

**The Importance of Professionalism in
Adversarial Legal Writing: A Judicial Roundtable Discussion
January 29, 2021 2:00-4:00**

Featuring:

The Honorable Melanie G. May, Florida Fourth District Court of Appeal
The Honorable Robert Diaz, 17th Judicial Circuit of Florida
The Honorable Jeffrey Levenson, 17th Judicial Circuit of Florida
The Honorable Elijah Williams, 17th Judicial Circuit of Florida

Schedule:

2:00-2:45 Top 5 Legal Writing Tips from each Judge
2:45-3:15 Breakout Groups to discuss Scenarios
3:15-3:45 Come back as a large group to debrief the breakout sessions
3:45-4:00 Question and Answer; Wrap up

Scenario #1 – Judge Levenson

Attorney Mick Haller filed and was granted a Motion of Continuance for two pre-trial conferences scheduled in the afternoon. In the two Motions for Continuance, he stated that each of the pre-trial conferences conflicted with trials he was scheduled to attend in Jacksonville. After a number of calendar adjustments by the court, attorneys and clients, another pre-trial conference was scheduled during a weekday morning.

All seemed to be fine until opposing counsel, Margaret McPherson, came across Mick Haller's Facebook page. Ms. McPherson noticed a photo with the caption "Never Miss Happy Hour" that showed Mr. Haller was at Grille 401 in Fort Lauderdale at the time of the two pre-trial conferences that he requested be rescheduled. She also noticed that Mr. Haller had been tagged on a number of other photos that show him frequently at Grille 401 during afternoon work hours. In one of the comments to these photos, Mr. Haller joked that he has had to come up with "creative excuses" to avoid being dragged into those "boring court meetings" that interfere with his drinking schedule at Grille 401.

What should Ms. McPherson do?

Scenario # 2 – Judge May

You arrive at your law firm at 9:00 a.m. You are immediately handed a file and told by your senior partner that you need to run to the courthouse to cover a 9:30 a.m. hearing because the associate that was supposed to attend the hearing is ill. You have never worked on this file before. You open the file to review the Trial Brief that you will be arguing in 30 minutes, and you see that the Trial Brief is very poorly written. The organization is difficult to follow, and the citations are sloppy. You decide to read the key case referenced in the brief, and when you pull up the case on Westlaw, you immediately notice that the Trial Brief is misstating the rule of the case. You print out the case and run to the courthouse. Thankfully, your office building is right across the street from the courthouse, and you make it just in time. The judge then condemns you for the poorly written brief and asks if you actually passed your Legal Research and Writing class. How do you respond?

Scenario # 3 – Judge Diaz

Late one evening the managing partner summons you to his office. He wants to chat about a brief that you recently submitted for his review. When you arrive, the managing partner is sitting at his desk reading the brief. You take a deep breath, and cheerfully ask “How does it look?”

He looks up and says “Have a seat.” He then assures you that you’ve located all the relevant cases and that you’ve properly analyzed the relevant issues.

However, he mentions that the firm *always* makes a contributory negligence argument in cases like the one you’ve analyzed. Puzzled, you assure him that nothing in the facts or in the law supports a contributory negligence claim. He gives you a slightly patronizing smile and says “You’ll find something. The firm *always* argues contributory negligence in these kinds of cases.”

You open your mouth to protest, but he holds up his hand and says “Just do it. Make the facts fit the law if you have to. I’ll expect your revised brief first thing tomorrow morning.”

What should you do?

Scenario # 4 – Judge Williams

Motion calendar is set to begin in 5 minutes. You have been waiting outside the judge's courtroom for half an hour. You see opposing counsel walk up to the bailiff and announce his presence. He sees you across the room and saunters over, hands you a proposed order on some preliminary motions in the case, and tells you that he plans to present it to the judge to sign. You tell him that you called his office five times last week to discuss this and that he never called you back. You also tell him that you do not agree to the order because you have not had time to review it and because you need to first discuss the matter with your client. He says to you, "Listen, I know you are young, but this is just how things are done here. You need to learn how the system works. Your client is a piece of trash, and I am going to do whatever I can to make sure he is buried." Your case is then called, and the attorney says to the judge, "Your honor, I have tried working with this newbie, but she (or he) doesn't know how things work around here and will not agree to anything. I ask that you enter this order over his (or her) objection." How do you handle this situation?

Judge Bios

The Honorable Melanie G. May Florida Fourth District Court of Appeal

Judge May graduated from Broward Community College in 1971, and Florida Atlantic University in 1973. She received her Juris Doctor Degree in 1981 from Nova Law Center and an honorary Doctor of Laws degree from Nova Southeastern University in 2009. She clerked for the Honorable Peter T. Fay, Eleventh Circuit Court of Appeals from 1981-82, and practiced law with Bunnell, Woulfe, P.A. in Fort Lauderdale, FL. She served as a Circuit Court Judge on the Seventeenth Judicial Circuit from April 15, 1991, until her appointment to the Fourth District Court of Appeal by Governor Jeb Bush on October 31, 2001.



