

CRAIG S. BARNARD
AMERICAN INN OF COURT LIV

MISSION OF THE AMERICAN INNS OF COURT

The Mission of the American Inns of Court is to foster excellence in professionalism, ethics, civility, and legal skills for judges, attorneys, academicians, and students of the law in order to perfect the quality, availability and efficiency of justice in the United States.

Visit our Inn's website: <http://www.innsocourt.org/inns/barnardinn/>

2015-2016

Judge Lisa S. Small, President

Meeting Dates:

September 29, 2015

October 27, 2015

November 17, 2015

January 19, 2016

February 16, 2016

March 15, 2016

and

April 19, 2016

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**CRAIG S. BARNARD
AMERICAN INN OF COURT LIV**

Dear Inn Members:

On behalf of the Executive Board and Board of Trustees, we welcome you to the twenty-eighth year of the Craig S. Barnard American Inn of Court LIV.

Our Inn is part of the American Inns of Court, a national movement designed to foster excellence in professionalism, civility, ethics and legal skills. The ideals of the American Inns of Court represent the very best of our legal profession. These same ideals are embodied in the pledge of civility contained in the Oath of Admission taken by all new lawyers upon joining the Florida Bar:

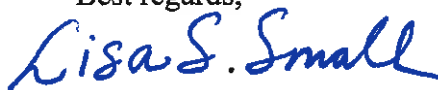
To opposing parties and their counsel, I pledge fairness, integrity and civility, not only in court, but also in all written and oral communications.

I am confident that you will find your participation in Inns of Court to be a valuable and worthwhile experience. You will interact with law students, fellow practitioners and jurists in an environment of professionalism and camaraderie, as we all work to "raise the bar" on our own level of practice. Your active participation in our program is crucial to ensure that you enjoy the full benefits of Inn membership.

I am looking forward to what promises to be another outstanding year for our Inn. We can all be very proud of our involvement with the Craig S. Barnard Inn. Our Inn is designated as a "Platinum Level" Inn by the American Inns of Court Foundation. This award represents the highest level of distinction that can be achieved by a participating Inn and is a true, earned honor. We will strive again this year to continue the level of excellence our Inn has enjoyed. Together, I know we will accomplish that goal.

If at any time you have any questions or comments about the Inn or would like to discuss your participation in the Inn at greater length, please do not hesitate to contact me or one of the Board members.

Best regards,



Lisa S. Small, Circuit Judge
President 2015-2016

This Handbook will introduce you to the AMERICAN INNS OF COURT and to the CRAIG S. BARNARD AMERICAN INN OF COURT LIV. Its purpose is to acquaint you with the history of the Inns of Court movement in the United States and in Florida and with the operation of the Craig S. Barnard American Inn of Court LIV.

Professional Creed

Whereas, the Rule of Law is essential to preserving and protecting the rights and liberties of a free people; and

Whereas, throughout history, lawyers and judges have preserved, protected and defended the Rule of Law in order to ensure justice for all; and

Whereas, preservation and promulgation of the highest standards of excellence in professionalism, ethics, civility, and legal skills are essential to achieving justice under the Rule of Law;

Now therefore, as a member of an American Inn of Court, I hereby adopt this professional creed with a pledge to honor its principles and practices:

- I will treat the practice of law as a learned profession and will uphold the standards of the profession with dignity, civility and courtesy.
- I will value my integrity above all. My word is my bond.
- I will develop my practice with dignity and will be mindful in my communications with the public that what is constitutionally permissible may not be professionally appropriate.
- I will serve as an officer of the court, encouraging respect for the law in all that I do and avoiding abuse or misuse of the law, its procedures, its participants and its processes.
- I will represent the interests of my client with vigor and will seek the most expeditious and least costly solutions to problems, resolving disputes through negotiation whenever possible.
- I will work continuously to attain the highest level of knowledge and skill in the areas of the law in which I practice.
- I will contribute time and resources to public service, charitable activities and pro bono work.
- I will work to make the legal system more accessible, responsive and effective.
- I will honor the requirements, the spirit and the intent of the applicable rules or codes of professional conduct for my jurisdiction, and will encourage others to do the same.

AMERICAN INNS OF COURT

The American Inns of Court is the fastest growing legal organization in the country. Today, there are nearly 350 American Inns of Court in all fifty states and the District of Columbia. Nearly 25,000 judges, lawyers, law professors and law students are currently members of the American Inns of Court, including 40 percent of all federal judges and over 1500 state judges.

American Inns of Court are patterned after the English Inns of Court, which began in 1292, when King Edward I directed his Chief Justice to satisfy a growing need for skilled advocates at the Royal Court at Westminster. The English Inns of Court grew in number and importance during the Middle Ages. They emphasized the value of learning the craft of lawyering from those already established in the profession. Their collegial environment fostered common goals and nurtured professional ideals and ethics.

In 1977, Chief Justice Warren E. Burger and other American lawyers and judges spent two weeks in England as part of an Anglo-American Exchange. They were particularly impressed by the collegial approach of the English Inns of Court and by the way the Inns passed on to new lawyers the decorum, civility and professional standards necessary for a properly functioning bar. Following his return, Chief Justice Burger authorized a pilot program that could be adapted to the realities of law practice in the United States.

Chief Justice Burger, former Solicitor General Rex Lee and Senior United States District Judge A. Sherman Christensen founded the first American Inn of Court in 1980. The Inn was affiliated with the J. Reuben Clark School of Law at Brigham Young University in Provo, Utah. The number of Inns increased slowly at first, but the growth of the movement began to accelerate in 1985 with the creation of the American Inns of Court Foundation.

The Chester Bedell American Inn of Court, Florida's first American Inn of Court, was founded in 1985 in Jacksonville, Florida. The Craig S. Barnard American Inn of Court LIV, Florida's fifth Inn, was formed in 1988. There are currently more than 30 Inns in the State of Florida.

American Inns of Court are designed to improve the skills, professionalism and legal ethics of the bench and bar. They help lawyers become more effective advocates with a keener ethical awareness by providing them the opportunity to learn side-by-side with the most experienced judges and lawyers in their community. The objectives of each Inn are as follows:

1. To establish a society of judges, lawyers, legal educators, law students and others to promote excellence in legal advocacy in accordance with the Professional Creed of the American Inns of Court;
2. To foster greater understanding and appreciation for the adversary system of dispute resolution in American law, with particular emphasis on ethics, civility, professionalism, and legal skills;

3. To provide significant education experiences that will improve and enhance the abilities of lawyers as counselors and advocates and of judges as adjudicators and judicial administrators;
4. To promote interaction and collegiality among all legal professionals in order to minimize misapprehensions, misconceptions and failures of communication that obstruct the effective practice of law;
5. To facilitate the development of law students, recent law school graduates and less experienced lawyers as skilled participants in the American court system;
6. To preserve and transmit ethical values from one generation of legal professionals to the next; and
7. To build upon the genius and strengths of the common law and the English Inns of Court and to renew and inspire joy and zest in legal advocacy as a service worthy of constant effort and learning.

The formation of an American Inn of Court based in West Palm Beach began in 1988 when a group consisting of then Fourth District Court of Appeal Judge Harry Lee Anstead (now a retired Justice of the Florida Supreme Court), 15th Judicial Circuit, Chief Judge Daniel T.K. Hurley (now a United States District Court Judge), Bruce Rogow (former Dean of Nova Southeastern University School of Law), and lawyers Sidney Stubbs, John Beranek, Ted Babbitt, and Kirk Friedland applied to the American Inns of Court Foundation for a charter to form the Inn. Federal District Court Judge Susan Black, a trustee of the National American Inns Of Court Foundation, and John DeVault of the Chester Bedell Inn of Court in Jacksonville, assisted the group. On June 10, 1988, the National Foundation awarded the Inn chapter number LIV. Supreme Court Justice Sandra Day O'Connor presented the charter at the annual American Inns of Court meeting in Washington, D.C., and invitations to membership were sent out to a cross section of the legal community, including a group of Nova Southeastern University Law students and four of their professors, which linked the law school to the Inn.

PUBLIC DEFENDER Craig S. Barnard, a charter member of the Inn, was nationally recognized for his work defending death row prisoners. After his untimely death at the age of 39, the Inn membership spontaneously and unanimously named the Inn in his honor. Thus, the West Palm Beach American Inn of Court LIV became known as the Craig S. Barnard American Inn of Court LIV the following year.

CRAIG S. BARNARD

The following is excerpted from Among The Lowest of The Dead, David Von Drehle, Ballentine Books 1995. The paragraphs have occasionally been rearranged.

Craig Barnard grew up in Portage, Michigan where his father was a conservative Republican accountant and his Uncle was a Republican State Representative. After high school he enrolled in a restaurant and hotel management course at Michigan State. Then the sixties caught up with Craig Barnard. The dutiful young Republican grew his hair long, fell in love with Bob Dylan's music, and began protesting the war. (On his birthday in 1970, four antiwar protesters were killed at Kent State; Barnard never celebrated his birthday again.)

He wanted to do something to change the system, so he switched majors...to prelaw. By then, Barnard's father had moved to southwestern Florida, where he built a retirement village. Craig followed him south, graduating from the University of Florida Law School in 1974.

Barnard joined the public defender's office in Palm Beach County...[and] ...was, very quickly, Jorandby's star assistant; naturally, Jorandby gave him authority over the region's death row cases. Barnard, with his studious bent and modest personality, was drawn to the detail-oriented, conceptual world of appeals. He never missed the hurly-burly of criminal trials.

Craig Barnard did the work of at least three men. As the leader of the death penalty team in Palm Beach, he was chief strategist and often lead litigator on more than a dozen capital cases in his own jurisdiction. Beyond his jurisdiction, he consulted frequently with lawyers for other death row inmates. If there was any coordinated strategy for fighting executions in Florida, Barnard was the strategist. And as Jorandby's chief assistant, he supervised the daily office drudgery, from drafting budgets to purchasing supplies, from hiring new lawyers to counseling old ones, from the lowliest prostitution case to the most complicated murder trial.

As a result, Barnard worked constantly. At his desk by 6:30 or 7 A.M., he labored steadily until eight or nine at night - then lugged a pile of papers home with him. He was the first one into the office and the last one out. A lawyer, under pressure from a big case, might show up bright and early on a Saturday morning, fully expecting to be alone. But the aroma of Barnard's pipe would be wafting down the corridor. On Sundays, Barnard worked to the sound of the Miami Dolphins games on the radio.

But for all his intensity, Barnard was never brusque, much less arrogant. The greenest young attorneys, handling the smallest misdemeanors, felt welcome to poke their heads into his office for advice. Barnard would calmly stop his work, puff his pipe as he listened intently to the question, then patiently offer an answer. Or perhaps a lawyer across the state would call in a panic over an arcane death penalty issue. Barnard would quietly soothe the caller and steer through the problem - and if the question required some legal research, Barnard would drop what he was doing and pore over law books until he found the answer. Or a colleague would call from the public defender's office in another county, frantic at the prospect of preparing an annual budget. Barnard would take fifteen, twenty minutes, maybe half an hour - whatever time it took - to commiserate and offer advice.

Finding the lawyers to represent the flood of condemned men was like bailing out the *Titanic* with a teaspoon. The teaspoon had a name: Scharlette Holdman. Scharlette Holdman had a title: director of the Florida Clearinghouse on Criminal Justice.

Frequently, the emergencies came from Tallahassee, where friends of Scharlette Holdman kept Barnard apprised of her troubles. Her electricity had been shut off again. She was late with her rent. Life was always a crisis with Scharlette. Every time, Barnard would put his own work aside long enough to get Holdman straightened out. Often this involved sending a check drawn on his personal account.

