



# INTER ALIA

SEPTEMBER/OCTOBER 2017

NEWSLETTER OF THE MANATEE COUNTY BAR ASSOCIATION

## Is Fido Allowed in Your Condominium Association?



First of all, I am a dog lover; do not think otherwise when reading this article. I also have a disabled uncle and friends, who need accommodations and support. What this article is about, is the many questions I get as a condominium and homeowner association practitioner regarding bringing emotional support animals into condominium associations that prohibit pets. As author and teacher of continuing education classes for licensed

property managers, I have been asked many times about the emotional support animal/service animal issue. It's a complicated one, depending on who is asking the question.

A humorous but eye-opening article in the New Yorker spoke about emotional support animals in public places. <https://www.newyorker.com/magazine/2014/10/20/pets-allowed>. The author recognized the confusion over service animals and emotional support animals, and did her own experiment in taking various "emotional support animals" into public places. While we can all get a laugh when she took an alpaca into the drugstore; a turtle into the Frick Gallery; a Mexican milk snake into a Chanel boutique; or a turkey onto a luxury bus, she poses some real questions such as: When does one person's emotional support become another person's emotional trauma? id. What about the person who is highly allergic to animals and their right to be free of contact with emotional support animals?

The New Yorker article author was looking at "places of public accommodation" as defined by the Americans with Disabilities Act (ADA). In the condominium world, the ADA typically does not apply (a more detailed analysis of when it does apply to condominiums is beyond the scope of this article). Condominium associations are governed by the Florida Fair Housing Act (FHA), where they are considered "housing providers." The FHA does not require that animals serving as a reasonable accommodation for most disabilities meet the definition of a "service animal," which is licenses or certified, and trained. Instead, in most cases the animal can be an emotional support animal, which provides companionship as part of a plan to treat emotional and psychological disorders. Emotional support animals need no special training, license or certification.

In order to keep an animal in a condo that would otherwise violate the condominium association's pet rules, a person whose disability and need is not readily apparent must ask the condominium association for a disability accommodation. The request can be oral. Once a request is made, the association can require written documentation by a health care provider that 1) is necessary to verify that the person meets the FHA's definition of "disabled;" 2) describes the needed accommodation; and 3) shows the relationship between the person's disability and the need for the requested accommodation. Asking for a second opinion or more information is rarely, if ever, allowed.

The animal does NOT need to be within any weight or breed restriction that might be contained in the association's governing documents or rules. The association cannot charge a fee for the animal; and the association cannot require the owner provide proof of insurance for the animal. However, the animal and its owner must abide by all of the association's reasonable Animal Rules (hint: adopt reasonable Animal Rules), which can include recognition that the owner is responsible for all injury or damage caused by the animal. It is very difficult to restrict the approved emotional support animal from the common areas of the condominium, except maybe the pool. But the animal cannot become a nuisance. Leash requirements, picking up waste, no continuous barking, etc. are reasonable rules the animal owner should be made to follow.

The rub comes when another resident claims to be highly allergic to animals and, therefore, is disabled, and requests an accommodation to be free from contact with animals. Some people move to "no pet" communities specifically for this reason. So far, the arbitration case law is not very extensive on how to handle these competing disabilities, except to do the best you can to accommodate both residents. Can the animal be reasonably restricted to a certain elevator, or to certain common areas? Can the allergy sufferer reasonably be told to stay away from those areas? Rights may be encroached upon -- there are no easy answers.

Most emotional support animals are going to be approved, because health care providers and the disabled are very educated in this area. The concept of the "no pet" community may be ending. However, once a condominium association understands its rights and obligations, most of the problems associated with the animals can be solved by adherence to strict but reasonable rules.

*Mary R. Hawk, Esq. is a principal with the law firm of Porges, Hamlin, Knowles & Hawk, PA, and a member of the MCBA Board of Directors. She concentrates her practice in community association law, and business and probate litigation.*

### **Are you coming to the September General Membership Luncheon? Did you RSVP?**

**We already have received appx. 40 reservations from guests attending this special luncheon honoring Judge Wallace. Don't delay, RSVP today.**

**RSVP to the [MCBA@ManateeBar.com](mailto:MCBA@ManateeBar.com) or 941-741-4091 for the September 27, 2017 Membership Luncheon at Pier 22. Please RSVP early to save your seat and have your lunch ready. We appreciate your thoughtfulness!**

## Announcing Dye, Harrison, Kirkland, Petruff, Pratt & St. Paul, PLLC,

by *Alix St. Paul, Esq.*



It is with great pleasure that we announce the formation of our new law firm, Dye, Harrison, Kirkland, Petruff, Pratt & St. Paul, PLLC (“Dye Harrison”), located at 1206 Manatee Avenue West, Bradenton, Florida 34205. The formation of Dye Harrison is the result of the consolidation of two long-standing Manatee County, Florida, firms: Harrison & Kirkland, P.A. (the Harrison firm) and Dye, Deitrich, Petruff & St. Paul, P. L. (the Dye firm). Our founders were among

the first lawyers in our area.

