

**JULY 2021**

# **TALLAHASSEE BAR BULLETIN**

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# President's Message

Each of us, as proud members of the Tallahassee Bar Association, has a vision of our individual future -- what we would like to see, to live, to experience, and to be an active part of. And then each of us works long and hard toward that future we envision. Each of us also has a vision beyond ourselves, a vision for our community, our state, and perhaps beyond.

I foresee a present, and a future for the TBA that continues down the path chosen by our founding TBA members over 100 years ago -- for each of us to live the TBA guiding principles of Ethics and Integrity in everything that we do or say, and of Leadership in our community. Leadership is our overarching vital function and an ever so important part of who we are as individuals, as lawyers, and who the TBA is as an organization. You have heard me say this many times - TBA lawyers CARE and TBA lawyers LEAD.

This past year has challenged us. It has been disruptive and perhaps transformative in all aspects for lawyers and for the judicial system. Everything that lawyers do or say revolves around in-person proceedings, around selecting jurors, a jury of peers, around confronting witnesses in person, and discerning truth. Instead we were forced to retreat to virtual presentations, virtual gatherings, and the pursuit of truth and justice stood on its head. We saw social change, and some old prejudices re-emerged that some of us thought (perhaps naively) were long since behind us. Entire systems and processes in America were challenged in ways that seem almost impossible to fix, to repair.

As a result, the American public's faith in each other, faith in our legal system, and faith in the Court system, and in lawyers, fell to new depths. Zoom is here to stay in some Court hearings; heightened security in all aspects of our lives is here to stay; Jurors have changed. Public perception of us, the lawyers, and of our Courts, has changed.

No one can stay fixed in the "old world", in the "before times". We are now in the "after times", and every one of us, as lawyers and judges, is going to need to be generous, patient, caring, and farsighted in a way we have never been before. The TBA endures. How? We change, we adapt. I have hope, even more than that - I have faith in lawyers as leaders --- because one thing that will NEVER change is --- the American lawyer and the American judicial branch is one of the three independent and co-equal branches of government. Co-equal. Neither of the other branches is above or superior to us. The Amer-

ican judicial branch and each of us, as lawyers, are the originators of equal justice under law – everyone is equally entitled to fairness and impartiality. No matter who you are, no matter where you are from, and certainly no matter your differences or indifference. Our judicial system seeks the truth. And facts matter. We strive to ensure fairness and justice. Every day.

As your TBA President, I am committed, and each of our Board of Directors are committed, to TBA continuing to be a vital part of our Tallahassee Community. We will speak out, we will lift up our neighbors, and help all to understand the value and the integrity of our legal system, of our equal justice and fairness. As President, I am proud to be an American lawyer and proud to be part of your TBA.

For those who attended our April meeting, we heard from County Commissioner Hon. Carolyn Cummings and from City Commissioner Hon. Jack Porter about community involvement; At our June meeting (our first in-person meeting in over a year !) we honored our 2nd Circuit Judges, and heard from our Mayor, Hon. John Dailey, about leadership in government and about our interconnectivity. We have an exciting and engaging slate of events coming up

throughout the Summer and Fall - every TBA meeting and event will be original, be interesting, and an opportunity to be together as one TBA, one legal community. We hope you will join us at each event !

Thank you to our Board of Directors for their tireless energy, and thank you to you, our members! I am excited to say that sponsorships are increasing, that TBA membership is growing fast, and interest and attendance at our meetings has skyrocketed. We are improving and enhancing our communication tools so we can better-engage with our members and potential members. THIS is a year in the life of the TBA that you will not want to miss. Be a part of it!

*Lo Bielby*

TBA President



Lo Bielby is the 2021-2022 President of the Tallahassee Bar Association. Lo is a Principal Shareholder with international law firm Greenberg Traurig, LLP. Lo is a business trial lawyer, focused on complex commercial and governmental litigation, regulatory administrative matters, patent/trademark disputes, franchising, Florida constitutional issues, and cannabis regulatory licensure.