He kept the more substantive facts of his personal life almost entirely to himself. His epilepsy, for instance. The disease had revealed itself only after Barnard was grown. With medication, the seizures were brought under control. (Barnard never had to surrender his precious driver's license.) Still, he lived with the knowledge that the day might come when he would black out and never awaken. Grand mal seizures can be fatal. So it was that Craig Barnard shared something very personal with his death row clients. Like them, he knew the sense of something powerful waiting to snuff you out.

Craig Barnard loved the law, and this love was his deep keel; it kept him on a steady course when he lost so many fights. His love kept him on track, and balanced, as people were melting down around him. The law, at its best, promised rationality in an irrational time, dispassion amid raging emotions, predictability in place of wanton chance.

Even many of his opponents recognized Barnard's devotion and admired him for it. At the attorney general's office, there was a lot of contempt for most of the lawyers who opposed the death penalty, but in general the prosecutors made an exception for Barnard because he stuck to the law. "Always on target, always compelling", said Carolyn Snurkowski, the rising star of Florida's capital prosecutors. One time the attorney general caught wind of two lawyers from the Miami public defender's office going outside their jurisdiction to aid a death row inmate and the prosecutors cracked down hard on the violation. But Barnard did the same thing all the time; he had a finger, at least, in nearly every Florida death case. Dick Burr, Barnard's assistant, had a capital appeal in North Carolina! The prosecutors let Barnard get away with such things because they respected him. As one explained, "We didn't feel the need to yank his chain."

Judges mostly appreciated him too, even as they complained about all the repetitive work he generated. Barnard was always cordial and well prepared; his demeanor was not fiery or confrontational. He argued cases lawyer to lawyer, as if the courtroom were a symposium where everyone had gathered to seek good answers to hard questions. And he was gentle with everyone, from chief judges to file clerks. Barnard felt so comfortable in the Florida Supreme Court that he often called it "my court", and folks in the white marble building on Duval Street liked him right back.

Barnard finished writing in time for the 1989 hiring season at the nation's law schools. God, how he loved it - picking plums from the ranks of fresh young lawyers, boring into them with his probing eyes, seeking a glimmer of the future. Administrative work could be a terrible drag; the budgets, the worksheets, the office squabbles. But this was wonderful. Despite a ferocious cold, he went to a job fair in New York.

His plane touched down back in West Palm Beach the evening of February 26. Exhausted, Barnard drove home from the airport in his sporty little Dodge. The fence outside his condominium was a jumbled heap, just as he had left it. But on his desk at work was a rough draft of the annual budget, and he expected a ruling any day that might put the next prisoner into the chair. Who had time to fix a fence?

He went inside, where he picked up the phone and dialed his father. Ronald Barnard was surprised to hear his son complaining of a cold. Craig was not a complainer. He listened as Craig said that he couldn't sleep, he had no appetite. "I thought I was gonna die on that plane," Craig said.

"Take a day off," his father counseled. "Stay home, eat some chicken soup."

Of course, Ronald Barnard knew that his son never took days off. They talked some more about this and that.

Later, Craig Barnard phoned his friend Susan Cary and his boss Dick Jorandby, and in both conversations he mentioned his cold and his exhaustion. Then he tried to get some sleep. As always, he was up before dawn, and when he rose he shut off the burglar alarm, collected the *Palm Beach Post* from the porch, stripped, and climbed into the shower.

By 9 A.M., everyone sensed something strange at the West Palm Beach public defender's office. Craig Barnard's office was empty, and there was no trace of his pipe smoke in the hallways. He was never that late. "Where's Craig?" people asked. Maybe his flight was canceled.

In Tallahassee, Scharlette Holdman was wondering the same thing. Where's Craig? She greeted every morning with a phone call to her counselor and friend, but when she called his house that morning, the phone just rang and rang. She called Barnard's office, and got no answer there either. Her next call was to Susan Cary. As they talked, it dawned on them that Craig had once said cold medicine, combined with his epilepsy treatment, made him sick. Then came a more chilling thought. Could he have skipped the treatment in favor of a good night's sleep?

Holdman dialed Dick Jorandby, who immediately dispatched an investigator to Barnard's house. The alarm was off, the paper was inside. The investigator heard the shower running. Craig Stewart Barnard, thirty-nine, was dead in the tub, having drowned after an epileptic seizure. The calm eye of the capital punishment storm, the rock and rabbi, Florida's dean of death penalty law, was gone.

Dick Jorandby left Craig's office just as it was, a shuttered shrine above the sparkling blue of the Intercoastal Waterway. Barnard's estate collected \$30,000 worth of forsaken vacation and unused sick days. Posthumous honors continued throughout the year: The old grand jury room of the Palm Beach courthouse was named in his honor, and the local Inns of Court chapter - a prestigious organization made up of judges and lawyers - became the Craig S. Barnard chapter. The annual award for distinguished service by Florida public defenders became the Craig Barnard Award. And so forth.

There might never be another figure like him - but he had developed so many other lawyers, each ready to fill a piece of void; he had spread the knowledge, so another was not needed. Death penalty defense in Florida was no longer a matter of Scharlette Holdman's charisma and Craig Barnard's brains. It had been institutionalized.

PERSONALITY TRAITS

- 1) Generous with his time and talents
- 2) Loved the Law
- 3) Humble and hardworking
- 4) Never brusque or arrogant
- 5) Kind and courteous to both his superiors, subordinates and adversaries.



MEMBERSHIP

The membership of the CRAIG S. BARNARD AMERICAN INN OF COURT LIV is divided into four classifications. "Masters" include lawyers with fifteen or more years of experience and federal, state and local judges, and law professors. "Barristers" include lawyers with five to up to fifteen years of experience. "Associates" include lawyers with up to five years of experience. "Pupils" include law students.

The Inn's members are drawn primarily from PALM BEACH COUNTY, with the exception of pupils, who are drawn from Nova Southeastern University Law Center in Broward County. Membership is open to all qualified persons, regardless of race, color, sex, age, religion, national origin, or handicap. Thus, the Craig S. Barnard American Inn of Court LIV reflects the rich diversity of the bench and bar and includes representatives of the plaintiffs' bar, defense counsel, solo practitioners, government lawyers, corporate counsel, law professors, persons working in large and small firms, and federal, state, and local trial and appellate judges. Efforts are made to ensure that no law firm or type of practice is disproportionately represented.

In addition to the active members, the Inn extends emeritus membership to Masters, Barristers, and Associates who have completed a minimum of five years of membership in good standing. Emeritus members may participate in the Inn's education and social programs at their own expense. Many emeritus members regularly attend Inn meetings. The Inn may also extend Amicus Memberships to those who wish to participate in monthly meetings as a "friend" of the Inn. Neither Emeritus members nor Amicus members are assigned to a pupillage group of the Inn.

SELECTION OF MEMBERS

In the summer of each year, the Inn solicits applications from its existing members and any other persons interested in becoming members of the Inn. After the applications have been returned, the Inn's Executive Board and Board of Trustees review the applications. The Executive Board and Board of Trustees then extend the invitations to join the Inn.

The Inn also requests the Nova Law Center to recommend students who are in their second and third year of studies for membership in the Inn. The students, by their academic performance and participation in extracurricular activities, must demonstrate an active interest in the practice of law.

U.S. SUPREME COURT TRIP

The Inn has schedules a ceremony at the United States Supreme Court on, whereby a maximum of twelve of our members will be sworn in and admitted to practice before the Court. As information regarding this activity is available, announcements will be made. To be eligible for admission to the United States Supreme Court, you must be a member of the Florida Bar in good standing for at least three years and must pay a \$200 admission fee. For more information, please contact the Foundation Liaisons, Dean Xenick, Esq. and Santo DiGangi, Esq. at the following e-mail addresses: dtx@ZHAttorneys.com and SDiGangi@lawclc.com. Bar Admission instructions can be found at: <http://www.supremecourt.gov/bar/baradmissions.aspx>.

INN GOVERNANCE

Governance of the Craig S. Barnard American Inns of Court LIV is entrusted to the Executive Board and Board of Trustees. The Executive Board officers include: President, President-Elect/Counselor, Secretary/Reporter, Treasurer and Immediate Past President. The Board of Trustees consists of the Program Chair(s), the Membership Chair(s), the Mentor Program Chair(s), the Education Chair(s), the Law School Liaison, the Newsletter Chair(s), the Foundation Liaison(s), and at-large members. The President and President Elect/Counselor must be Masters or Barristers, and at least one of them should be a judge, although that is not required. The other officers and Board of Trustees members may be drawn from any membership category.

Besides their regular duties, members of the Executive Board and Board of Trustees also nominate the Inn's officers for the following year. Officers serve for a one-year term and are eligible for successive terms. The elected officers select the remaining members of the executive committee, who are presented to the membership at the last meeting of the program year. A list of the Inn's Executive Board and Board of Trustees for this year can be found on the first page of this handbook. Members are encouraged to contact any of the Inn's Executive Board and Board of Trustees members if they have questions or comments concerning the Inn.

ATTENDANCE POLICY

All active members are expected to attend and to actively participate in the Inn's meetings. **Two unexcused absences** during a program year will be deemed to be a resignation unless the Executive Board waives the provision for good cause. Persons who are unable to attend a particular meeting must inform the Secretary **prior to the meeting** of the reasons for their absence. Absences without advance notice are considered to be unexcused. Members who desire to be excused from a meeting must indicate their absence via the online RSVP process. If you have any problems with the online RSVP process, please contact Co-Secretaries Liz Mabry, Esq. at 800-411-4566 or Daria Pustilnik, Esq. at 561-671-5818 or at the following e-mail addresses: emabry@sentryds.com or dpustilnik@shutts.com. While excused absences are not grounds for automatic resignation, all absences, whether excused or unexcused, are considered during the application review process the following year.

GUEST POLICY

The Inn's programs are primarily for the members' benefit. However, members may invite guests from time to time. Members who wish to invite guests must inform the Secretary in advance of the meeting of their guests' names. They must also agree to be responsible for the cost of the guests' dinners. Members may pay for their guests prior to the meeting or at the time of the meeting. The cost of a dinner during the 2015-2016 year is \$40.00 per person. If payment for the guest is made by credit card, the processing fee will be passed through and added to the charge. Credit card payments may be made at the time of the meeting by contacting the treasurers.

CONTINUING LEGAL EDUCATION CREDIT

The Inn has been certified as a CLE provider by the Florida Bar Continuing Legal Education Committee. Members may earn as many as six hours of CLE credit, including three hours of ethics and professionalism credit, by attending and participating in all six of the Inn's programs. Members and guests desiring to obtain CLE credit must post their hours online at FloridaBar.org at the conclusion of each program.

MEETINGS AND PROGRAMS

The program year begins in September with an introductory dinner. Thereafter, the Inn holds six meetings. All meetings are held at the Palm Beach County Courthouse in West Palm Beach. Each meeting begins with a cocktail reception from 5:30-6:00 p.m. in the Courthouse dining room. At 6:00 p.m. a program occurs in one of the ceremonial courtrooms. After the program, the members return to the dining room for dinner. Meetings end at approximately 8:00 p.m.

The programs are the heart of the monthly meetings. They involve practical legal skills with an emphasis on ethics, civility and professionalism in lawyering. They generally involve a demonstration or presentation of principles, skills, techniques, and relationships involved in trial and appellate court proceedings and in activities preliminary to courtroom appearances. The programs also incorporate opportunities for participation, critique, and discussion.

PUPILAGE GROUPS AND MENTOR PROGRAM

The Inn's active members are divided into six pupillage groups of approximately 15-20 members. Each pupillage group includes Masters, Barristers, Associates and Pupils who generally would not otherwise encounter each other frequently in their daily work.

Four pupillage groups are named after an Old English Inn of Court -- Lincoln Inn, Gray's Inn, Inner Temple, and Middle Temple. The other two pupillage groups are named Magna Carta and Carbolic Smokeball.