Judge May has served as Chair of the Federal Magistrate Selection and Reappointment Panels for the Southern District of Florida. She was President of the Florida Conference of District Court of Appeal Judges and has chaired and served on the Conference Education Committee. She is a Past-President of the Council of Chief Judges of State Courts of Appeal and has chaired the Annual Conference Committee. She chaired the Department of Children and Family Services Substance Abuse and Mental Health Advisory Board, and currently serves on the Florida Supreme Court's Steering Committee on Problem-solving Courts. She was a member of the Department of Corrections Reentry Advisory Council. She was the board chair of the National Association of Drug Court Professionals from 2000-2002 and has served as faculty for the National Drug Court Institute. She has taught at the National Judicial College, New Judges College, and at the Florida College for Advanced Judicial Studies. She served as Chair of the Shepard Broad Law Center's Board of Governors and was an ex-officio member of the Board of Trustees of Nova Southeastern University from 2011-2019. She currently sits on the Board of Directors for the National Center for State Courts.

The Honorable Robert Diaz
17th Judicial Circuit of Florida

Robert F. "Bob" Diaz is a county judge in the Criminal Division of the Broward County Court of Florida. He was appointed by former Governor Lawton Chiles on July 15, 1992. He was re-elected in 2012 for a term that expires on January 8, 2019. He is also a graduate of NSU and has been an Adjunct Professor at Nova Law School for 30 years teaching Street Law and Trial Advocacy. He has been the Judicial Liaison for the 1L Judicial Intern program for 9 years.



The Honorable Jeffrey Levenson
17th Judicial Circuit of Florida

Judge Jeffrey R. Levenson is a Circuit Court Judge in Fort Lauderdale, Florida. He serves in the Civil Division handling both jury and non-jury trials. He has presided over sixty civil jury trials, some in excess of three weeks. Previously, he served in the Circuit Court Criminal Division and presided over 200 jury trials, including 50 murder trials. He has been a judge for over 14 years. Born in Baltimore, Maryland, Judge Levenson received his B.A, with honors from the Johns Hopkins University, and received his J.D. from the University Of Maryland School Of Law. He was a federal prosecutor for over 17 years prior to his becoming a judge.



The Honorable Elijah Williams **17th Judicial Circuit of Florida**

Elijah Harold Williams attended Walker Elementary School, Broward Estates Elementary School, Parkway Middle School and South Plantation High School (1972 – 1976) in Broward County, Florida.

In 1976, at the age of 16, Elijah entered the University of Florida, Gainesville, Florida. He earned a Bachelor of Arts degree in Political Science in 1980. Upon winning a \$26,500 graduate fellowship, he entered both the University of Florida's graduate program and law school concurrently and was awarded a Master of Arts degree in Political Science/Public Administration and a Juris Doctorate degree in August 1983. Six months later, he was admitted to the Florida Bar.



In October 1984, he was commissioned as a Captain in the United States Air Force and was assigned to the Staff Judge Advocate General's Department and sent to Lowry Air Force Base, Denver, Colorado. While stationed at Lowry AFB, he served primarily as the Chief of Preventive Law/Legal Assistance. In October 1986, he was reassigned to RAF Bentwaters, England. For the initial six months of the tour, he served as the Chief of Civil Law. In March of 1987, he became the Chief of Military Justice. In this position, he managed the military justice program for the largest tactical fighter wing in the USAF and served as a prosecutor at court-martials and a government representative at administrative discharge boards. In March 1988, Captain Williams authored the lead article for the United States Air Force Law Reporter ("DNA Fingerprinting – Into the 21st Century"). In 1989, he was selected to be the Area Defense Counsel. This was a prestigious position, which entailed constant travel across the European continent defending military members accused of major crimes. Additionally, for a three (3) year period, Captain Williams was an Adjunct Assistant Professor for both Embry-Riddle Aeronautical University and the University of Maryland. As such, he taught two college legal courses each term.

Also, in 1989, Elijah won a Toastmaster's International regional speech contest and was selected as one of Great Britain's ten (10) best public speakers.

In July 1990, Captain Williams resigned from the United States Air Force and was appointed an Assistant State Attorney in Broward County. As a result, he prosecuted criminals for offenses ranging from DUI to 2nd degree murder. He left his position as a prosecutor in December 1992 and was hired by the Law Firm of Whitelock, Soloff and Rodriquez in January 1993 to serve as an assistant General Counsel to the Sheriff of Broward County. He was made a partner in the law firm on January 2, 1995.

On May 1, 1998, Elijah Williams transitioned into the Broward Sheriff's Office as an employee and managed, in an interim status, the Legal and Risk Management Departments. In that capacity, he managed a staff of twenty (20) people, to include six (6) attorneys.

In November 2001, Elijah applied to become a circuit judge and was one of many attorneys seeking to fill a judicial vacancy. As one of six nominees selected by the Judicial Nominating Commission, his name was forwarded to Governor Jeb Bush. On March 1, 2002, Governor Bush appointed Elijah Williams to Broward's Circuit Court. Judge Williams presided over adult felony criminal cases for a period of four (4) years. On April 3, 2006, Judge Williams assumed his current division, where he presides over juvenile delinquency cases.