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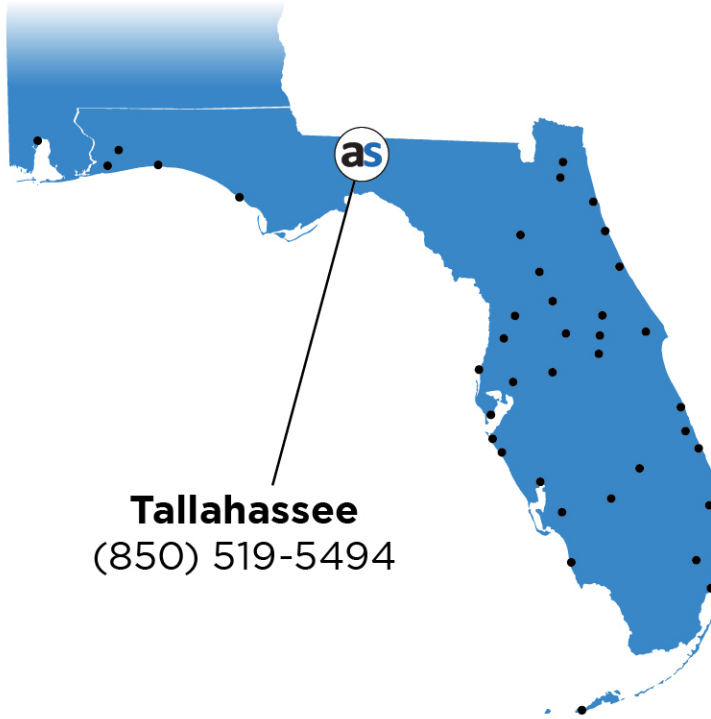
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# LAF Project Helps Citizens “Take Back Their Rights”

*Submitted by Carrie Litherland,  
Executive Director, Legal Aid Founda-  
tion of Tallahassee*

The Legal Aid Foundation of the Tallahassee Bar Association (LAF) is excited to share the launch of the ‘Take Back Your Rights Sealing and Expungement Project’ in partnership with State Attorney Jack Campbell, Public Defender Jessica Yeary, the Leon County Clerk of Court Gwen Marshall, Faith Presbyterian Church Tallahassee, and the Greater Bond Neighborhood Association.

LAF aims to educate at least 150 individuals in our community through community education workshops where attendees will learn the types of records that can be sealed or expunged, the eligibility criteria to receive a sealing or an expungement, how to navigate the process on their own, and how to apply for assistance through the ‘Take Back Your Rights Sealing and Expungement Project’, which will assist 250 individuals complete and submit the FDLE application, coverage of the FDLE application fee, and a one-stop-shop clinic to finalize the sealing or expungement!

A sealing or expungement allows relief for individuals who had a bad experience with the law enforcement or criminal justice system. A criminal record, regardless of if the charges were dropped, the state attorney decides not to prosecute, if the individual goes into a diversion program, or adjudication was withheld, that record continues to follow them as they try to find employment, housing, or further their education, licensing, or vocational training. The arrest record continually perpetuates a cycle of crime and poverty.

In our community, far too few people are able to take advantage of this potential opportunity. In general, only 6% of people who are eligible for expungement or sealing their criminal record, ever apply. LAF hopes to change this.

Nationwide, one-in-three adults have a criminal record and almost half of U.S. children have one parent with a criminal record. Those with criminal records face significant barriers to employment, with an unemployment rate of approximately 27%. Having a criminal record reduces the likelihood of a callback for an interview by 50%

for white Americans and 72% for black Americans.

An expungement or sealing of a criminal record can have a significant benefit for people with a criminal record:

- Some research indicates that a person whose criminal record is expunged/sealed benefits personally by an average of \$5,800 in a single year - in increased wages, more steady employment, etc.
- That research also indicates that the government benefits about \$650 per person over a three-year period - in lower enforcement costs, re-arrest, re-imprisonment, etc.

This effort is also in line with our local priorities:

- This lines up with the Economic Development and Poverty Reduction priorities of the City's 5-Year Strategic Plan.
- This lines up with the Neighborhood First Plans that have been adopted and are under development - Greater Bond Neighborhood, Providence, Griffin Heights, and Frenchtown.
- Moving the community to be more proactive about addressing/reducing criminal activity.

LAF would like to thank TBA member, Attorney Virginia Dailey for volunteering her time to this project and assisting with the data provided in this article. If you are interested in volunteering with this project, please email [carrie@tallahasseebar.org](mailto:carrie@tallahasseebar.org). LAF will be hosting a CLE in August to train volunteers and interested attorneys.