The pupillage groups are encouraged to meet to promote camaraderie among the pupillage group members. Each pupillage group is led by one leader. Pupillage groups dine together at the same dinner table.

The pupillage groups provide Inn members an opportunity to become better acquainted with other lawyers practicing in Palm Beach County. The pupillage groups are the principal component of the Inn's mentoring activities. Their diverse membership is intended to build an intergenerational relationship that encourages frank and personal discussion of matters of practice, ethics, civility, and all other aspects of the practice of law. The most experienced members of the pupillage group are encouraged to pass on the best of the practice to the less experienced members. Accordingly Masters and Barristers as mentors may be teamed with Associates and Pupils respectively and are encouraged to provide their Associates and Pupils

with opportunities to observe them in court, in deposition, or in the office. At the back of this handbook is a listing of this year's membership in both alphabetical order and by practice group.

The pupilage groups can earn competition points through mentoring. Each member who participates in a mentoring session with a member of our Inn, whether in their pupilage group or another pupilage group will receive 20 points for a session lasting less than 30 minutes and 50 points for sessions lasting more than 30 minutes for their pupilage group. Example: If three Magna Carta members participate in a mentoring session with each other for less than 30 minutes, Magna Carta receives 60 points. If a Magna Carta member and two Lincoln Inn members participate in a mentoring session for more than 30 minutes, Magna Carta receives 50 points and Lincoln Inn receives 100 points. Mentoring sessions must be noted on the mentoring forms handed out at each meeting.

All communications between the mentor and mentee shall be kept strictly confidential, unless disclosure is required by federal or state statute, or the Florida Rules of Professional Conduct. Any detailed conversation between the mentor and mentee regarding a specific problem of a client may require the mentee to obtain consent from the client before the mentee makes any disclosure to the mentor. A mentee's failure to obtain this consent may violate the Florida Rules of Professional Conduct.

For the 2015-2016 year, the Mentoring Committee is planning two events for CSB Inn Members. First, for those members who have had little to no jury trial exposure, a **Jury Selection Seminar** is anticipated for November or December of 2015. Participants will have the opportunity to observe a live docket call (calendar call) in one of the Fifteenth Judicial Circuit's Circuit Civil divisions, followed by a live jury selection. To enhance the learning process, participants may be asked to review written materials such as divisional instructions, jury seating charts, or other factual information prior to the seminar.

Second, for those members who would like to learn more about appellate practice, the Committee is planning **Oral Argument at the Fourth District Court of Appeal** for the Spring of 2016. Participants will have the opportunity to sit in the courtroom of the Fourth DCA to observe an oral argument (OA) docket, which may consist of three (3) to four (4) cases, both civil and/or criminal. To enhance the learning process, participants may be asked to review, prior to the event, the appellate briefs for the cases on the OA docket. At the conclusion of the docket, it is hoped that participants will be permitted to briefly ask procedural questions of one or more of the Judges on the panel.

Advance registration will be required for both events. CLE credit will be applied for.

ANNUAL DUES

The annual dues for 2015-2016 for members of the Inn are as follows:

Judges	\$285.00	Associates	\$285.00
Masters	\$375.00	Govt. Attorneys	\$235.00
Barristers	\$335.00	Pupils	\$160.00

The funds provided by the dues defray the Inn's operating expenses, including the cost of the members' dinners at the monthly Inn meetings, and dues to the American Inns of Court Foundation. If payment for dues is made by credit card, the processing fee will be passed through and added to the charge. You may pay your dues utilizing a credit card, which will include a processing fee or you may pay by check. Please make checks payable to:

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BENEFITS FROM THE FOUNDATION

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2015-2016 Program:

"IT'S ALL GOOD, MAN"

PROFESSIONALISM AND ETHICS BASED ON THE LEGAL ADVENTURES OF JAMES M. MCGILL (A.K.A. SAUL GOODMAN)

Over the last decade, in the increasingly competitive market for clients, many of the mid to large size firms have merged in an effort to increase market share and client base, and to reduce overhead expenses. While many associates successfully survive their firm's merger, many aren't so fortunate, and find themselves unemployed. At the same time, law schools (accredited and unaccredited) continue to graduate greater numbers of law students than ever before, leading to a glut of new lawyers looking for employment. Since so many of the mid to large size firms are no longer hiring new associates after their mergers, the new law graduates oftentimes find themselves competing with more experienced attorneys for work. Likewise, since many of the mid to large size firms have effectively frozen hiring after the mergers, many

experienced associates find themselves unable to make a lateral move to another firm. What are these lawyers to do? They strike out on their own, or perhaps join forces with one or two colleagues, and open their own practice.

Operating a solo practice or a small firm has many challenges. On a daily basis, those lawyers find themselves dealing with the pressures of drumming up new business, keeping their existing clients happy, competing with other firms for name recognition through advertising, managing their offices, and keeping the oath of professionalism that binds all attorneys in the State of Florida. How can a solo practitioner or small firm successfully do all of these things at once, and survive?

Well, as this year's Program hopes to demonstrate, it is possible for solo practitioners and small firms to indeed successfully manage all of those competing pressures. We will demonstrate this by examining what James M. McGill (a.k.a. Saul Goodman), from the television shows *Breaking Bad* and *Better Call Saul*, has done (or should have done).

PROGRAMMING THEME: BETTER CALL SAUL

Better Call Saul is an AMC television series that is a prequel to the *Breaking Bad* series. It follows the story of Albuquerque solo practitioner James M. McGill, who later appears in *Breaking Bad*, practicing under the name Saul Goodman.

In preparation for their presentations, pupillage groups should watch episodes of *Better Call Saul* (all ten episodes of the first season, covered here, is available for purchase on iTunes).

KEY CHARACTERS

James M. McGill (“McGill”). McGill grew up in Cicero, Illinois, where his various slip-and-fall scams earned him the nickname "Slippin' Jimmy." For some of his early scams, he used the nickname Saul Goodman (shorthand for the expression "it's all good, man"). McGill cleans up his act after a too-close brush with the law, and moves to Albuquerque, New Mexico, where his brother Chuck, has a successful law practice. McGill starts by working in the mail room at his brother's firm. Thereafter, McGill manages to graduate from an unaccredited online law school based in American Samoa, passes the New Mexico bar exam after several attempts, and opens his own law practice. The Law Office of James M. McGill operates out of a small back room in a nail salon.

Chuck McGill (“Chuck”). Chuck, McGill's brother, is a brilliant lawyer, and founding partner at the prestigious Albuquerque law firm of Hamlin, Hamlin & McGill. He is on leave because he is convinced that he has become allergic to electricity. McGill helps care for his reclusive brother. Chuck has difficulty viewing his brother as a professional. He once quipped that “Slippin' Jimmy with a law degree is like a chimp with a machine gun.”

Hamlin, Hamlin & McGill (“HHM”). Chuck was a founding partner of this prestigious firm, and although he is currently on leave, Chuck remains an equity partner. Howard Hamlin (“Hamlin”) is the firm's polished managing partner.

Kim Wexler (“Wexler”). Wexler is a bright litigation associate at HHM who developed a close relationship with McGill after McGill began working in the HHM mail room. After McGill leaves HHM, Wexler remains a close friend (and sometimes more) of McGill's.

Craig and Betsy Kettleman (the “Kettlemans”). Craig Kettleman is a former county treasurer, who is under suspicion of embezzling \$1.6 million. His wife Betsy is his strongest defender.

EPISODE SUMMARIES

Episode One – Uno

Flash forward to the future, where we meet Gene, a quiet Cinnabon employee, at home watching a video of an advertisement by attorney Saul Goodman (one of Gene’s former selves). In the ad, we hear the following: *“Don't let false allegations bully you into an unfair fight. Hi, I'm Saul Goodman, and I will do the fighting for you. No charge is too big for me. When legal forces have you cornered, better call Saul! I'll get your case dismissed. I'll give you the defense you deserve. Why? Because I'm Saul Goodman, attorney-at-law. I investigate, advocate, persuade, and, most importantly, win! Better call Saul. Do you feel doomed? Have opponents of freedom wrongly intimidated you? Maybe they told you that you're in serious trouble and there's nothing you can do about it. I'm Saul Goodman, and I'm here to tell you that they're wrong. It's never too late for justice.”*

Back to the present, attorney McGill arrives late to a courtroom to make the following closing argument in connection with his defense of three young criminal defendants: *“Oh, to be 19 again. You with me, ladies and gentlemen? Do you remember 19? Let me tell you. The juices are flowing. The red corpuscles are corpuscling, the grass is green, and it's soft, and summer's gonna last forever. Now, do you remember? Yeah, you do. But if you're being honest I mean, well, really honest, you'll recall that you also had an underdeveloped 19-year-old brain. Me, personally, if I were held accountable for some of the stupid decisions I made when I was 19 . . . oh, boy, wow. And I bet if we were in church right now, I'd get a big ‘amen!’ Which brings us to these three . . . no . . . these three knuckleheads. And I'm sorry, boys, but that's what you are. They did a dumb thing. We're not denying that. However, I would like you to remember two salient facts. Fact one: nobody got hurt, not a soul. Very important to keep that in mind. Fact two: now, the prosecution keeps bandying this term ‘criminal trespass.’ Mr. Spinowzo, the property owner, admitted to us that he keeps most portions of his business open to the public both day and night. So, trespassing? [Turning to prosecutor] That's a bit of a reach. Don't you think, Dave? [Turning back to the jury] Here's what I know. These three young men, near honors students all, were feeling their oats one Saturday night, and they just went a little bananas. I don't know. Call me crazy, but I don't think they deserve to have their bright futures ruined by a momentary, minute, never-to-be-repeated lapse of judgment. Ladies and gentlemen, you're bigger than that.”* After the unsuccessful trial, McGill is disappointed to learn that he could have made three times the public defender fee if he had severed the case into three different trials.

McGill receives a phone call from a potential client. Using a fake British accent, McGill states: *“Law offices of James McGill. How may I direct your call? Yes, Mrs. Kettleman, so good*

of you to return. Actually, I don't have Mr. McGill at the moment, but I know he'd . . . Oh, splendid. Uh, unfortunately, our offices are being painted and the fumes are quite horrid. Um, uh, could he meet you and your husband at, say, uh, Loyola's Cafe on Central?"

McGill meets with the Kettleman family at a crowded restaurant. Just when Craig Kettleman seems comfortable hiring McGill, Betsy Kettleman convinces her husband to think it over. McGill gets to work thinking of ways to change the Kettleman family's minds. While driving from the meeting in his clunker of a car, he makes a call to order flowers for the Kettleman family. Unfortunately for McGill, as he's driving, he suddenly strikes a skateboarder, while the brother of the "victim" captures everything on tape. When the brothers try to extort \$500 from McGill for the purported injury, McGill realizes that he is being scammed, and responds as follows: *"Listen, starlight express, I'm gonna give you a 9.6 for technique, I'm a lawyer. [Laughs] Furthermore, does this steaming pile of crap scream 'payday' to you, huh?! The only way that entire car is worth 500 bucks is if there's a \$300 hooker sitting in it. Now, let's talk about what you owe me for the windshield."* The skateboarders quickly run away.

McGill visits his brother's prestigious law firm, HHM. McGill chastises managing partner Howard Hamlin for the way the firm was trying to avoid its financial obligations to Chuck, who remains on leave. McGill takes out of his pocket, and tears up, a \$26,000 payroll check that the firm sent to Chuck, arguing that it was an improper attempt by the firm to try to document continued work by Chuck rather than acknowledge that Chuck has effectively left the firm, and is entitled to a sizeable payout from the firm. Hamlin asks McGill: *"So, these are Chuck's own wishes that you're conveying?"* McGill responds: *"This is what's best for him."* Before leaving the offices of HHM, McGill sees the Kettleman family arrive. As he hides, he overhears that the Kettleman family are exploring the possibility of representation by HHM.