The Harrison firm traces its roots to 1937, but the Harrison family members have practiced law in Manatee County starting in 1912 when William Thomas Harrison opened his office. He later became a circuit court judge and served here from 1923 until 1959. A courtroom at the Manatee County Judicial Center bears his name. His two grandsons, Joe and Tom Harrison, are partners at the Harrison firm and will be partners at Dye Harrison, along with Nelon Kirkland and Chuck Pratt. Bob Hendrickson will be “Of Counsel,” and Joe Battaglia, Hanna Simonson and Alex Stewart will be associates.

The Dye firm was founded in 1920 by Dewey A. Dye, Sr., known affectionately as “Colonel” Dye. In addition to his law practice, Colonel Dye served as President of the Florida State Senate, State Attorney and County Attorney. His office was located in the building where the Harrison firm currently resides and where Dye Harrison will be located. This building is a historic building, which was completed in 1905. Colonel Dye’s son, Dewey A. Dye, Jr., joined his father’s firm, as did many other lawyers over the years. Judge William T. Harrison’s son, George H. Harrison, worked at the Dye firm prior to establishing the Harrison firm. Colonel Dye’s two grandsons, Steve and Jim Dye, will be with Dye Harrison. Steve Dye, Patricia Petruff and Alix St. Paul will be partners, and Dave Deitrich and Jim Dye will be “Of Counsel.”

## Now That Irma Has Passed...

All of us have been affected by Hurricane Irma, the largest storm ever recorded in the Atlantic. We are very grateful that we did not suffer damages as some in other parts of our state. The Florida Bar has been very pro-active in keeping the legal community informed of various programs and available assistance that has been put in place to assist those in need. For more information, please see The Florida Bar’s 2017 Hurricane Information page Three articles that may be of interest to you are:

### HURRICANE IRMA: LOANS CAN HELP SMALL FIRMS

**The Florida Bar News Blog** | Blog Post | September 15, 2017  
Gov. Rick Scott activated the Florida Small Business Emergency Bridge Loan Program to support small businesses impacted by Hurricane Irma. For a complete listing of recent hurricane-related news as well as resources for Florida Bar members and the public, go to The Florida Bar’s **2017 Hurricane Information page**

### INSURANCE ADVICE FOR LAW FIRMS HIT BY IRMA

**Daily Business Review** | Article | September 08, 2017  
Law firms that suffer business interruption because of Hurricane Irma should document not only damage to their office and what they did to get up and running again, but also the number of referrals they would normally get during that time. This is especially important for firms that are contingency-fee-based. While Florida’s insurance industry may be better prepared to handle claims than it was in the past, widespread damage may make it more difficult to get claims paid, lawyers said.

### AFTER THE STORM: FLORIDA BAR OFFERS LEGAL ASSISTANCE

**Tallahassee Democrat** | Article | September 15, 2017  
A legal aid hotline is now available for Hurricane Irma survivors in Florida who cannot pay for an attorney: (866) 550-2929. The hotline operates through a partnership between The Florida Bar Young Lawyers Division, the American Bar Association Young Lawyers Division, and the Federal Emergency Management Agency. Both English and Spanish voicemail recordings give instructions for callers to leave a message requesting storm-related legal assistance.

SAVE THE DATE:

MCBA Holiday Party

Friday, December 1, 2017  
ArtCenter Manatee

Stay tuned for details.....

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## Sharing exciting news from our friends at Arcadian, Smith Family Legacy Continues to Shine:

“Arcadia was my universe, a wonderful place to grow up,” said Judge Gilbert A. Smith, Sr., who was born in 1923 and raised in Arcadia. In 2003, Judge Durand Adams interviewed Smith for Manatee Educational Television. Smith said, “We knew most of the people in the county ... our life revolved around each other.”

His father, Cook Hall Smith, a school teacher, served as superintendent of DeSoto County Schools 1924-1929 and in the Florida House of Representatives 1935-1936. He also worked in the electrical and refrigeration business, and when Gilbert was in high school, he worked with his father. “I was always interested in mechanical things,” Gilbert said. He even built a few inventions according to his son Gilbert Jr.

Gilbert Sr.’s grandfather, Dr. Chesterfield Harvey Smith, had moved to Arcadia in 1900 and opened a drugstore that his son Chesterfield Stanhope Smith continued. On Dec. 7, 1941, Gilbert was working there as a soda jerk when the radio announced the bombing of Pearl Harbor. He and some friends went to Tampa and enlisted in the Marine Corps, but his mother refused her permission because he was underage.