If you missed LAF's Executive Director Carrie Litherland, Public Defender Jessica Yeary, and First Lady Virginia Dailey on WFSU's Perspectives discussing this project and overall justice reform, you can listen here: <https://news.wfsu.org/show/perspectives/2021-06-03/overcoming-the-stigma-of-past-arrests-and-convictions>.



# JUNE 1ST EVENT COMMUNITY

On Tuesday, June 1st the Tallahassee Bar Association hosted more than 100 members and guests at Capital City Country Club for our first in-person meeting in 15 months.

The event offered the perfect opportunity for members of the Tallahassee legal community to reconnect after a challenging year. An outdoor reception was held honoring Leon County and Second Circuit Judges. Mayor John Dailey and Leon County Clerk of Court Gwen Marshall Knight served as guest speakers for the evening. Mrs. Helen Ervin presented Craig Richards with the 2021 Thomas M. Ervin, Jr. Distinguished Young Lawyer Award.



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# Revisions to Florida's Summary Judgment Standard

By Lisa B. Fountain

On December 31, 2020, the Florida Supreme Court amended Florida Rule of Civil Procedure 1.510, governing summary judgment proceedings, to align Florida's summary judgment standard with that of the federal courts pursuant to Rule 56 of the Federal Rules of Civil Procedure. In re Amendments to Florida Rule of Civil Procedure 1.510, 309 So. 3d 192 (Fla. 2020). The amendment narrowed Florida's concept of what constitutes a genuine issue of material fact by establishing that the correct test for existence of a genuine factual dispute is whether "the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986).

Under the new rule, "[w]hen opposing parties tell two different stories, one of which is blatantly contradicted by the record, so that no reasonable jury could believe it, a court should not adopt that version of the facts for purposes of ruling on a motion for summary judgment." *Scott v. Harris*, 550 U.S. 372, 380 (2007). In Florida, it is no longer plausible to maintain

that "the existence of any competent evidence creating an issue of fact, however credible or incredible, substantial or trivial, stops the inquiry and precludes summary judgment, so long as the 'slightest doubt' is raised." Bruce J. Berman & Peter D. Webster, *Berman's Florida Civil Procedure* § 1.510:5 (2020 ed.) (describing Florida's pre-amendment summary judgment standard). In re Amendments to Florida Rule of Civil Procedure 1.510, SC20-1490, 2021 WL 1684095, at \*3 (Fla. Apr. 29, 2021)

In addition to becoming familiar with the new summary judgment standard, there are a few take-aways for practitioners to consider, the first of which relates to proposed orders. The new rule requires that the court "shall state on the record the reasons for granting or denying the motion." The court may no longer make a blanket statement that there is or is not a genuine dispute as to a material fact. Instead, the court must now set forth the reasons for its decision with some degree of specificity. Any proposed orders should reflect this new requirement.

Further, the time for filing and responding to summary judgment motions has changed. A summary judgment motion must now be filed at least 40 days (as opposed to the prior 20-day requirement) before the time fixed for a hearing. The non-moving party must respond with its supporting factual position at least 20 days prior the hearing (as opposed to the old 5 or 2-day requirement).

In sum, the spirit and intent of the new rule is to save jury trials for cases where they are needed to resolve real factual disputes. The new rule took effect on May 1, 2021, and governs the adjudication of any summary judgment motion decided on or after that date.



*Lisa B. Fountain* is an AV preeminent rated attorney, and shareholder at the law firm of Sniffen & Spellman, P.A. Ms. Fountain represents employers statewide in state and federal court in all matters involving labor and employment law.

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# Pro Bono Opportunities Abound with Legal Aid Foundation

*Submitted by Carrie Litherland*

*Executive Director, Legal Aid Foundation of Tallahassee*

The Florida Bar requires all attorneys to report their annual pro bono public service under Rule 4-6.1. Have you considered how you will fulfill this requirement this year?