McGill drives to Chuck's house, where he urges Chuck to withdraw from HHM, and demand the payout to which Chuck is entitled. Chuck declines, convinced that his health will improve. Chuck mentions that Hamlin had been to his house, and that they agreed that Chuck would continue to draw a stipend while on leave. Chuck mentioned that Hamlin had expressed concern about the similarity between the name of McGill's new law firm and Chuck's prestigious firm. McGill notes that the only similarity is that both firms contain their shared last name. Chuck suggests that McGill change the name of his firm to Vanguard Law or Gibraltar Law.

After McGill leaves, he comes up with a plan to win back the Kettleman family. He locates and recruits the skateboarders to work with him on the following plan: (a) the skateboarders would target the vehicle of Mrs. Kettleman; (b) after the collision occurred, McGill would happen to arrive; and (c) McGill would promise to make the accident go away for Mrs. Kettleman (with McGill hoping the encounter will convince Mrs. Kettleman to support her husband hiring McGill as his criminal defense counsel). Unfortunately, the skateboarders target the wrong vehicle. They follow the hit-and-run victim to her house, and the victim's grandson abducts the skateboarders. McGill arrives to search for them. McGill pounds on the front door, yelling: *"Open up! Officer of the court! Open up in the name of the law!"*

Episode Two - Mijo

McGill continues to try to rescue the two skateboarders with whom he was working to solicit the Kettleman. McGill meets Tuco, the man who abducted the skateboarders after they threatened Tuco's grandmother. McGill tries to convince Tuco to not harm the skateboarders. Tuco takes McGill hostage as well, and considers whether to kill all three of them. After Tuco binds them and brings them to the desert, McGill tells him that it was all a misunderstanding, and states that he and the skateboarders were targeting a vehicle similar to the one driven by Tuco's grandmother. Unfortunately for McGill, Tuco does not believe him, and expresses concern that McGill might be a police officer. McGill then decides to try to make use of Tuco's fear, claiming that he is really an FBI special agent named Jeffrey Steele, and that it would be wise for Tuco to release him. That explanation doesn't work either. Only after one of Tuco's henchmen, Nacho Vargas, arrives is McGill able to convince Tuco to let him go. In an effort to convince Tuco not to kill the two skateboarders, McGill makes up sympathetic stories about their mother. McGill is only partially successful, however, and has to settle by allowing Tuco to break one leg of each of the skateboarders. McGill shakes on the deal with Tuco, saying *"that's tough, but it's fair."* McGill then drives the boys to the hospital for treatment.

Disgusted and disappointed with his legal career, McGill reluctantly returns to the courthouse to try to get additional public defender work. He gives the assigning clerk a stuffed animal, and receives several new clients in exchange.

Having picked up a few new clients, McGill gets right to work. One client, Mr. Globis, is in jail and greets McGill by angrily blurting about his victim: *"I'm gonna kill him."* McGill responds softly with a mantra for his client to repeat: *"I'm sorry your honor, and I will never do it again."* The client follows his lawyer's counsel and repeats that same mantra to the judge. For another client, McGill loans him dress clothes for his court appearance. For another client, McGill advises the client on the phone: *"Judge has got to see your mother. . . Well, do you know anybody who looks like her? No- an uncle won't do it."*

After returning to his cramped office, McGill receives a surprise visit. Nacho explains that he heard what McGill said about the Kettleman's embezzlement, and says that he wants to work with McGill to steal the embezzled funds from the Kettleman. In exchange, Nacho offers McGill a 10% finder's fee. When McGill refuses Nacho's offer, Nacho reminds McGill that Tuco would have killed him had Nacho not intervened. McGill responds by noting that he would repay the debt, but only as a lawyer. McGill tells him: *"I owe you. A-and if you're ever in trouble, God forbid, legal trouble, I will be there, 24-7, as a lawyer. . . . And I'm not saying anything about this to anybody. As far as I'm concerned, you're a client. This is a consultation, and everything you just told me is privileged."* Nacho reluctantly agrees and backs off, warning: *"You rat-- you die."* McGill responds that this last statement would be treated as a confidential attorney-client communication as well.

Episode Three – Nacho

Wracked with guilt at the thought that Nacho might rob and kill the Kettleman, McGill makes an anonymous phone call warning the Kettleman that their lives might be in danger. The next day, the Kettleman is nowhere to be found, and the police commence a murder investigation.

The police arrest Nacho, whose van was seen near the Kettleman's residence before they disappeared. Nacho calls McGill to represent him. During their consultation, Nacho accuses McGill of stealing the Kettleman's money, and framing Nacho. After McGill denies telling anyone, Nacho demands that McGill get him out of jail immediately, before the police discover Nacho's extensive illegal drug business. Nacho also threatens to kill McGill if he is not released from jail the same day. During his own investigation of the alleged Kettleman murder, McGill determines that the Kettleman fled, and finds them hiding in the woods. During the course of his independent investigation, McGill shares his secrets with Wexler, who was representing the Kettleman for her firm, HHM.

Episode Four – Hero

McGill discovered the Kettleman hiding in the woods, along with a bag of money that Mr. Kettleman embezzled from the County. The Kettleman begged McGill not to disclose their cash to anyone, including their HHM lawyer, Wexler. The Kettleman offered McGill a bribe, which McGill refuses. However, McGill did agree to accept a flat-fee cash retainer for future legal services to be performed (even though the Kettleman decided that they did not want to hire McGill because they thought doing so would make them look guilty). McGill never tells Wexler that he found the couple in possession of the stolen cash, or that the couple had also retained McGill to keep him quiet. McGill helps the Kettleman concoct a story for the police and HHM to explain their absence: they weren't hiding, they just had a sudden urge to go camping.

Having received the large cash retainer from the Kettleman, McGill tries to justify the reasonableness of the retainer to himself. Flush with cash, McGill decides to upgrade the image of his solo practice. He changes his clothing and personal appearance to closely resemble that of Howard Hamlin, and puts up a billboard for his solo practice that closely resembles HHM advertisements. HHM files a lawsuit for trademark infringement, and wins. After losing, McGill unsuccessfully tries to convince local media outlets to cover the "David v. Goliath" story. In another attempt to gain media attention, McGill comes up with the idea of hiring someone to take down the infringing billboard, and to fake an injury during the process. As planned, McGill comes to the rescue atop the billboard, while having everything caught on video, and becomes a media sensation hero.

Episode Five – Alpine Shepherd Boy

Having gained prominence as a result of the media coverage of his heroic rescue, McGill receives calls from numerous of potential clients. Unfortunately for McGill, most do not pan out. Potential client Ricky Snipes wants McGill to represent him in succeeding from the United States. Ricky offers to pay a \$1 million retainer, half up front and half upon completion. McGill

accepts, but then has to decline the representation after realizing Snipes wants to pay McGill with homemade currency of the proposed new Sandia Republic.

Potential client Roland Jaycocks wants McGill to represent him in prosecuting a patent application. When asked whether he handles patent cases, McGill responds: *“Oh, yeah. In fact, I do so many patent cases, I should probably just go ahead and specialize already.”* After signing a non-disclosure agreement and viewing the invention (named Tony the Toilet Buddy), McGill ultimately declines the representation. Notwithstanding that he signed a nondisclosure agreement, McGill later shares the bizarre details of the invention with Wexler. After other new clients retain McGill to prepare wills, for the reasonable fee of \$140 each, and living trusts, McGill decides to specialize in Elder Law. To prepare for his new elderly clientele, McGill studies the classics (episodes of *Matlock*) and begins dressing like Matlock. McGill even hosts Bingo games at a local nursing home, handing out complimentary jell-o cups with a clever ad on the bottom of the cup: *“Need a will? Call McGill.”*

Episode Six – Five-O

Mike Ehrmantraut, a former Philadelphia police officer being investigated for the murder of fellow officers, hires McGill to represent him. Mike instructs McGill to spill his coffee on one of the interrogating officers, so as to provide Mike an opportunity to steal the interrogating officer’s notepad. McGill originally refuses, but ultimately does as Ehrmantraut instructs. The ruse enables Ehrmantraut to view the notepad, and gain valuable information about the investigation.

Episode Seven – Bingo

McGill and his client Mike Ehrmantraut meet with the officers who had previously interrogated Mike. After the officers accuse McGill and Ehrmantraut of stealing one of their notepads during the interrogation (which they did), McGill returns the notepad, denying that they stole it and claiming he found the notepad in the courthouse parking lot. Afterwards, Ehrmantraut instructs McGill to leave so that he can meet privately with the interrogating officers. McGill reluctantly complies with the instruction.

McGill goes to visit his brother Chuck, who is still on leave from HHM, and brings a few files for clients needing wills. Knowing that Chuck would not be able to resist the temptation to perform the necessary legal work, McGill leaves his client's files at Chuck's house. McGill leases new offices for his growing practice. He offers a partnership to Wexler, but she declines.

Wexler attends a meeting with her clients, the Kettleman, about the embezzlement charges against Mr. Kettleman. She advises the Kettleman that she negotiated a plea agreement, and tells them they have to return the stolen money. They deny having the money, refuse to agree to a plea that provides for any imprisonment, and terminate the firm’s representation.

In need of a new lawyer, the Kettleman decide to meet McGill in a restaurant to discuss hiring him. After McGill declines the representation, they remind him of the “retainer” they paid

him to keep secret his discovery of their possession of the embezzled funds. McGill steps away from the meeting and secretly calls Wexler to discuss his meeting with the Kettleman. When he returns to the table, the Kettleman continue insisting that McGill represent them. They also insist that if there is a plea deal, Mr. Kettleman cannot serve any jail time, and there would be no restitution. Although McGill tells them that they are being unrealistic and should go back to Wexler, the Kettleman refuse, reminding McGill that if a plea deal were reached, they would have to account for all of the stolen money--including the \$30,000 cash retainer paid to McGill. Based on that, McGill reluctantly decides to undertake the Kettleman's representation.

After reviewing the Kettleman's file, McGill is frustrated by their refusal to take the restitution plea deal that Wexler negotiated. McGill hires Mike Ehrmantraut to steal the embezzled money from the Kettleman's house. McGill then causes those funds (along with the \$30,000 retainer McGill was paid from other stolen funds) to be delivered to the prosecutor without the Kettleman's knowledge. The next day, McGill informs the Kettleman what he did. They fire McGill and threaten to call the police to report the theft. McGill informs them the police are not likely to take seriously a claim of theft of stolen money. He advises them to retain Wexler again, and accept the plea arrangement she negotiated. The Kettleman resist, threatening to tell Wexler about the bribe they paid to McGill. McGill dissuades them from doing so, noting that, if the Kettleman acknowledge making the bribe, it would create new criminal exposure for Mrs. Kettleman. The Kettleman reluctantly return to Wexler and accept the deal.

Episode Eight – RICO

In the course of preparing a will for Ms. Landry, a client residing in the Sandpiper Crossing assisted living facility, McGill learns that the facility collects all of her income, pays her expenses, and provides her with a modest weekly allowance. Suspecting that the facility is inflating the expenses, McGill asks Ms. Landry to arrange a meeting with other residents to discuss their experience. The facility management observes the meeting, and starts shredding files. When McGill sees this, he quickly prepares a handwritten demand letter, and instructs the facility to cease the spoliation of evidence. That evening, McGill sneaks into the outside trash bins at the premises, and takes home shredded papers he finds.

An attorney for Sandpiper Crossing calls McGill in response to the demand letter. He says that his colleagues urged him to proceed directly with a sanctions letter under Rule 11, but that he agreed to go ahead and make the call first because he suspected that McGill was the brother of Chuck, whom he respected. McGill informs the attorney of the basis for the claims, and does not back down.