In 1942, he graduated from DeSoto County High School, joined the U.S. Navy, and became a Motor Machinist. During the war, he traveled the Mediterranean Sea (with invasions in Africa, Sicily and Italy) and to England, France, the Philippines and Japan. He participated in the D-Day Invasion, weathered two typhoons aboard ship, and was in Okinawa, Japan, when the war ended after the detonation of the second atomic bomb. He also survived the 1946 earthquake in Seattle.

After his honorable discharge in 1947, Gilbert Sr. returned to Arcadia and found his brother Chesterfield and two cousins attending the University of Florida. He joined them under the G.I. Bill which granted one month of college paid for every month served in the military — up to 48 months. “It was better than working,” he said.

“The bunch from Arcadia” went home every other weekend, and on one of the those trips, he met his wife Alpha Katherine Shuler, a graduate of Erskine College in South Carolina who was teaching school in Fort Ogden. In 1949, they married and had four children — two girls and two boys. Three received law degrees and the youngest became a Certified Public Accountant.

In 1951, Gilbert Sr. graduated from law school and was admitted to the Florida Bar. The State Road Department—now the Florida Department of Transportation—hired him as an attorney to work on eminent domain condemnation cases so that the State could acquire the land needed for highways such as the Florida Turnpike and the approaches to the Sunshine Skyway. He estimated that he tried hundreds of jury trials in all of Florida’s 20 judicial circuits and in at least 50 of Florida’s 67 counties.

In 1961, he entered a private law firm in Bradenton with his law school classmate George Harrison, and then the law firm of Dye and Dye. He continued the same work for the Road Department on a contract basis. In 1969, he served on the census commission that found an increase in population that required an additional circuit judge position.

After Judge Robert E. Willis announced his retirement, Gov. Reuben Askew appointed Gilbert Sr. as a judge in the 12th Judicial Circuit in 1971. He was re-elected three times without opposition and served as chief judge for eight years. He said, “I had good judges working for me, and I kind of liked being the boss.”

Although he retired in 1991, he continued his career as senior judge and did mediation as well. At Palma Sola Presbyterian Church, he served as elder, chairman of the Board of Deacons and on the new sanctuary’s building committee. He volunteered as a Boy Scout leader and served as a director of the Sunny Land Council Boy Scouts’ Board. He served as chairman of the Manatee Chapter of the Florida Association for Crime and Delinquency, and from 1984 to 1991, as a director of the National Conference of Metropolitan Courts — including one year as president.

In 1998, Gilbert Sr. and his wife moved to her family’s “home place” in Due West, South Carolina, and he volunteered with the Lions Club, Erskine College, and the Presbyterian Church. Between 2003-2009, he served as the Municipal Judge of Due West. “We had court once a week on Wednesdays from 4 to 5 p.m.,” he said with a smile, “whether we needed it or not.”

After 54 years in the legal profession, he said he wanted to be remembered as a “fair and impartial” judge, “as even handed as you can get.”

### Like father, like son

When Gilbert Sr. was first appointed judge in 1971, an article entitled “It Can Be Done” was published in The Arcadian where his mother Grace worked as Society Editor. After acknowledging her pride in her son’s accomplishment, the article continued: “As a college student,” Grace confessed, “Gilbert was definitely not an academic achievement winner and did not make the decision to practice law until very late.

To read the entire article, please visit the Arcadian at: <http://your-sun.com/sunnews/desoto/desotonews/13305984-696/story.html.csp>



*Gilbert Jr., right, after being sworn in by his father as a judge for the 12th Judicial Circuit in 2009.*



*Gilbert Jr. is congratulated by his father after being sworn in as judge.*

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*\* Referral Fee Paid in Accordance with Florida Bar Rules*

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# DATES TO REMEMBER:

- September 27, 2017 GENERAL MEMBERSHIP MEETING, PIER 22, NOON
- October 25, 2017 GENERAL MEMBERSHIP MEETING, PIER 22, NOON
- November 3, 2017 PROBATE & TRUST CLE: MCJC, Jury Assembly Room, more details forthcoming
- November, 2017 NO GENERAL MEMBERSHIP MEETING
- December 1, 2017 MCBA HOLIDAY PARTY: ArtCenter Manatee, more details forthcoming
- December, 2017 NO GENERAL MEMBERSHIP MEETING
- January 31, 2018 GENERAL MEMBERSHIP MEETING, PIER 22, NOON
- February 28, 2018 GENERAL MEMBERSHIP MEETING, PIER 22, NOON
- March 28, 2018 GENERAL MEMBERSHIP MEETING, PIER 22, NOON
- April, 2018 NO GENERAL MEMBERSHIP MEETING
- May 30, 2018 GENERAL MEMBERSHIP MEETING, PIER 22, NOON: LAW DAY PROGRAM
- June 27, 2018 GENERAL MEMBERSHIP MEETING, PIER 22, NOON

The Inter Alia is a great way to advertise your services to fellow members! It's inexpensive and gets results. Please contact Graceann at [MCBA@ManateeBar.com](mailto:MCBA@ManateeBar.com) for more information.