The Board of Directors of the Legal Aid Foundation of Tallahassee Bar Association (LAF) asks for your support of their efforts to provide free legal assistance to residents of Leon County, with a civil case, who cannot afford an attorney. During the past year, over 250 individuals were matched with volunteer attorneys for advice and counsel, limited representation, and full representation for their civil legal issue. That is over 250 local families whose lives were touched by our dedicated volunteers and supporters. Even through COVID-19, LAF was able to establish a new and much needed program for our community, the Take Back Your Rights Sealing and Expungement Project, facilitating and supporting 225 individuals in our community through the sealing and expungement process, greatly increasing the client's economic opportunity and our community's economic stability. Will you join with us in supporting this important mission?

Now, more than ever, LAF needs your support to ensure access to justice and the legal system. Through this global pandemic, LAF has been and remains committed to continuing to provide legal services to our neighbors who need it most. Directly related to COVID-19, LAF is assisting families with their re-employment benefits applications and appeals, providing trainings to volunteer attorneys to assist with the eviction crisis once the moratorium is lifted, and providing support and advocacy to those facing evictions. LAF partnered with the City of Tallahassee in providing conflict resolution support to landlord and tenants through the Landlord Risk Mitigation Fund, helping to resolve possible eviction issues. LAF is also actively engaged in community education efforts to keep the public informed on their civil legal rights and the assistance available locally.

Do you seek a volunteer opportunity to match your skills and personal passion for the law? Contact LAF at [Volunteer@tallahasseebar.org](mailto:Volunteer@tallahasseebar.org) to offer your valuable assistance that only attorneys like you can provide. LAF offers extensive vetting of pro bono cases and clients, support in the form of mentors, templates, CLEs, and a variety of ways to volunteer such as providing advice and counsel only, limited representation and extended representation.

If you are currently unable to volunteer, please make a difference with a tax-deductible gift. A \$350 contribution will:

- Immediately satisfies the aspirational goal set forth by the Florida Bar;
- Helps administer the intake and referral processes to match indigent clients with volunteer attorneys; and
- Ensures that everyone in our community has access to our legal system.
- In addition, research shows that each dollar contributed to a legal aid organization, like us, has a 7 times return on investment in community economic impact.

Please make your donation by texting 'GIVE' to (850) 378-4689 or visit <https://legalaidthallahassee.networkforgood.com/>.

LAF thanks the many lawyers who already support our mission with time spent on legal aid cases and prior donations. **Can LAF count on your partnership and support this year?** Because of your generosity and that of your colleagues who donate time, skills, and financial support LAF will continue its work to help disadvantaged members of our community resolve legal problems affecting their lives and that of their families.

# TBA Recognizes Craig Richards as Thomas M. Ervin, Jr. Distinguished Young Lawyer

[Tallahassee, FL] – On June 1, 2021, the Tallahassee Bar Association (TBA) hosted its first General Membership Meeting in over a year. The event, which drew over 120 lawyers and judges in attendance, hosted Clerk of Court Gwen Marshall Knight and Mayor John Dailey as principal speakers. During the program, Attorney Craig Richards of Morgan & Morgan was recognized with the Thomas M. Ervin, Jr. Distinguished Young Lawyer Award.

Attorney Richards is a Past President of the TBA Young Lawyer Section and longtime member of the Young Lawyer Section Board of Directors. During his time on the Young Lawyer Section Board, he chaired the annual Diversity Networking Symposium and the inaugural Fitness Challenge, both of which promote interaction and collegiality among TBA members.

“The TBA, alongside Mrs. Helen Ervin, is pleased to annually recognize a talented young lawyer for this prestigious award,” said

Lo Bielby, TBA President. “This year we presented the award at our first in-person meeting in 15 months, and we can think of no better honoree than Craig to help us return to some normalcy!”

Richards also served as the Young Lawyer Representative on the TBA Board of Directors and on TBA’s Diversity and Inclusion Committee. As a member of the Diversity and Inclusion Committee, he was instrumental in the drafting and adoption of a diversity statement into the TBA By-Laws. He also assisted in organizing the Committee’s RBG Movie Night, which successfully raised \$1,000.00 for Pace Center for Girls. Richards now serves as a regular member of the TBA Board of Directors.