With some help from Chuck, McGill pieces together some of the shredded documents and identifies a potential interstate-commerce connection to support a RICO claim. McGill, Chuck, and the Sandpiper Crossing attorneys attend a settlement meeting. No clients are present. Sandpiper's attorney offers to pay \$100,000 for all actual damages alleged in the revised demand letter, plus fees. McGill rejects the offer outright, noting the potential for treble damages under RICO, and Chuck makes a counter-demand for \$20 million. The meeting concludes without any agreement.

Without bothering to tell their clients about the settlement offer, Chuck and McGill quickly get to work on advancing the litigation. They draft a class action lawsuit, seek conditional class certification to engage in discovery, and file an injunction to stop Sandpiper from preventing McGill from meeting with his clients at the facility.

Episode Nine – Pimento

After McGill wins his injunction motion, Sandpiper is no longer able to stop McGill from meeting with his clients at the facility. Afterwards, Chuck explains to McGill that Sandpiper Crossing must have known that it would lose the injunction motion and only opposed it to tax McGill's limited resources. For the same reason, Sandpiper Crossing's counsel starts bombarding McGill with interrogatories, document requests, and deposition notices. Topics include the legal competency of proposed class representatives.

Chuck advises McGill that the matter is getting too big, and that McGill needs to associate with a larger firm such as HHM, for help. McGill reluctantly agrees to do so based on the assumption that HHM would hire McGill work on the file at the firm. Unbeknownst to McGill, Chuck secretly calls Hamlin to tell him not to hire McGill to work on the case at the firm because McGill's not a real lawyer- he only graduated from an unaccredited online law school. Unaware that Chuck already spoke with Hamlin, McGill meets with HHM to discuss his involvement with the case. HHM offers to pay McGill 20% of the plaintiffs' total recovery. Because the firm does not view referral fees as ethical, it offered McGill an "of counsel fee" for his time previously spent on the file. McGill insists that HMM also hire him to continue working on the case, and initially refuses the referral fee. After McGill realizes that Chuck was the one that advised HHM not to hire him to work on the case, McGill reluctantly agrees to accept the firm's offer.

Episode Ten – Marco

Trying to cope with Chuck's success at cutting McGill out of his big Sandpiper Crossing RICO case, McGill decides to return to his home town of Cicero. While there, he meets up with his old partner, Marco, and spends a week running a variety of cons from the old Slippin' Jimmy days. After HHM decides to bring in another large firm to help with the Sandpiper Crossing case, Wexler works on convincing that new firm, based in Santa Fe, to hire McGill to work on the Sandpiper Crossing case with them.

PUPILAGE GROUP PRESENTATIONS

All of the questions and issues assume that the entire story occurred in the State of Florida.

Each Group Presentation IS REQUIRED to use caselaw from the list of SUGGESTED CASELAW at the end of this Section.

I. BECOMING AND REMAINING A LAWYER (See episodes 1, 9, 10).

Presentation Format: McGill is among the featured speakers at a “Scared Straight” type of CLE seminar. The Bar is requiring the speakers to conduct the seminar to avoid disbarment for ethical lapses. The Bar requires the attendance of Bar applicants with spotty pasts and/or junior lawyers who are first-time offenders of ethical rules. Include additional speakers who are characters from other shows and movies.

This presentation will focus on the Bar’s rules regarding unethical and illegal conduct by an applicant and by attorney unrelated to the practice of law. *Groups are required to use caselaw from the list of SUGGESTED CASELAW at the end of this Section.*

A. *Who Should Be Allowed To Practice Law?*

McGill becomes a lawyer after a career as a Cicero con man that had many brushes with the law, after Chuck rescued him from a major criminal prosecution, and after graduating from an unaccredited online law school while working in the mailroom of Chuck’s law firm. Consider related issues, such as the following:

1. What are the standards required for someone to become eligible to become a member of the Florida Bar? For example, are graduates of unaccredited law schools eligible to apply to the Florida Bar?
2. Are there any particular prior bad acts that *per se* disqualify someone from becoming a member of the Bar? Would McGill’s prior life as Slippin’ Jimmy have necessarily disqualified him if it had been disclosed?
3. What duties, if any, does an existing Bar member have to inform the Florida Bar of an applicant’s prior bad acts? For example, would Chuck have had any duty to inform the Bar of McGill’s Slippin’ Jimmy past?

B. *Who Should Be Allowed To Remain A Lawyer, After Engaging In Bad Acts Unrelated To Law Practice?*

After McGill becomes an attorney, he engages in improper actions unrelated to the practice of law. For example, he returns to Cicero to relive his glory days as scam artist Slippin’ Jimmy. Consider related issues, such as the following:

1. What authority does the Florida Bar have to discipline attorneys for conduct unrelated to the practice of law? For example, if the Florida Bar learned of McGill's scam spree, what could they have done?
2. What duties, if any, does an existing Bar member have to inform the Florida Bar of unethical or illegal actions committed by another Bar member that are unrelated to the practice of law? For example, if Chuck learned of the scam spree, would he have any duty to inform the Bar?

II. LAWYER AS CLIENT REPRESENTATIVE, AND OFFICER OF THE COURT (See episodes 1, 2, 7, 8).

Presentation Format: McGill has been sued either by one of his former actual or potential clients. At least a portion of your presentation must include a trial.

This presentation will focus on the authority and duties of an attorney as a client representative generally, and in settlement negotiations specifically, and also as an officer of the court. *Groups are required to use caselaw from the list of SUGGESTED CASELAW at the end of this Section.*

A. *Rights and Duties of Attorney as Client Representative.*

McGill is faced with several situations where he is convinced his client is making a wrong decision, and decides to take actions for the benefit of his client without the client's knowledge or consent.

One example is when McGill negotiates with HHM regarding its financial treatment of his brother Chuck. The firm is compensating Chuck as if he is on temporary medical leave (which Chuck thinks he is, while he seeks treatment for his perceived allergy to electricity). McGill is convinced that Chuck suffers from a permanent condition that renders him unable to return to the practice of law, and that the firm is required under the partnership agreement to pay a sizeable price to buy out Chuck's equity interest. It is not clear whether any attorney-client relationship exists between McGill and Chuck. Hamlin also communicates directly with Chuck regarding the matter.

Another example involves the Kettlemans. After consulting with HHM's Wexler, they reject her recommendation of a plea agreement involving restitution and jail time. They remain convinced that Craig did nothing wrong, refuse to acknowledge to Wexler that they are holding the missing funds, and refuse to consider any plea agreement involving either restitution or jail time. The Kettlemans return to McGill and demand that he represent them. After reviewing the file, McGill has no doubt that they should take the plea. He causes another client, Mike Ehrmantraut, to steal the embezzled funds from the Kettlemans' house, and then delivers the stolen funds to the prosecutor along with an acceptance of the plea agreement.

Consider related issues, such as the following:

1. When does an attorney-client relationship exist?
2. What issues should an attorney consider when helping a family member or close friend as a favor?
3. Does an attorney have any unique rights and obligations when he or she has reason to suspect that a client suffers from a serious mental disability? Does the answer change if the client is also an attorney?
4. Does an attorney ever have an ethical obligation to disregard a client's instruction when such instruction is contrary to the client's best interests?
5. What options are available to an attorney who is convinced that the positions of a client are completely unrealistic?
6. Are there any unique methods for resolving legal disputes among attorneys?

B. Settlement Authority

McGill engages in various settlement negotiations without clear client knowledge and consent. McGill negotiates on behalf of Chuck with HHM about compensation rights. McGill negotiates on behalf of his skateboarding co-conspirators with Tuco about the appropriate physical retribution for their insults to his grandmother. McGill negotiates on behalf of a potential class of nursing home residents with counsel for Sandpiper Crossing. Consider related ethical issues.

C. Rights and Duties of Attorney as Officer of the Court.

When trying to track down his skateboarding co-conspirators, he pounds on Tuco's door yelling "*Open up! Officer of the court! Open up in the name of the law!*" Consider what it means to be an officer of the court, and the actions of McGill that implicated the rights and duties of an officer of the court. Also consider what conflict, if any, exists between the roles of an attorney as an officer of the court and as a zealous client advocate.

III. CLIENT SOLICITATION & MARKETING; ATTORNEY SPECIALIZATION (See episodes 1, 4, 5, 8)

Presentation Format: McGill has become the subject of Bar disciplinary proceedings. Use your presentation to educate the audience about the various steps involved. *Groups are required to use caselaw from the list of SUGGESTED CASELAW at the end of this Section.*

Starting out, it was difficult for McGill to obtain clients to represent. He takes some creative approaches to marketing and solicitation of clients. Examples include the following: giving a stuffed animal to the clerk who assigned public defender cases; sending flowers to the Kettlemans; working with the skateboarders to create a scheme to convince the Kettlemans to hire McGill; copying the likenesses of another successful lawyer and his prestigious law firm; trying to use McGill's loss of related trademark infringement litigation as an opportunity to try to convince the media to feature him in a "David v. Goliath" article (which might have been his reason for copying the other firm's likeness); dressing like Matlock to appeal to older potential clients; including in promotional materials the phrase "Need a will? Call McGill"; asking a client

to arrange a meeting with her friends to discuss any claims the friends might have against the same defendant; hosting bingo games at nursing facilities; impersonating his own secretary, and giving untrue excuses about why meetings cannot occur in his office; and staging a heroic rescue to garner favorable media attention. Consider related issues.

Many of the potential clients initiated contact with McGill after seeing news coverage of his heroic rescue. Consider the extent to which their initiative might impact the applicability of rules regarding solicitation.

We hear the following ad from McGill's future self, Saul Goodman. *“Don't let false allegations bully you into an unfair fight. Hi, I'm Saul Goodman, and I will do the fighting for you. No charge is too big for me. When legal forces have you cornered, better call Saul! I'll get your case dismissed. I'll give you the defense you deserve. Why? Because I'm Saul Goodman, attorney-at-law. I investigate, advocate, persuade, and, most importantly, win! Better call Saul. Do you feel doomed? Have opponents of freedom wrongly intimidated you? Maybe they told you that you're in serious trouble and there's nothing you can do about it. I'm Saul Goodman, and I'm here to tell you that they're wrong. It's never too late for justice.”* Consider any ethical issues raised by the advertisement.

Chuck conveys to McGill his discomfort and that of Hamlin at the similarity of the names of McGill's firm (The Law Office of James M. McGill) and their firm (Hamlin, Hamlin & McGill). As a result, Chuck encourages McGill to change the name of his law firm to something without the name McGill in it, such as Vanguard Law or Gibraltar Law. Consider related ethical issues, such as rules governing permissible names for law firms.

McGill is also faced with situations implicating his prior legal experience and legal expertise. When McGill meets with one potential client, he is asked if he has extensive experience handling patent prosecution. McGill responds: *“Oh, yeah. In fact, I do so many patent cases, I should probably just go ahead and specialize already.”* At the bottom of jell-o cups distributed to nursing home residents appears an ad bearing the phrase “Need a will? Ask McGill.” Consider issues that an attorney must keep in mind when responding to the inquiry of a potential client regarding (a) what type of law the attorney practices; or (b) the attorneys' prior experience handling a particular practice area or legal issue. Do different rules apply if the inquiry comes from another attorney? Consider issues that govern what an attorney can say about such prior experience and expertise on promotional items or in other advertisements. Include a discussion of rules regarding attorney specialization.

