

# NOVEMBER 15, 2017 LETTERS

---

📅 November 15, 2017   📁 Letters

---

## Letters

### **Cultural Transformation?**

Under the grand mantra of “Diversity and Inclusion,” The Florida Bar leadership has undertaken the cultural transformation of the Bar and the judicial system.

To their credit, the proponents of this transformation have gained control of the Bar, and their reforms in pursuit of their cultural utopia are evident in Bar publications, organization, legislative and lobbying efforts, and elsewhere.

But, is this cultural change consistent with the purpose and mission of the Bar and the best interests of its members?

The transformation of the Bar actually began some time ago and seems to be related to a larger movement aimed at social and cultural change in businesses, institutions, and organizations, as described in Howard J. Ross’s 2011 book “Reinventing Diversity.” In November 2012, the Bar president announced “[t]here’s no great mystery in what it means to be inclusive. . . [i]t means giving people a chance to fully participate in the Bar and in our legal profession. . . It’s walking together on that path to unity.” Is it a path to unity or to division? In the June 15, 2014, *News*, the chair of the President’s Special Task Force to Study Enhancement of Diversity in the Judiciary and the Judicial Nominating Commissions said, “The theme of this report [from the task force] is. . . that meritocracy and diversity are twins.” Really? This year, yet another Bar president declared, “Diversity and inclusion remain a high priority, as we strive to make our profession reflect the makeup of the citizens of our state.” The new Florida Bar website includes the Board of Governors’ approved definition of “diversity” as having “a dynamic meaning that changes as the [constantly changing] demographics of Floridians change.”

Is it the job of The Florida Bar to ensure the organization mirrors selective and constantly changing demographics of Florida?

Is it consistent with the purpose and mission of the Bar to promote cultural transformation of the bench and Bar, and should your fees fund it? Should you express your views as members? Transformation is underway.

William Drake, Jr.

*St. Pete Beach*

## **Mindfulness**

This responds to recent letters critical of the Bar's promotion of "mindfulness" practice. The two main criticisms were (1) the Bar is promoting a religion or cult and intruding upon the religious and spiritual beliefs of its members, and (2) the *Journal* issue dedicated to mindfulness, while long in extolling its benefits, was short on explaining the actual practice it recommended.

To the first, "mindfulness" is a Buddhist meditation practice of ancient origin called vipassana. Modern-day proponents of the practice likely use the word "mindfulness" because it is less exotic sounding, more descriptive, and doesn't directly challenge religious sensibilities. From this, however, one need not conclude that the Bar is promoting a religion or any religious or spiritual practice.

Meditation is a tool for self-reflection utilized in many religions. As with other tools found in various religions, meditation can be spiritualized or used for valid secular functions. For instance, many religions promote fasting as a vehicle to obtain spiritual insight. Yet, if your nutritionist suggests that you fast once a week to give your inflamed gut a needed rest, I venture to say he has no interest in indoctrinating you into his religion. Should your doctor recommend a yoga class to help you relax and lower your blood pressure, I'm sure she has no interest in converting you to Hinduism (where yoga finds its roots).

Likewise, I surmise the Bar — in promoting mindfulness practice — has no interest in converting its members to Buddhism or promoting any religious faith or spiritual practice. Why do it then? Because meditation is a proven tool to manage stress and results in happier and healthier individuals. Need we be reminded of the grim statistics showing that lawyers suffer higher rates of alcoholism, drug abuse, domestic discord, and suicide compared to the general population? As the lead attorney in the Terri Schiavo case, I experienced years of bone-crushing stress and can attest to the benefits of meditation practice in dealing with that stress. I commend the Bar for promoting a proven tool that can help its members live happier and more productive professional and personal lives.

As to the second criticism, I agree that the *Journal's* "mindfulness" issue, after expounding at length the benefits of meditation, perplexingly left the reader wondering how one actually engages in that practice. Twenty years ago, I wrote "Meditation for Lawyers," a how-to-meditate article published in conjunction with a CLE Bar-accredited

course of the same name (though there wasn't much interest in the subject back then). The article is out of print, but I'm happy to email it to anyone upon a request sent to GeorgeFelos@gmail.com. I'm also available through that address to answer any questions about meditation or starting a meditation practice.

George J. Felos

*Dunedin*

### **Foster Care**

When Senators Orrin Hatch and Ron Wyden, the chair and ranking member respectively of the U.S. Senate Committee on Finance, released findings from a two-year investigation into foster care privatization, it did more than reveal "abuse, neglect, and system failures at every level."

It confirmed what Floridians have known for years, though Florida did not respond to the senators' request for information. As implemented in Florida in many jurisdictions around the country, privatized foster care is an experiment that has failed.

Launched in 2015, of the 33 states that did respond, Senate investigators found failures and flaws in state and federal oversight structures and data collection have made it difficult to impossible to "monitor the operations of the child welfare system, especially its private providers," according to a joint statement from the senators.

This has led to foster children being physically, sexually, and emotionally abused. Countless children have died at the hands of their foster parents or caregivers, who often have little oversight by private contractors concerned more about profits than child care. The situation has only been made worse by the national opioid epidemic, investigators found.

"It is outrageous and heartbreaking that so many vulnerable children experience neglect and abuse within our foster care system," Wyden said. "The ultimate indictment of this system is there is so little oversight that the government can't even confirm the gaps that caring advocates tell us are getting worse."

A series of bipartisan recommendations to the U.S. Department of Health and Human Services, Congress, and the states could help address the child welfare systems' shortcomings.

Further, legislation announced recently — the Child Welfare Oversight and Accountability Act of 2017 — hopefully will further address systemic issues by strengthening oversight and accountability of child welfare systems and individual providers, improve training for caseworkers, and provide incentives for more children in foster care to be placed with family members.

Florida cannot hide from findings that reveal that nationally and at home, privatized foster care is a failure.

Howard Talenfeld  
*President, Florida's Children First  
Plantation*

### **Judicial Retirement Age**

Why should Florida judges be required to retire at age 70 by a restriction adopted in 1956?

The Constitution Revision Commission should place a measure on the ballot raising the judicial retirement age to 75, with the current halfway term provision allowing them to sit on the bench until age 78.

Age 75 is the new age 65.

David P. Carter  
*Seminole*

### **Spam Filter**

In the October 15 *News*, an article told the sad tale of an attorney who missed an order due to an overzealous spam app. Several complicated suggestions were contained in the article to avoid this happening.

But I suggest there are a couple of simple things that could have been done to avoid this mistake: 1) make sure your spam app does not automatically delete perceived spam; 2) have your secy/paralegal check the spam folder at least twice a week and call to the attorneys attention anything that could conceivably be important and have the spam delete one email at a time to make sure they are reviewed; 3) spend a few bucks on an IT expert to check and double check your settings to make sure it's next to impossible for something like this to happen; 4) if you are expecting an order, check the court docket every week like opposing counsel did in this case. These simple steps could/would have avoided this malpractice.

Scott Charlton  
*Sarasota*