The Thomas M. Ervin, Jr. Distinguished Young Lawyer Award is given annually to a Young Lawyer who exemplifies the contributions that Tom Ervin made to the legal profession, The Florida Bar and the Tallahassee Bar Association. The recipient must be a TBA mem-

ber who has demonstrated exceptional service to TBA, TBA's Young Lawyer Section and the Legal Aid Foundation; who exhibits high standards of professionalism; and has participated in activities that promote interaction and collegiality among TBA members.

Previous recipients include:

Melissa VanSickle (2011), Ben Bush (2012), Greg Noonan (2013), Andrew Manko (2014), Will Hall (2015), Jami Coleman (2016), Darby Scott (2017), Erin Tilton (2018), G.C. Murray (2019), Lolia Fernandez (2020).

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# MEMBER SPOTLIGHT:

## Craig Richards

Our Bulletin profile this month is on Morgan and Morgan attorney, Craig Richards.

Craig was born and raised in Fort Lauderdale, Florida. He earned a Bachelor of Arts in Political Science, International Affairs and a Bachelor of Science in Economics graduating as a triple major from The Florida State University. Craig also participated in Lacrosse, Football and was the Senior Class Vice President at Florida State University. Craig went on to attend Mississippi College School of Law where he graduated with his Juris Doctorate degree.



Following graduation from law school, he worked several years as an insurance defense attorney in Tallahassee, Florida before joining Morgan & Morgan. Craig is admitted to practice in all Florida and Georgia state courts and the United States District Court for the Northern, Middle and Southern Districts of Florida. He is a member of American Bar Association, Florida Bar and the Tallahassee Bar Association, where he serves on the Board of Directors.

### What motivates you?

From a young age I was extremely competitive and hated losing. I found myself creating competitions in my head when none existed. As an adult and later an attorney my motivations changed from self-motivation to fighting for the less fortunate. I quickly realized that I was fortunate to have a proper education and an innate ability to argue and express my thoughts in an eloquent manner. I was privileged to have great mentors who urged me to take advantage of the skills I learned throughout law school and my career, and use them to assist citizens in our community who needed representation. There is no better motivation than getting justice for a client who was injured by no fault of their own whose life has changed forever.

### **How do you find balance?**

That's funny—I'll let you know what it looks like when I find it. Most personal injury attorneys, especially a firm like mine where we are constantly trying cases, I am not sure balance is obtainable. I used to stress about it but now I just wake up and give it my best effort. My goal every morning is to make sure I work harder than the next guy or gal and by the end of the day I am usually right where I need to be. If I am not, I'll likely unplug for a couple hours with my wife and son and finish my work once they are asleep.

### **If you could change one thing in the practice of law, what would that be and why?**

Legal loopholes—the issue with attorneys is the majority of us are extremely smart. Thus, we regularly exercise legal loopholes and attempt to win or get cases dismissed on technicalities opposed to the merits and call it “great lawyering”. Make no mistake, I do not know of a better legal system than our own. However, there is no justice in winning a case because of a technicality when at the end of the day someone could be incarcerated for the rest of their life and/or sustained a permanent injury and their life is changed forever.

### **What is the hardest part of your job?**

Client control... As a personal injury attorney I truly appreciate all of my clients. However, the legal system was not built for a lay person's patience. Sometimes, no matter how fast myself, or the court systems moves a person's case it is never fast enough. You would not believe how many times I have been yelled at because the law allows the defense 20-days to answer a Complaint. At the end of the day it's all worth it when you get a favorable result for a client but the road is not always easy.

### **In your career, what would you like to go back to and do differently?**

My first year or two as an attorney, I was wholly unaware about how little I knew about being an attorney. Hindsight, I would have watched more trials, read the Rules of Civil Procedure and Evidence front to back a lot sooner and been more accepting of constructive criticism from more seasoned attorneys. Every critical comment from a colleague or superior can be used as an opportunity to become a better attorney. I used to view criticism as failure when it should be utilized as a learning tool.

### **What advice can you offer current law students?**

If they intend on being a litigator—pay attention in Civil Procedure and Evidence. In law school we also tend to try and memorize everything without actually comprehending its applications. Almost every law school student memorizes cases like “Ashcroft v. Iqbal, Bell Atlantic Corp. v. Twombly, and Pennoyer v. Neff, but then have no idea how to actually draft a pleading and or how personal jurisdiction really works. We essentially “focus on the trees without ever seeing the forest.” I quickly discovered to become a great attorney you have to always be looking at the forest and the trees.