IV. DEALING WITH DIFFICULT CLIENTS; COMPENSATION ISSUES (See episodes 1, 2, 3, 4, 5, 6, 9).

Presentation Format: McGill is interviewing with the Santa Fe law firm that HHM has brought in as co-counsel on the Sandpiper Crossing RICO case. The firm is extremely thorough, and also interviews other characters from the series. *Groups are required to use caselaw from the list of SUGGESTED CASELAW at the end of this Section.*

1. *Dealing with Difficult Clients*

McGill is often confronted with a number of difficult client demands and threats. These include:

- (a) McGill represents a variety of criminal defendants that he knows to be guilty.
- (b) Mike Ehrmantraut instructs him to spill coffee on an interrogating police officer to assist the client in stealing the officer's notepad, and not to attend a meeting between the client and another interrogating officer;
- (b) Nacho threatens to kill McGill if he leaks any of their confidential discussions, or fails to get Nacho out of jail the same day he was arrested; and
- (c) The Kettlemans threaten to expose the fact that McGill accepted their cash retainer in exchange for his silence about the embezzlement.

2. *Compensation Issues*

McGill is confronted with a number of compensation issues that raise ethical considerations. These include the following:

- (a) He learns from a clerk that he could have earned three times the compensation if he had defended three criminal defendants in separate trials rather than in a joint trial.
- (b) He accepts a cash "retainer" paid by the Kettlemans, and out of the embezzled funds, in exchange for his silence about his discovery of their possession of the embezzled funds. Afterwards, he tries to justify the reasonableness of the amount based on a variety of interesting assumptions.
- (c) He is offered payment by a client seeking to secede from the United States in the form of a new currency issued by proposed new sovereign nation.
- (d) He charges a fee of \$140.00 to prepare a will for a client, declining to accept payment by S&H green stamps.
- (e) He refers the Sandpiper Crossing RICO action to HHM, in exchange for HHM's offer of 20% of the plaintiffs' total recovery, and an immediate "of counsel" fee for services previously provided, without the need to perform future work.

Consider related ethical issues.

V. ATTORNEY-CLIENT PRIVILEGE; CONFLICTS OF INTEREST; MAINTAINING CLIENT CONFIDENTIALITY (See episodes 1, 2, 3, 4, 5, 7, 8).

Presentation Format: McGill takes another trip to his old watering hole in Cicero to let off steam. While there, he regales his old Slippin' Jimmy drinking buddies with stories of his life as a big-time lawyer in Albuquerque. *Groups are required to use caselaw from the list of SUGGESTED CASELAW at the end of this Section.*

McGill met with both Craig and Betsy Kettleman in a public place--a restaurant--to discuss the criminal investigation against Craig. Consider the risks presented by the location and participation of Betsy Kettleman on the attorney-client privilege.

McGill decides to keep his estate planning client files at his brother Chuck's house, hoping that Chuck would take it upon himself to prepare the necessary documents (which he does). Consider related ethical considerations.

McGill learns that Nacho intends to rob the Kettlemans of their stolen cash, and promises to keep confidential his conversation with Nacho. Concerned for the safety of the Kettlemans, he makes an anonymous call to the Kettlemans to warn them that their lives are in danger and then explains to Wexler what he did. Consider the related ethical issues.

McGill is involved in a number of complicated professional relationships. For example, he convinces his brother Chuck to work for free on McGill's client estate planning files, and to assist him for free in pursuing his RICO claims against Sandpiper Crossing, even though Chuck is still a partner at his own firm, HHM. Consider related ethical considerations for McGill (such as not disclosing to his clients the involvement of another attorney) and Chuck (such as not running conflicts searches, and performing side work while still a partner at HHM).

McGill's closest friend is Wexler, who works for HHM. McGill confides in her many details of his discussions with the Kettlemans (such as the contents of his discussions with them after they fired HHM, and his anonymous warning to Kettlemans), but keeps other details confidential (such as that he knows the Kettlemans have possession of the stolen cash, and that they had secretly paid McGill a sizeable retainer to keep him quiet). Consider the ethical issues.

VI. PREPARATION AND INVESTIGATION OF CASE; DISCOVERY; TRIAL (See episodes 1, 2, 8, 9).

Presentation Format: McGill is hired by the Santa Fe law firm. Younger lawyers who are intimidated by other senior lawyers at the firm seek out McGill for advice on their own ethical quandaries. In helping them, McGill draws upon some of his own experiences. *Groups are required to use caselaw from the list of SUGGESTED CASELAW at the end of this Section.*

McGill's methods of preparing his cases are just as creative as his ways of soliciting clients. For example, after the Sandpiper Crossing management personnel witnesses his meeting with the facility's residents, they start shredding files. McGill sees this, and quickly prepares a handwritten demand letter, instructing the facility to cease the spoliation of evidence. That

evening, McGill sneaks into the outside trash bins at the premises, and takes home shredded papers he finds in the trash. The documents help him identify a key nexus to interstate commerce that supports a RICO claim. Consider related ethical issues. Include a discussion of spoliation considerations.

After McGill refuses to back down in response to Sandpiper Crossing's threat of Rule 11 sanctions, Sandpiper Crossing bombards McGill with discovery requests, knowing that it would overwhelm the solo practitioner. Consider whether there are any ethical issues that prevent an attorney from a party possessing superior resources from using those resources to the client's benefit.

McGill engages in creative methods of preparing his witnesses for court. For example, he tells his clients what to say, tells them who to bring to court on their behalf, and secures them court-appropriate clothing. Consider related ethical issues.

McGill's closing argument style is in keeping with the rest of his character. Consider any Golden Rule and other issues raised by his closing argument in the criminal trespass trial of his three teen clients.

SUGGESTED CASELAW FOR GROUP PRESENTATIONS

Pupillage Group Leaders are required to ensure that their group presentation contains a sufficient presentation of relevant caselaw. If sufficient caselaw is not included, points may be deducted from the group's overall presentation score. A few suggested cases and other sources are included for each presentation below.

I. BECOMING AND REMAINING A LAWYER

<http://www.libertylawsite.org/2015/04/23/legal-education-better-call-saul/>

Florida Board of Bar Examiners re: J.R.B., No. SC14-759, __ So.3d __ (Fla. November 30, 2014): Rejecting recommendation of Board of Bar Examiners, Supreme Court permanently denies admission to applicant who “has demonstrated a lifetime of dealing in falsehoods.”

Florida Board of Bar Examiners re: B.U.U., 124 So. 3d 172 (Fla. 2013): For financial irresponsibility and lack of candor, Supreme Court denies conditional or regular admission to applicant recommended by Bar Examiners.

Florida Board of Bar Examiners re: Daniel Mark Zavadil, 123 So. 3d 550 (Fla. 2013): Supreme Court revokes lawyer's bar admission for lack of candor in amending application.

Florida Bar v. Swann, 116 So. 3d 1225 (Fla. 2013): Supreme Court disbars rather than suspends lawyer for “extensive misconduct” of “often egregious nature.”

Florida Bar re: Michael Howard Wolf, 21 So. 3d 15 (Fla. 2009): Supreme Court refuses reinstatement for a lawyer who engaged in the "practice of law" while suspended; definition discussed.

Florida Board of Bar Examiners re: O.C.M., 850 So.2d 497 (Fla. 2003): Bar applicant's lack of candor results in denial of admission and extended disqualification period.

The Florida Bar re: Untracht, 923 So. 2d 457 (Fla. 2006): Florida denies reinstatement to suspended lawyer who has not been readmitted to bar of his home state.

The Florida Bar v. Committee, 916 So. 2d 741 (Fla. 2005): Florida Bar grievance committee meetings confidential; respondents may be barred from attending.

II. LAWYER AS CLIENT REPRESENTATIVE, AND OFFICER OF THE COURT

BAC Home Loans Servicing, Inc. v. Headley, No. 3D12-1560; 2013 WL 6097221 (Fla. 3d DCA Nov. 20, 2013): Third DCA finds fundamental error and reverses judgment obtained through material misrepresentations by defendants' counsel; court criticizes lawyer: "We also remind counsel for the Headleys of his duty of candor to the tribunal. Not only did he file a misleading pleading, which led the trial court to err, he compounded the error by defending an indefensible appeal."

Cira v. Dillinger, 903 So. 2d 367 (Fla. 2d DCA 2005): Plaintiff in legal malpractice claim against criminal defense lawyer must show "exoneration" of underlying crime.

Air Turbine Technology, Inc. v. Quarles & Brady, LLC, No. 4D14-110, 2015 WL 3480236 (Fla. 4th DCA June 3, 2015): Court discusses application of judgmental immunity to defense of malpractice claim by former client.

Greenwald v. Eisinger, Brown, Lewis & Frankel, P.A., 118 So. 3d 867 (Fla. 3d DCA 2013): Court was not required to admit evidence of any rule of professional conduct claimed to have been violated by legal malpractice defendant.

Band v. Libby, 113 So. 3d 113 (Fla. 2d DCA 2013) (on rehearing): Court erred in granting new trial in a suit against lawyer after ruling that breach of fiduciary duty cannot be waived.

Pitcher v. Zappitell, No. 4D14-91, 2015 WL 1448612 (Fla. 4th DCA April 1, 2015): Court erred by granting summary judgment for legal malpractice defendant on ground that plaintiff could not prove that alleged conflict of interest caused plaintiff's damages).

Elkind v. Bennett, 958 So. 2d 1088 (Fla. 4th DCA 2007): Lawyer who breaches client confidentiality AFTER attorney-client relationship ended may be liable to client for malpractice, but former client must allege what confidence was breached.

III. CLIENT SOLICITATION & MARKETING; ATTORNEY SPECIALIZATION

Florida Bar v. Doane, 43 So. 3d 640 (Fla. 2010): Supreme Court denies rehearing for lawyer disciplined for using trade name "Legal Experts."

For the latest guidance on permissible methods of advertising areas of Board Certification, visit the Florida Bar's webpage, click on the "Florida Bar Certification" icon in the top right corner of the page, and click on the "Media Relations 'Press Kit' Materials for Certified Lawyers." Of particular guidance are the downloadable files titled "B.C.S- How and When to Use," "Media

Relations 101," and "How to Get Media Coverage." Also included are downloadable examples of op-ed articles, audio-video scripts, outreach to reporters, and sample brochures.

Rubenstein v. Florida Bar, No. 14-CIV-20786-BLOOM/Valle; -F.Supp.2d - (S.D. Fla. December 8, 2014). Florida Bar withdraws its "Guidelines for Advertising Past Results" after federal court finds them unconstitutional. The U.S. District Court for the Southern District of Florida granted summary judgment in favor of a lawyer who sued the Florida Bar seeking to invalidate the "Guidelines for Advertising Past Results" that were adopted by the Bar's Board of Governors in December 2013. In May of 2013, the Supreme Court approved Bar-proposed rules allowing lawyers to advertise past results. *See* Rules of Professional Conduct 4-7.13(b)(2) and 4-7.14 (adopted in *In re: Amendments to the Rules Regulating The Florida Bar – Subchapter 4-7, Lawyer Advertising Rules*, 108 So. 3d 609 (Fla. 2013)). The Bar's adoption of the "Guidelines," however, effectively banned past results from "indoor and outdoor display and radio and television media."

The court ruled that the Guidelines' interpretation of the rules "to completely prohibit the use of past results in attorney advertising in indoor and outdoor display, television and radio media, contained in the section of the Guidelines titled 'Unacceptable Media,' is unconstitutional, in violation of the First Amendment to the United States Constitution." Accordingly, the court enjoined the Bar "from enforcing Rules [of Professional Conduct] 4-7.13 and 4-7.14 to completely prohibit all reference to past results in attorney advertising in indoor and outdoor display, television and radio media."

In re: Amendments to the Rules Regulating The Florida Bar – Subchapter 4-7, Lawyer Advertising Rules, 108 So. 3d 609 (Fla. 2013): Florida Supreme Court issues opinion permitting attorneys to advertise past results; court adopts Rules of Professional Conduct 4-7.13(b)(2) and 4-7.14.