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**Family Court Professional Collaborative  
2017 Annual Conference:  
Don't Let Your Family Law Case Turn Into A Horror Story**



When: Friday, October 13, 2017— 8:00 a.m. until 5:30 p.m.  
Where: Polo Grill, 10670 Boardwalk Loop, Lakewood Ranch

**Agenda**

- 8:00-8:30 a.m. Registration & Check-in
- 8:30-8:40 a.m. Welcome - Judge Stephen M. Walker
- 8:40-9:50 a.m. "Cases, Statutes and Rules: They Don't Have to be Scary" - Sharon O'Day , Esq.
- 9:50-10:00 a.m. Coffee Break
- 10:00-11:00 a.m. Stop the Monster Mash: The Effect of Intimate Partner Violence on Families - Valerie Fisher, LMHC
- 11:00-12:00 p.m. Horror Stories of Financial Abuse During the Divorce Process - Joshua G. Sankes AWMA®, ADFA®, CDFA™, Chris Wailand, CPA/ABV, CFE and Valerie Fisher, LMHC
- 12:00-12:30 p.m. Buffet Lunch , FCPC Meeting
- 12:30-1:30 p.m. High Conflict is Toxic: Adverse Childhood Experiences (ACE) and the Effect of Trauma on People - Shaun Hoyle, CPE and Peggie Ward, PhD
- 1:30-2:30 p.m. Trauma During the Court Process: What We Can Do When We See Things Getting Scary - Judge Stephen M. Walker, Judge Donna Berlin and Stephanie Hefner Roth, LMHC
- 2:30-3:30 p.m. Changing a Horror Story: Creating Hope for Our Next Generation with Resiliency—Shaun Hoyle, CPE and Peggie Ward, PhD
- 3:30-3:40 p.m. Coffee Break
- 3:40-4:30 p.m. Community Resources for Our Families—Opportunities for Growth and Healing—moderated by Shaun Hoyle, CPE
- 4:30-5:30 p.m. Changing the Horror of the Court Process: Creating a New Case Management System to Take the Fear Out of Court— Judge Stephen Walker & Judge Berlin; Judges Panel—moderated by Stephanie Hefner Roth, LMHC

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*FCPC has applied for CLE's and CEU's. The Florida Psychological Association is approved by the Florida Department of Health, Board of Psychology and Board of School Psychology to sponsor continuing education for psychologists. The Florida Psychological Association is approved by the Florida Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling as a provider of continuing education. The Florida Psychological Association maintains responsibility for the program and its content. Certificates will be provided at the close of the training. No Refund will be provided. Registrants may provide a substitute or may receive all materials and membership for 2018; substitute names must be provided by October 6, 2017.*

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# All-You-Can-Learn Technology

## CLE Seminar for Attorneys & Paralegals



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- Security is Only as Good as the Weakest Link - Legal Tech Security Measures Every Legal Professional Must Take (1 Hour CLE)

**TICKETS AVAILABLE AT:** <http://bit.ly/2wJFiZP>

**Friday the 13TH of October, at 6:00 p.m.**

# Manatee Young Lawyers Division Wine Tasting and Haunted Winery Tour

**What:** Wine tasting and winery tour, followed by a spirit orb walk "to the real places where guests have experienced real ghosts or spirit interactions. There are NO paid actors. Everything that happens is in real time." More details available at:  
<http://www.bunkerhillvineyard.com/Spirit-Orb-Walkabout.html>

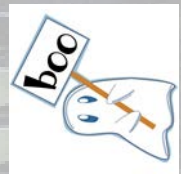
**Cost:** \$30.00 per person

**RSVP:** Seats are Limited. RSVP [mcba@manateebar.com](mailto:mcba@manateebar.com) by October 10

**\*\*Walking shoes and slacks strongly recommended**

**Where:** 8905 Bunker Hill Road, Bunker Hill, Florida 34219

From I-75 Take the CR-6 exit, (EXIT 229). MOCCASIN WALLOW RD/CR-6 E toward US 301/ PARRISH. 5 miles to stop sign. Turn right onto US 301. Cross RR Tracks and get in left turn lane.



# MANATEE COUNTY BAR ASSOCIATION

PROFESSIONALISM • FELLOWSHIP • SERVICE

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If you are interested in advertising in the *Inter Alia*, (circulation 385), please contact Graceann Frederico at (941) 741-4091 or at [MCBA@ManateeBar.com](mailto:MCBA@ManateeBar.com)

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