### **As a young lawyer, what did you find most surprising or difficult in your transition from law school to practice?**

Immediately out of law school I worked as a defense attorney, so billable hours and billing codes was the most surprising concept. As far as difficult, I would have to say motion practice. In law school you have an entire semester to prepare one to two motions for summary judgment and the evidence and facts are provided to you in an assignment package. As an associate attorney it is not uncommon to write two motions a month, where you are expected to review and obtain a lot more evidence and a corporate client has no intentions of allowing you to bill for a rewrite.

### **Why should a young attorney stay involved with voluntary bar associations?**

There are a ton of advantages to voluntary bar associations. As a young attorney the networking, comradery, job opportunities, the chance to speak and mingle with attorneys in different fields of practice is invaluable.

# Upcoming Events

## August 3 @ 5:30 PM

TBA "Back to Court" Social  
Proof Brewing Co.  
1320 S. Monroe St.  
Free to members and guests

## September 9 @ 5:30 PM - Table for 8

DOAH Director and Chief Judge  
Pete Antonacci and Deputy  
Chief Judge and Exec. Director  
Brian Newman  
Hotel Duval, Level 8; (CLE credit)  
5:30 - DOAH Judges Appreciation Reception  
6:30 - Dinner and Speakers

## October 5 @ 11:45 AM

Legal and Administrative Staff  
Appreciation Luncheon  
Location TBD

## November 2 @ 11:45 AM

Denise Williams Trial Presentation Panel; (CLE credit)  
Location TBD

## December 9 @ 5:30 PM

Holiday Party (with the Inns of Court)  
Location TBD

## January 13, 2022 @ 5:30 PM

Chili Cook Off  
Goodwood Plantation

## February 1

### General Meeting

2022 TBA Officers and Board  
Nominations  
Location TBD

## March 1 @ 5:30 PM

Annual Banquet and Gala  
Election of Officers, with Guest  
Speaker  
Location TBD

Tallahassee Bar Association Presents

# BACK TO SCHOOL COURT SOCIAL

Tuesday, August 3rd, 2021 | 5:30pm - 8:00pm | Proof Brewing Company | 1320 S Monroe St.

We invite our members and members' guests to Proof Brewing Co. for socializing, griping about the heat, and celebrating the return to in-person court appearances. Food will be provided by TBA and a cash bar will be available.



# SPONSORSHIP OPPORTUNITIES



**TALLAHASSEE  
BAR ASSOCIATION**

## **Table for 8** **Thursday, September 9th**

**Hotel Duval**  
**5:30pm Reception**  
**6:30pm Dinner & Program**



Join the Tallahassee Bar Association and the Florida Government Bar Association for the annual Table for 8 event. The event will feature a Judicial Reception honoring DOAH judges. Guest speakers will be DOAH Director and Chief Judge Pete Antonacci and Deputy Chief Judge and Executive Director Brian Newman.

### **Table for 8 – Judicial Reception Platinum Sponsor - \$2,000 (One available)**

- Admission for eight guests to Table for 8 Event
- Sixteen drink tickets
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- Speaking opportunity during the Reception, and special acknowledgement during Table for 8 program
- TBA & FGBA newsletter, website and social media recognition
- Half page advertisement in Fall 2021 issue of the TBA Bulletin

### **Table for 8 - Leadership Sponsor - \$1,000 (Limited number available)**

- Admission for four guests to Table for 8 Event
- Eight drink tickets
- Organization name and logo on Table for 8 signage and printed materials
- Special acknowledgement during Table for 8 program
- TBA & FGBA newsletter, website and social media recognition

### **Table for 8 - Professionalism Sponsor - \$500 (Limited number available)**

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- Special acknowledgement during Table for 8 program
- TBA & FGBA newsletter, website and social media recognition

Contact Christen Perry at [christen@tallahasseebar.org](mailto:christen@tallahasseebar.org) or 850-702-5008 for additional information. Please make sponsor checks payable to Tallahassee Bar Association.



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#### ***Interested in contributing?***

Interested contributors may submit article ideas to the editors at [TBA@tallahasseebar.org](mailto:TBA@tallahasseebar.org). The Bulletin is published quarterly.

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