IV. DEALING WITH DIFFICULT CLIENTS; COMPENSATION ISSUES

Lieberman v. Lieberman, No. 4D14-509, ___ So.3d ___ (Fla. 4th DCA November 26, 2014): Lawyer who is "too personally involved with the issues" in a client's case may violate ethics rules regarding competence and independence of professional judgment.

Bowin v. Molyneaux, 100 So.3d 1197 (Fla. 5th DCA 2012): Fifth DCA indicates that lawyer's motion to withdraw should be granted where attorney-client relationship has become "adversarial."

Robertson v. State, No. SC13-443, ___ So.3d ___ (Fla. July 10, 2014): Court discusses application of Rule of Professional Conduct 4-1.2(a) (lawyer must abide by client's decisions regarding objective of representation); Court denies counsel's motion to withdraw, and requires counsel to remain on case and present argument against imposition of death penalty, contrary to client's wishes; three Justices dissented.

Tumelaire v. Naples Estates Homeowners Ass'n, Inc., , No. 2D13-5071, ___ So.3d ___ (Fla. 2d DCA May 7, 2014): Second DCA rules that client's fee arrangements with her lawyer are protected by client privilege.

V. ATTORNEY-CLIENT PRIVILEGE; CONFLICTS OF INTEREST; MAINTAINING CLIENT CONFIDENTIALITY

Florida Bar v. Knowles, 99 So. 3d 918 (Fla. 2012): Finding additional violation and imposing harsher discipline than sought by Bar, Supreme Court suspends lawyer who breached client confidentiality.

Witte v. Witte, 126 So. 3d 1076 (Fla. 4th DCA 2012): Court erred in ruling that all of client's communications with her attorney were not privileged as a matter of law because non-client was present for 60-65% of them.

In re Hood, 727 F.3d 1360 (11th Cir. 2013): Eleventh Circuit addresses issue of whether ghostwriting of bankruptcy documents violates the Rules of Professional Conduct.

Mansur v. Podhurst Orseck, P.A., 994 So. 2d 435 (Fla. 3d DCA 2008): Third DCA discusses test for establishment of attorney-client relationship.

Pitcher v. Zappitell, No. 4D14-91, 2015 WL 1448612 (Fla. 4th DCA April 1, 2015): Court erred by granting summary judgment for legal malpractice defendant on ground that plaintiff could not prove that alleged conflict of interest caused plaintiff's damages

Lender Processing Services, Inc. v. Arch Ins. Co., No. 1D14-4161, __ So.3d __ (Fla. 1st DCA April 22, 2015): Court correctly overruled attorney-client privilege objections to questions asked at hearing to enforce alleged settlement, because privilege was waived when objecting party put at issue question of its lawyer's authority to settle.

Merco Group of the Palm Beaches, Inc. v. McGregor, No. 4D14-696, __ So.3d __ (Fla. 4th DCA July 30, 2014): Court erred in ordering production of privileged documents based on crime-fraud exception without first holding evidentiary hearing.

Tumelaire v. Naples Estates Homeowners Ass'n, Inc., No. 2D13-5071, __ So.3d __ (Fla. 2d DCA May 7, 2014): Second DCA rules that client's fee arrangements with her lawyer are protected by client privilege.

DelMonico v. Traynor, 50 So. 3d 4 (Fla. 4th DCA 2010): Allegedly defamatory statements made by lawyer during potential witness interviews are absolutely privileged.

VI. PREPARATION AND INVESTIGATION OF CASE; SETTLEMENT; TRIAL

January 30, 2015: Florida Bar Board of Governors adopts "Professionalism Expectations" for Florida lawyers. The Professionalism Expectations draw from both the Rules of Professional Conduct and "the long-standing customs of fair play, civil, and honorable legal practice in Florida." The Professionalism Expectations provide guidance to lawyers in seven key areas: (1) Commitment to Equal Justice Under the Law and to the Public Good; (2) Honest and Effective Communication; (3) Adherence to a Fundamental Sense of Honor, Integrity, and Fair Play; (4) Fair and Efficient Administration of Justice; (5) Decorum and Courtesy; (6) Respect for the Time and Commitments of Others; and (7) Independence of Judgment.

Puglisi v. State, 110 So. 3d 1196 (Fla. 2013): Supreme Court rules that criminal defendant's lawyer, not defendant, has final authority to call or not call witnesses at trial.

Andreas v. Impact Pest Management, Inc., No. 2D14-1688, ___ So.3d ___ (Fla. 2d DCA, February 6, 2015): Second DCA reverses verdict for defendants in personal injury case and remands for new trial, refusing to reward defense counsel's "'gotcha' tactics. Discusses Rules 4-3.3, 4-3.4.

Brinson v. State, No. 5D14-653, 2015 WL 24089 (Fla. 5th DCA January 2, 2015): Fifth DCA criticizes improper prosecutorial argument, urging lawyers to avoid devolving into "'win at all costs' mentality."

Augustine v. State, No. 4D12-2881, 2014 WL 1908817 (Fla. 4th DCA May 14, 2014) : Fourth DCA publishes opinion serving as "primer" for prosecutors and criminal defense counsel on improper arguments and failure to preserve error.

BAC Home Loans Servicing, Inc. v. Headley, No. 3D12-1560; 2013 WL 6097221 (Fla. 3d DCA Nov. 20, 2013): Third DCA finds fundamental error and reverses judgment obtained through material misrepresentations by defendants' counsel.

Castellano v. Winthrop, 27 So. 3d 134 (Fla. 5th DCA 2010): Law firm disqualified based on unfair informational or tactical advantage obtained through receipt of opposing party's privileged materials.

Wolfe v. Foreman, 128 So. 3d 67 (Fla. 3d DCA July 17, 2013): Litigation privilege applies to protect lawyers from claims for abuse of process and malicious prosecution.

Herman v. Intracoastal Cardiology Center, 121 So. 3d 583 (Fla. 4th DCA 2013): On rehearing, Fourth DCA affirms trial court's dismissal of case for fraud on the court.

Florida Bar v. Adler, 126 So. 3d 244 (Fla. 2013): Rejecting recommended discipline, Supreme Court suspends lawyer for 91 days for misconduct related to personal loan and for improper client closing statements.

The Florida Bar v. Morgan, 938 So. 2d 496 (Fla. 2006): Lawyer suspended for 91 days for "inappropriate courtroom behavior."

REQUIREMENTS FOR SUCCESSFUL PRESENTATIONS

(1) Pupilage groups should watch episodes of Better Call Saul (the entire season is available for purchase on iTunes) and visit a Better Call Saul blog that discusses the ethical aspects of the show, such as <http://ethicsofbettercallsaul.tumblr.com>.

(2) A presentation's legal analysis and discussion should consist of more than merely creating a PowerPoint, and having the moderator read aloud the Rules of Professionalism. Rather, the presentation must, at a minimum, incorporate at least a portion caselaw and ethical opinions provided in this Programming outline. A word of caution: if sufficient caselaw is not

included in the presentation, points may be deducted from the group presentation score. Pupilage groups may also include other relevant caselaw and ethics opinions which may bear on the issues presented. For the most current ethical opinions, pupilage groups are strongly encouraged to visit <http://www.sunethics.com>, <http://www.abajournal.com/topic/legal+ethics>, or the **Florida Bar webpage**. Groups may also visit one of the many legal blogs about Better Call Saul, such as <http://ethicsofbettercallsaul.tumblr.com>, or the Legal Ethics Forum.

Ethical reviews of episodes 1-9 are found at:

<http://www.libertylawsite.org/2015/04/23/legal-education-better-call-saul/>

<http://www.legalethicsforum.com/blog/2015/03/the-ethics-of-saul-goodman-episodes-1-and-2-uno-and-mijo.html>

<http://www.legalethicsforum.com/blog/2015/03/the-ethics-of-saul-goodman-episode-3-nacho.html>

<http://www.legalethicsforum.com/blog/2015/03/the-ethics-of-saul-goodman-episode-4-hero.html>

<http://www.legalethicsforum.com/blog/2015/03/the-ethics-of-saul-goodman-episode-5-alpine-shepherd-boy-part-one.html>

<http://ethicsofbettercallsaul.tumblr.com/post/114095618441/episode-6-five-o>

<http://www.legalethicsforum.com/blog/2015/03/the-ethics-of-saul-goodman-episode-7-bingo.html>

<http://ethicsofbettercallsaul.tumblr.com/post/115719452486/episode-8-rico>

<http://ethicsofbettercallsaul.tumblr.com/search/episode+9>

CLE REQUIREMENTS

(1) **Effective October 1, 2015, the Florida Supreme Court has adopted a number of housekeeping changes to the Rules Regulating the Florida Bar.** Pupilage group leaders should be sure to use the most recent version of the Rules when preparing their presentation.

(2) Both substantive law and ethics must be included in each presentation. Remember- the point of each presentation is to earn CLE ethics credits for the entire Inn. Without sufficient substantive law and ethics, the Florida Bar may choose not to award CLE credits to the Inn for a presentation.

(3) When preparing a presentation, pupilage group leaders and the group should keep in mind that the goal of each presentation is to foster lively discussion and scholarly debate among members of the Inn. As a result, discussion and substance are the most heavily weighted factors judged in each month's presentation. In order to facilitate discussion, pupilage groups should

focus on "issue spotting," rather than posing multiple choice questions to the members of the Inn. The presenting group should call on different pupilage groups to issue spot, and ask other pupilage groups for further comment. As was done last year, the pupilage group that spots the most issues wins, and gets the honors of getting in line for dinner first!

(4) Groups are strongly encouraged to use video and sound clips to enhance the overall presentation. After all, while the main goal of the Inn is to educate the members of the Inn on ethics and professionalism, the programs should also be creative, fun, and encourage audience participation! Please keep all programs tasteful.

(5) For courtroom assistance, please contact **Noel Chessman** in Court Administration at 561-355-4359.

(6) One month before beginning work on their monthly presentation, Pupilage Group leaders are required to contact the Programming Chair(s) to discuss their upcoming program and address any questions they have.

(7) Each pupilage group will be responsible for preparing a CLE presentation outline in the standard Florida Bar format. The CLE outline must be submitted to the Programming Chairs (Donna Eng at deng@cfjblaw.com; Dan Madden at dmadden@wlclaw.com or David Neal Stern at dnstern@fwblaw.net) **NO LATER THAN NOON ON THE MONDAY BEFORE THE PRESENTATION.**

A sample format is included at the end of this handout for reference. Each segment of the presentation must include citation to authority. CLE materials should be professional in appearance as each pupilage group will be presenting a CLE of sufficient caliber to receive credit from The Florida Bar. Each Inn must ensure that their program meets the American Inns of Court mission "to foster excellence in professionalism, ethics, civility and legal skills."

There is no need to print hard copies of the outline for the other pupilage groups, although you may do so if you feel it will benefit the presentation. The outline plus any additional materials used in the pupilage group's presentation will be uploaded to the website for the Inn (<http://www.innsofcourt.org/inns/barnardinn>) following each presentation. You should also print two copies of the outline and give them to the Education Chair Jennifer Miller Morse immediately after the presentation (in other words, at dinner) and e-mail all electronic presentation materials to the Web Administrators David Steinfeld at dave@davidsteinfeld.com and David J. Zelner at dzelner@mchaleslavin.com. Failure to timely submit a complete and satisfactory CLE outline will result in the pupilage group incurring a 250 point scoring penalty.

(8) In addition each pupilage group will be responsible for preparing an American Inns of Court Program Submission Form, which will be provided to each group leader, and submitting to the Programming Co-Chairs no later than one week after the program. Failure to timely submit the Program Submission Form will result in the pupilage group incurring a 100 point scoring penalty.

ADDITIONAL RESOURCES

Each pupilage group may use any variety of materials and resources in creating its presentation. Each group is encouraged to employ materials on the American Inns of Court Website for reference and even as the basis for a presentation, although each group should keep in mind the goal of creativity and the need to make presentations relevant to Florida. To access these materials visit <http://www.innsforcourt.org> and login. Click on “Store” in the right column. Enter search appropriate to your presentation topic. A list of program materials, the majority of which are free, will appear for download.

