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**W**elcome to the Inaugural Issue of the **Legal Advisor!** This newsletter is prepared and published by the Leon County Attorney's Office. We hope you will enjoy this issue, and the issues which we hope to provide to Leon County Commissioners, staff, and citizens on a quarterly basis in the years ahead. While we periodically send articles of interest, memoranda on matters and cases of local application, and updates (and we will continue to do so), we thought that it would be helpful, and in a more enjoyable format, to provide you with excerpts of that information by way of a newsletter which we have entitled "Legal Advisor."

The Attorneys in the Leon County Attorney's Office and professional staff will continue to prepare submissions for the Legal Advisor; however, if you have any particular questions or issues you would like addressed, or matters of interest that you wish to have included in an upcoming issue, please let us know and we will be glad to consider them.

The County Attorney's Office provides legal counsel and support to the Board of County Commissioners and all of its Departments and many of its agencies. Through the course of those representations, we encounter many novel and interesting matters that involve legal issues. It is those types of topics that we hope to include for your information and hopefully enlightenment about the kinds of issues that Leon County, especially the County Attorney's Office, encounters virtually every day. Again, we hope you enjoy your first edition of the Legal Advisor and we welcome your comments and input.

Herbert W. A. Thiele,  
Leon County Attorney

## Meet the County Attorney's Office

### Attorneys



Patrick Kinni  
Deputy  
County Attorney



LaShawn Riggans  
Assistant  
County Attorney



Dan Rigo  
Assistant  
County Attorney



Laura Youmans  
Assistant  
County Attorney

## Court Upholds Changes To The Florida Retirement System

By: Patrick T. Kinni, Deputy County Attorney

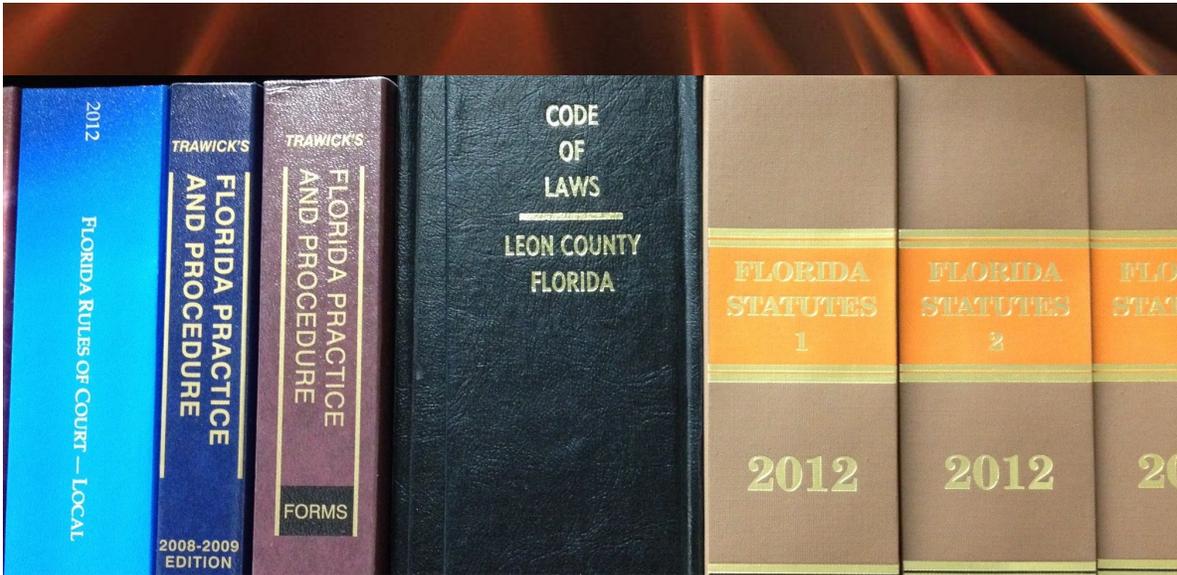
On January 17, 2013, the Florida Supreme Court in *Rick Scott v. George Williams*, overturned a trial court ruling which had invalidated Legislative amendments to the Florida Retirement System (FRS). The resulting decision upholds those changes enacted in 2011, requiring employees contribute three percent (3%) of their salaries to FRS and eliminating the cost of living adjustment for service after July 1, 2011. The decision will have significant impacts for local governments because it reaffirms a thirty (30) year old decision which upheld the Legislature's ability to prospectively reduce the pension benefits of current employees.

