excellence on behalf of his firm Shutts & Bowen LLP, which sponsored the award.

JUDY WATSON TRACY

by Jennifer Etienne

**F**lorida Bar Past President Gregory W. Coleman and Jacksonville Area Legal Aid President and CEO James A. Kowalski Jr. received the Foundation's 2016 President's Award for Excellence.

Foundation President Donny MacKenzie, who has served with both recipients on the Florida Commission on Access to Civil Justice, selected Coleman and Kowalski for the award because their strong leadership and their will to do good made them stand out.

"It was an honor serving with these two extraordinary leaders on the Florida Commission on Access to Civil Justice. In my view, they represent the brightest and the best the legal profession has to offer in terms of their knowledge, wisdom and commitment to our system of Justice," MacKenzie said.

Past Florida Bar Foundation President John Patterson of Shutts & Bowen LLP presented the awards on behalf of his firm, which sponsored the President's Award.

"They are helping bring to fruition one of the signature projects launched through the commission: an online gateway that will connect users statewide to the legal resources best suited to meet their needs," Patterson said. "They are helping

drive the change that will put Florida at the forefront of legal services technology."

Coleman helped found the Florida Commission on Access to Civil Justice, established by administrative order of Florida Chief Justice Jorge Labarga in November 2014, and serves on the boards of The Florida Bar Foundation and the Florida Justice Technology Center and as a member of the American Bar Association House of Delegates. A partner with Critton, Luttier & Coleman in West Palm Beach, Coleman has been presented the President's Award of Merit by The Florida Bar three times.

Kowalski is on the Florida Courts Technology Commission and has served for two years as president of the Project Directors Association for Florida's civil legal aid programs. A two-time recipient of The Florida Bar President's Pro Bono Service Award, Kowalski was named "Consumer Protection Lawyer of the Year" by The Florida Bar in 2011. He left private practice to take on the leadership of Jacksonville Area Legal Aid in 2012. UC-Berkeley presented him with its 2014 Peter E. Haas Public Service Award, which recognizes an alumnus or alumna who has made significant voluntary contributions to the betterment of American society.

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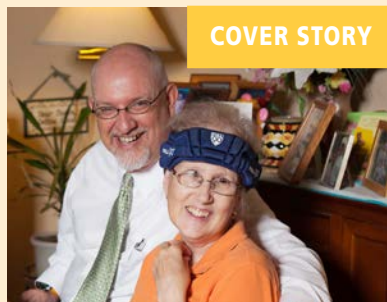
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JUDY WATSON TRACY

(from left) Cindy Huddleston, Lea Remigio, Chris Jones and Kathy Grunewald accepted the Steven M. Goldstein Award for Excellence from Bill Van Nortwick and Maria Henderson at the Foundation's 40th Annual Reception & Dinner June 16 in Orlando. Van Nortwick and Henderson sponsored the Goldstein Award along with their firm, Akerman LLP.



MIKE OSSOLA

### A legal victory for caregivers

Mike Cornelius cares for his wife Carol at their home in Tampa during the 120-plus hours a week that Carol's Medicaid HMO does not provide in-home care through Florida's Medicaid Waiver program. The HMO had cut Carol's care from 45 to 33 hours per week, saying that it was not responsible for providing care as a "convenience" so that Mike could work, but Florida Legal Services Inc. stepped in and got the Agency for Healthcare Administration to renounce HMO policies that deny services based on a family member's work schedule.