POINTS

The pupilage group with the highest total of points will be awarded the **Inny Cup**. A chart updating the points awarded will be posted to the website after each presentation. Points will be given to each group for its presentation, attendance, guests, mentoring and community involvement as follows:

PRESENTATION	<p>After each presentation, the other pupilage groups will score the presentation on a scale of 0 (low) to 320 (high), and those scores will be included in the total number of points the pupilage group earns toward the Inny Cup during the year. The scoring pupilages shall award points in the following four categories:</p> <p>Substance (100 points) – substance of the presentation in presenting an accurate and practical understanding of Florida law regarding key ethical and professional issues</p> <p>Discussion (120 points) – inclusion of other pupilage groups and members in presentation (include as many members of each pupilage group as possible) Fostering a discussion with the audience about the questions presented in the presentation.</p> <p>Creativity (50 points) – creativity of the presentation</p> <p>Professionalism (50 points) – inclusion of all pupilage members in presentation (if some worked behind the scenes, please announce this information as part of the presentation) and quality/taste of presentation</p>
ATTENDANCE	20 points for each member in 2016
GUESTS	25 points for each paying guest
MENTORING	50 points for a mentoring session.
COMMUNITY INVOLVEMENT	50 points for each event actively attended

CONTACT INFORMATION

If you have any questions regarding the programming or the rules, please contact:

Donna Eng
deng@cfjblaw.com
561-308-1966

Dan Madden
dmadden@wlcclaw.com
561-615-9606

David Neal Stern
dnstern@fwblaw.net
561-989-0700 t

CLE SUBMISSION FORM CONTENT

**THE CRAIG S. BARNARD CHAPTER OF THE AMERICAN INNS OF COURT LIV
AND [PUPILAGE NAME] PRESENT**

[PROGRAM TITLE]

[DATE]

OVERVIEW

[Include a brief synopsis of 150 words or less regarding the intended focus of the presentation]

DESCRIPTION

6:05 p.m. to 6:15 p.m.

Opening Remarks/Introduction

[TIME to TIME]

[Repeat for Each Segment/Sub-Topic of Presentation]

6:55 p.m. to 7:00 p.m.

Conclusion/Adjournment

For sample outline see

<http://www.floridabar.org/FBWEB/CLEReg.nsf/zLocations2/TVMR-85TKJE?OpenDocument>

Team: 2015-2016 Carbolic Smokeball
Leader: Chris Haddad
Members: Hon. Edward Artau
Carolyn Bell
Jeremy R. Bloor
James A. Burnham
Vijay S.R. Choksi (student)
Marissa S. Dass
Theodore Deckert
Christine Gardner
Jeanette Hallak
Sue-Ellen Kenny
Mindy Levinson
Lanelle Meidan
Jean Marie Middleton
Robert P. Mino
John J. Parnofiello
Adam Rabin
Alcolya J.L. St. Juste
Grace Streicher
Brian P. Sullivan
David Zelner
Wendy Zoberman (Emeritus)
Current Number: 22

Team: 2015-2016 Gray's Inn
Leader: Krista Mayfield & William T. Abel
Members: Maria Baker (student)
Lisa Boswell
Gary M. Cohen
Gregory R. Cohen
Marybel R. Coleman
Jeremy M. Colvin
Rachel L. Forman
Gabrielle Jackson
Nicole Johansson
Hon. Dina Keever
W. Craig Lawson
Joshua Houss Marks
Jennie Marroquin (student)
Georgia Newman (Emeritus)
Matthew Ocksrider
Terry Ellen Resk
Jessica Bober Rosenthal
Danielle Rosenberg
Eric J. Stockel
Current Number: 21

Team: 2015-2016 Lincoln Inn
Leader: Helene Hvizd
Members: Amy Borman
Gary Brookmyer
Anne Desormier-Cartwright
Guillermo Flores, Jr.
Bradley Geis
Lisa P. Glass
Rachel Rogozinski Hyman
Sean Ingram
David J. Kim
David E. Klein
Tiffany Mauer (student)
Jennifer Miller-Morse
Karla C. Martinez
Denise Mutamba
Hon. Nancy Perez
Tami Augen Rhodes
Janice Rustin
Joseph D. Small
Kate Watson
Current Number: 20

Team: 2015-2016 Magna Carta
Leader: Jason Rigoli
Members: Ann Breeden
Rachel Belcher
Rina Clemens
Santo DiGangi
Sean Fahey
Jeffrey Hickman
Gina C. Lozier
Alyssa B. Lunin
Elizabeth Mabry
Madhavi Menon
Ashley Ortagus-Wilson
Marvel Pauyo (student)
Thomas A. Pobjecky
Daria Pustilnik
Lisa Reves
Edward V. Ricci (Emeritus)
Hon. Samantha Schosberg Feuer
Nadine V. White-Boyd
Scott W. Zappolo
Current Number: 20

Team: 2015-2016 Inner Temple
Leader: Alicia Trinley
Members: Christopher Bruce (Emeritus)
Catherine Byron-Velazquez
Luis Delgado
Kristen Flynn
Michael Garcia (student)
Robert Glass
Elizabeth Gormley
Doreen Turner Inkeles
William Lewis
Lisa Lullove
Andrew A. Ostrow
Betty Resch (Emeritus)
Jonathan B. Rupprecht
Stephanie Serafin
David Steinfeld
Hon. Scott Suskauer
Sandra R.B. Wallace
Brandon Weitzman
Matthew Zimmerman
June Zhou

Current Number: 21

Unassigned Members:
Judge Lisa Small (President)
Timothy Powers O'Neill
Donna L. Eng (Program Committee)
Daniel P. Madden (Program Committee)
David Neal Stern (Program Committee)

Emeritus Members:

Michelle Azar
Misty Chavez
Ellen Cohen
Hon. Jack Cox
Lindsay Demmery
Michelle Eichelman
Ettie Feistman
Hon. Spencer Levine
Prof. Jani Maurer
Terrill Pyburn
Kristi Bergemann Rothell

Team: 2015-2016 Middle Temple
Leader: Brian Yarnell
Members: Matthew I. Bernstein
Jeff M. Brown
Stephanie Cagnet Myron
Sara Coen
Rachel M. Evert
Althea Bryan Farr (student)
Jeffrey Fromknecht
Angelo A. Gasparri
Hon. Jeffrey Gillen
Mark A. Greenberg
Jennifer Kramer (Emeritus)
Nancy LaVista
Tara McIntosh
Leslie A. Metz
Miguel A. Poveda
Kristen L. Stone
Michael Toback
Sheryl Wood
Dean Xenick
Deirdre Ziegenfuss

Current Number: 21

PRACTICE AREAS

Administrative

Borman, Amy
Pobjecky, Thomas

Air/Space

Rupprecht, Jonathan

Alternative Dispute Resolution

Deckert, Theodore

Appellate

Bruce, Chris
Eng, Donna
Evert, Rachel
Forman, Rachel
Glass, Lisa
Hvizd, Helene
Kenny, Sue-Ellen
Kramer, Jennifer J.
Lunin, Alyssa
Ocksrider, Matthew
Rothwell, Kristi Bergman
Serafin, Stephanie
Ziegenfuss, Deirdre

Bankruptcy

Eichelman, Michelle
Gasparri, Angelo
Rigoli, Jason
Steinfeld, David
Stern, David
White-Boyd, Nadine

Civil/Civil Litigation

Azar, Michelle L.
Belcher, Rachel
Breedon, Ann
Brown, Jeff
Cagnet, Stephanie
Chaves, Misty
Cohen, Gary
Eng, Donna
Fahey, Sean
Gardner, Christine
Greenberg, Mark
Hallak, Jeanette

Hickman, Jeffrey
Hvizd, Helene
Hyman, Rachel
Kramer, Jennifer J.
La Vista, Nancy
Levinson, Mindy
Madden, Daniel
Marks, Joshua
Mayfield, Krista
McIntosh, Tara
Menon, Madhavi
Middleton, Jean Marie
Parnofiello, John
Ricci, Edward
Rigoli, Jason
Steinfeld, David
Stockel, Eric
Streicher, Grace
Sullivan, Brian
Xenick, Dean
Ziegenfuss, Deirdre

Commercial/Commercial Litigation

Azar, Michelle
Bloor, Jeremy
Burnham, James
Colvin, Jeremy
DiGangi, Santo
Glass, Lisa
Glass, Robert
Kramer, Jennifer
Lewis, William
Meidan, Lanelle
Metz, Leslie
O'Neill, Timothy
Ostrow, Andrew
Rabin, Adam
Resk, Terry
Rosenthal, Jessica
Steinfeld, David
Stern, David Neal
Xenick, Dean
Yarnell, Bryan
Zappolo, Scott
Zimmerman, Matthew

Community Assoc. Law
Stern, David Neal

Criminal Law

Bell, Carolyn
Cohen, Ellen
Dass, Marissa
Flores, Jr., Guillermo
Haddad, Christopher
Lawson, W. Craig
McIntosh, Tara
Ocksrider, Matthew
Poveda, Miguel
Rosenberg, Danielle
Small, Joseph

Equine Law

Boswell, Lisa

Family Law

Augen Rhodes, Tami
Bruce, Chris
Coleman, Marybel
Glass, Lisa
Inkeles, Doreen
Kenny, Sue-Ellen
Newman, Georgia T.
Ortagus-Wilson, Ashley
Reisch, Betty
Rosenberg, Danielle
St. Juste, Alcolya J.L.
Stone, Kristen
Watson, Kate

Government Affairs

Borman, Amy S.
Kim, David
Pyburn, Terrill
Rustin, Janice

Immigration

Coen, Dr. Sara
Flores, Guillermo
Zhou, June

Intellectual Property

Ingram, Sean
Zelner, David

Judiciary

Artau, Edward
Cox, Jack S.
Gillen, Jeffrey
Keever, Dina
Levine, Spencer
Perez, Nancy
Schosberg-Feuer, Samantha
Small, Lisa S.
Suskauer, Scott

Labor Law

Hallak, Jeanette
Martinez, Karla
Mutamba, Denise

Maritime

Stockel, Eric

Other

Bernstein, Matt
Brookmyer, Gary
Byron-Velazquez, Catherine
Flynn, Kristen
Jackson, Gabrielle
Johansson, Nicole
Lullove, Lisa
Mino, Robert
Pustilnik, Daria
Reves, Lisa
Toback, Michael
Trinley, Alicia
Weitzman, Brandon
Wood, Sheryl

Pro Bono

Miller-Morse, Jennifer

Probate

Desormier-Cartwright, Anné
Eichelman, Michelle
Maurer, Jani
Reisch, Betty

Real Estate/Trusts

Azar, Michelle
Cohen, Gregory
Klein, David
Maurer, Jani
O'Neill, Timothy P.
Reisch, Betty
Wallace, Sandra R.B.

Securities

Rabin, Adam
Zoberman, Wendy

Social Security Disability

Gormley, Elizabeth

Students

Baker, Marie
Choksi, Vijay S.R.
Farr, Althea Bryan
Garcia, Michael
Mauer, Tiffany
Pauyo, Marvel

Torts/Insurance

Abel, William
Belcher, Rachel
Brown, Jeff
Chaves, Misty
Clemens, Rina
Delgado, Luis
DiGangi, Santo
Greenberg, Mark
Ricci, Edward
Rothwell, Kristi Bergman
Rustin, Janice
Sullivan, Brian
Xenick, Dean

Transactional

Fromknecht, Jeffrey
Gies, Bradley
Mabry, Elizabeth K

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Craig S. Barnard Inns of Court Membership

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