



The Record

JOURNAL • OF • THE • APPELLATE • PRACTICE • SECTION

www.flabarappellate.org

Volume XVI, No. 4

THE FLORIDA BAR

Summer 2007

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The Newest Judge at the First DCA: L. Clayton Roberts

By Wendy S. Loquasto¹



Judge L. Clayton Roberts

On January 22, 2007, Judge L. Clayton "Clay" Roberts took the oath of office to become the newest member of the First District Court of Appeal. He did so with humility, mindful that his seat at the bench was made possible by the retirement of Judge Richard W. Ervin, III, whose 30-year career made him the longest serving judge at the First District. At his investiture on April 12, 2007, Judge Roberts publicly thanked Judge Ervin for his efforts in making his a smooth transition and for his service to the state, saying: "If I serve half as long as you did, and have half your wisdom, I will consider that I have had a successful career."

Eight months later, Judge Roberts has settled into his position at the court. He works hard to fulfill the pledge he made at his investiture: To confront every case with an open mind so he can fully and fairly analyze the legal arguments; to be open to the considered view of his colleagues; and to decide each case on its record, according to the law, without fear or favor, regardless of the wealth, power or status of the parties before the court. He finds his colleagues, each of whom have excelled in their practices, to be helpful, hardworking

and committed to reach the right result under the law. He stresses that when there is disagreement, it is always respectful and never personal.

Judge Roberts is the son of Mary Roberts, a secretary with the Leon County School District, and Larry Roberts, a retired Major in the U.S. Marine Corps. Although an eight-generation Floridian, he was born in North Carolina when his father was stationed there. The family returned to Tallahassee in time for him to attend Amos P. Godby High School. Following his father's career path, he attended the United States Military Academy at West Point, graduating in 1987 with a military history major, and he was ready to become an Infantry Officer, when an automobile accident and resultant 13-week hospitalization changed his life. Returning to Tallahassee, Judge Roberts entered Florida State University College of Law, from which he graduated in 1991.

On the homefront, Judge Roberts is married to Trelles D'Alemberte, niece to Florida State University President Emeritus Sandy D'Alemberte. At his investiture, his esteemed uncle related the story of the couple's engagement. He and Trelles had found themselves on the same plane flying from Atlanta to Tallahassee. As the two relatives deplaned, Sandy offered Trelles a ride into town. She responded that Clay would be there to meet her. As the two left the area where Tallahasseeans normally greet air travelers, with no sign of Clay, Sandy again inquired if Trelles needed a ride. She responded, quite sternly according to her uncle, "He better be here." Uncle

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and niece turned the corridor toward baggage claim and came upon Trelles's swain. He had procured a table and two chairs and adorned it with a candle and chilled bottle of champagne. (These were pre-9/11 days.) As Trelles approached, Clay Roberts dropped to one knee and proposed marriage, and to everyone's delight, Trelles said yes. In telling the story at the investiture, President D'Alemberte remarked that it showed Clay's sense of tradition, imagination, and innovativeness, all of which will serve him well as a judge.

Trelles D'Alemberte, who has a Masters Degree in Sociology, is employed with the Institute for Intergovernmental Research. She does report writing, conference planning, and database management for the United States Department of Justice and Homeland Security. The couple have two children, Jackson, age 6, and Wilson, age 4.

An article about Judge Roberts would not be complete without some mention of the 2000 presidential election. As Governor Crist said during Judge Roberts' investiture, as then Director of Division of Elections, Clay Roberts gained a "world-wide" reputation. When he took the job in October 1999, who would have guessed that he would be in the eye of a storm that resulted in an election recount that yielded the presidency to Governor George Bush by a mere 537 votes! As the Director, he was in his office as the county election supervisors submitted their results to the Division in a race to close to call, and he watched in disbelief as the networks called the election

first for Vice President Gore, and then for Governor Bush, and he was there when the telephone circuits lit up at 4:00 a.m. when Florida was labeled "too close to call." Twenty-four hours after entering his office on Election Day, he hurried home to grab a clean suit so he could meet the press that was beginning to descend on Tallahassee. Duty called – a trip to New York with his wife to celebrate their first wedding anniversary had to be canceled.

In 2003, Judge Roberts was reunited with Charlie Crist, who was then Attorney General. The two men had met when Judge Roberts was Staff Attorney for the Senate Committee on Executive Business, Ethics & Elections in 1995-97, and then Senator Crist was chair of that committee. As Governor Crist said during the Judge Roberts' investiture, "Clay always made me look good." As the state's first Republican Attorney General, Charlie Crist turned to Clay Roberts again, and he made him Executive Deputy Attorney General, third in command after General Crist and Deputy Attorney General George LeMieux.

In 2006, Clay Roberts assumed the role of Deputy Attorney General, and it was from that position he was appointed to the First DCA on January 18, 2007. On that day, Judge Roberts and Sandy D'Alemberte were teaching a constitutional law class at FSU when Governor Crist and George LeMieux walked in, accompanied by Judge Roberts' family. Governor Crist announced to the class, "I'm going to make your teacher a judge," and so that moment in history, when the Governor Crist made his first judicial appointment, was witnessed by the next generation of lawyers.

In addition to his executive branch experience, Judge Roberts also has substantial experience in the legislative branch of government. In the late 1990s, he served as Staff Attorney for the Senate Committee on Executive Business, Ethics & Elections; Staff Director for the House Committee on Election Reform; and Council Attorney for the House Public Responsibility Council, and so he is well versed with how laws are made. When asked how that experience would shape his thoughts, he responded that it makes him skeptical of so-called legislative intent. He remarked that he frequently sees people citing the end-of-session bill analysis for legislative intent, but he considers such a document, written after the fact as a summary, to have little or no value. A staff analysis done before the committee and amendment processes occur may be more insightful as to legislative intent, but in the end he cautioned that there can be 160 different legislators' intents, as well as the governor's.

As for what he wants appellate attorneys to know about the court, Judge Roberts said that they are always going to read the briefs, they are always going to study the law clerks' summaries, and they are going to read the record. He cautioned, however, that despite their best efforts, they will never know the case as well as the attorneys. And so, while they call it "oral argument," he finds that the most effective attorneys are those who see themselves in the role of teacher. Passion has its place in advocacy, but a reasoned explanation of why your position is correct is the best approach.

In the words of Governor Crist, a governor gets to pick good people for great offices, and sometimes the governor gets to pick great people for great offices. For Governor Crist, Judge Clay Roberts is one of those great people.

Endnotes

1 Wendy S. Loquasto is a partner with Fox & Loquasto, P.A., a statewide appellate practice firm with offices in Tampa and Tallahassee. Upon graduating from Stetson University College of Law in 1988, she clerked for 15 years for The Honorable Richard W. Ervin, III, at the First District Court of Appeal. She is currently a member of the Executive Council of the Appellate Practice Section, Chair of the Section's Tallahassee Outreach Program, a member of the Florida Bar Journal and Editorial Board, and immediate past President of the Florida Association for Women Lawyers.



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