The subject amendments by the Florida Legislature to the Florida Retirement System were challenged by several FRS members and public employee unions. After a hearing before Circuit Judge Jackie L. Fulford, the trial court found that those FRS amendments violated the contract clause, the takings clause and the collective bargaining clause of the Florida Constitution. An appeal was taken by the State and certified directly to the Florida Supreme Court as involving a matter of great public importance. The trial court's decision upheld the rights of FRS members to a non-contributory retirement plan with a cost of living adjustment, finding that both provisions were legally enforceable as valid contract rights and could not be

unilaterally abrogated by the Florida Legislature. This ruling was based primarily on the language contained in Section 121.011(3)(d), Florida Statutes which provides in pertinent part that:

The rights of members of the retirement system established by this chapter shall not be impaired by virtue of the conversion of the Florida Retirement System to an Employee noncontributory system. As of July 1, 1974, the rights of members of the retirement system established by this chapter are declared to be of a contractual nature, entered into between the member and the state, and such rights shall be legally enforceable as valid contract rights and shall not be abridged in any way.

In reversing the decision of the trial court declaring the 2011 Legislative amendments to the Florida Retirement System unconstitutional, the Supreme Court rejected the argument set forth that the preservation of rights language contained in Chapter 121, Florida Statutes, created a prohibition on prospective changes to the Florida Retirement System. Rather, the court found that the preservation of rights language was intended to create contractual rights in those benefits accrued to date, thereby providing the Legislature with the discretion to change retirement benefits prospectively only.



## Meet the County Attorney's Office

### Support Staff



Marcia Labat  
Legal Administrator



Emily Anderson  
Paralegal



Johnny Hagan  
Legal Records  
Specialist

Photos

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### Update on Property Assessed Clean Energy (PACE)

Leon County Attorney, Herbert Thiele co-authored an article entitled, *Update on Pace One Year Later: Litigation, Legislation and New Initiatives*, published in The Environmental and Land Use Law Section Reporter, Vol. XXXIV, No. 2, December 2012. As the title implies, the article discusses the background and the current development of PACE programs across the nation. Additionally, the article discusses the pending PACE litigation as well as the

status of Florida programs. Presently, Leon County is exploring the development of a commercially focused PACE program. This article contains a wealth of information and may be found in its entirety at:

<http://eluls.org/wp-content/uploads/2012/01/12-12.pdf>.

### Beyond the Office

Assistant County Attorney, LaShawn Riggins takes her seat on the bench to preside as a volunteer judge in a mock trial case presented by 7th graders in the Classroom to Courtroom (C2C) program. The C2C program brings courtroom education to life by going into



classrooms of 7th graders in Leon County. Students in the program choose a case and take on the roles of attorneys, witnesses, and jurors. The students then visit the Leon County Courthouse where they observe real court proceedings, tour the courthouse, and present their mock trial in an actual courtroom with a volunteer judge. To learn more about the C2C program or Leon County Teen Court please visit their website at:

[www.leoncountyfl.gov/teencourt](http://www.leoncountyfl.gov/teencourt).

### Support Staff Continued



Kimberly Morgan  
Legal Assistant



Patti Poppell  
Sr. Paralegal



Heide Smith  
Receptionist



Shawn Williams  
Legal Assistant



Present (from left to right): Dan Rigo, Laura Youmans, LaShawn Riggans, and Patrick Kinni. Present but not pictured, Herb Thiele.

The Leon County Attorney's Office emerged victorious in the 17<sup>th</sup> Annual Tallahassee Bar Association Chili Cook-off, winning the "Best Margarita" competition. The margarita, a specialty of Assistant County Attorney LaShawn Riggans, had just the right amount of tart and sweetness and was the hands-down winner.

The CAO's chili offering did not come out on top, but was definitely a crowd favorite.

The chili was prepared by Kathi Thiele, wife of County Attorney, Herb Thiele, and was chosen to represent Leon County in a blind taste test against a very competitive field.

The Tallahassee Bar Association Chili Cook-off is held every year and proceeds go to support the Legal Aid Foundation, which provides free legal assistance to Leon County residents who are unable to afford an attorney.

*By: Laura Youmans, Assistant County Attorney*

Emily Anderson wins 2nd Place at the Courthouse in the County's first Live Well Leon "Souper Bowl Cook-Off," with her Witch's Brew (a/k/a Chicken & Veggie Soup).



### Quarterly Legal Tip

#### Public Records Requests

"Many staff inquire of an individual who makes a public records request as to the reasons for the request, who that party is, and an explanation of the need."

Q: *Is this permissible?*

A: No. The Florida Public Records laws (Chapter 119, Florida Statutes) clearly provides that public records



are to be provided upon request at reasonable times and for the fees as set out statutorily. Leon County may not condition the provision of non-exempt public records on requesting the name, address, or reasons the requestor has made the public records request. All Leon County should do is provide the records in a timely fashion and charge the statutorily permitted fees.

Please direct all questions, comments, and submission requests to LaShawn Riggans at: [LegalAdvisor@leoncountyfl.gov](mailto:LegalAdvisor@leoncountyfl.gov)



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