



The Record

JOURNAL • OF • THE • APPELLATE • PRACTICE • SECTION

www.flabarappellate.org

Volume XVI, No. 2

THE FLORIDA BAR

Fall 2006

INSIDE:

Justice Quince Honored at the ABA Annual Meeting.....3

Details, Details: Practical Tips from an Appellate Law Clerk's Perspective.....5

Apprendi in Florida: Jury Findings on Sentencing Factors and Elements, Retroactivity, and Harmless Error in Non-Death Penalty Cases.....7

Editor's Column: Building the Perfect *Record*.....9

Professionalism and the Appellate Practitioner.....11

Inaugural 11th Circuit Appellate Practice Institute Premieres to a Full House.....14

Appellate Court Rules Committee Update.....14

Recent Amendments to Florida Rules of Appellate Procedure.....17

CAL - Six Years Old and Going Strong.....19

Appellate Practice Section Dinner Photos

pages 12-13

Profile of Judge W. Matthew Stevenson

by Margaret Wood¹

Judge W. Matthew Stevenson, chief of the Fourth District Court of Appeal, was born in Key West and raised in Miami. His father, a retired Navy Chief, and mother, a homemaker, actively encouraged their children to obtain a good education. A former Navy JAG officer, Judge Stevenson is the first lawyer in his family.

Judge Stevenson's interest in the law first developed while studying psychology and criminology at Florida State University. The chief judge explains, "I was impressed with how the courts played such a pivotal role and were so instrumental in the fight for equality and civil rights in this country. I was also impressed with the courage of those judges who adhered to the rule of law in protecting the rights of minorities even in areas where it was unpopular or even dangerous to do so."

Judge Stevenson served as a law clerk to the Honorable Judge Joseph W. Hatchett on both the Florida Supreme Court and the United States Court of Appeals for the Fifth Circuit. From 1987 to 1990, Judge Stevenson mediated cases with Jim Chaplin's Mediation, Inc., in Fort Lauderdale. Judge Stevenson was among the first wave of mediators in Florida to actively practice mediation on a full-time basis. Judge Stevenson describes the initial reaction of the legal community toward mediation as "skeptical." Today, he remarks, "the widespread implementation of mediation programs throughout the State has changed the landscape of the trial courts. Now, we can hardly imagine trial courts without the availability of mediation." Judge Stevenson believes mediation has benefited

See "Stevenson Profile," page 2

Message from the Chair

Myths About Involvement in the Appellate Practice Section

by Susan W. Fox



If you are not currently an active member of the Appellate Practice Section, please review the following list to dispel any obstacles to more active participation:

1. It's hard to get involved. Absolutely

untrue, it is painless and easy. Just show up at any meeting -- committee, executive council, whatever -- stick out your hand and say "Hi, I want to be involved in the section." We do the rest.

2. You have to be an established appellate "expert". Totally false. We learn as we go and involvement in the section is a great way to build expertise. Younger section members as well as late converts

See "Chair's Message," page 4

CHAIR'S MESSAGE

from page 1

can be our most enthusiastic contributors.

3. *The fun jobs are already taken.* No way. We have a variety of plum leadership assignments just waiting for the next unsuspecting, er, uh, underutilized member. Everything from planning events to writing for the Florida Bar Journal.

4. *I don't know anybody.* This is a gross misconception. You can hardly walk across the room without running into a former opposing counsel. Setting aside differences and making friends with a former opponent is one of life's most joyous and paradoxical experiences.

5. *You have to associate with appellate judges.* Actually, this is not a myth at all, this one is true. Many of them are former appellate lawyers, ergo, *great people*.

6. *The committee meetings are early in the morning.* Uh, well, that one's true. But we have to take the

meeting slots the Bar gives us. And we try to make it worth your while. Free coffee. And for new volunteers who show up for the Midyear committee meetings in Miami in January, *FREE PASTRIES*, and a personal welcome from our hospitality committee.

7. *There are no meetings in my hometown.* We are working on eradicating that problem. We just had a successful outreach in Tallahassee attended by about 50 appellate lawyers and judges and are working on establishing a local outreach in central Florida. The section is linking up with existing local appellate groups in Tampa and south Florida. A local affiliate group recently formed in Sarasota. The section will help you start a local meeting or hook up with local appellate lawyers.

8. *You don't "need" the Appellate Section.* I totally disagree. I am not ashamed to admit that I find appellate practice stressful at times. Appeals involve conflict. Conflict causes stress. It's as simple as that. Besides conflict, there is pressure. Deadlines

plague our work days. Great weights hang in the balance of our efforts. Outcomes matter. The Section offers services to help appellate lawyers do a better job, but what helps me the most is that we find common ground and develop mutual respect for the work that we do despite the fact that our work brings us into conflict with each other.

Now that we have the fears out of the way, let's talk about the benefits. If you write for the section, either for *The Record* or the *Florida Bar Journal*, you can apply for free CLE credit (up to 25 credits toward certification). Same for CLE lecturing, and you get to attend the seminar for free. And don't forget about good fellowship, leadership opportunities, recognition, free coffee and judicial face time.

Seriously, we want to see YOU at our Midyear meeting. The Publications and CLE Committees will be meeting at 9:30 a.m. on January 18, 2007, at the Hyatt Regency Downtown Miami; the Executive Council meets at 2:00 p.m., with a *FREE LUNCH* at noon. See you there!

Appellate Practice Section Midyear Meeting



January 18, 2007

Miami Hyatt Regency Downtown

9:30 a.m. – 12:00 p.m.

Committee Meetings

12:00 p.m. – 1:30 p.m.

Luncheon

2:00 p.m. – 4:00 p.m.

Executive Council