
THE BRECHNER REPORT

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U.S. Supreme Court won't limit X-rated television

WASHINGTON – The U.S. Supreme Court held that limiting the hours of subscription-based adult programming is an infringement on free speech.

Congress had restricted the hours of such programming to late-night hours in order to protect children who may view “signal bleed” in which

scrambling doesn't completely obscure programming.

The Court held in a 5-4 vote in *U.S. v. Playboy Entertainment Group*, 120 S. Ct. 1878 (2000), that the restriction was unconstitutional because parents have the ability to avoid the cable programming by

calling cable companies themselves. Because there are less restrictive means to remedy the problem, the Court refused to allow a complete ban. Under federal law, cable operators are required to comply with a customer's request to completely block the signal, rather than just scramble it. (5/23/00)

FIRST AMENDMENT

COURTS

Judge issues order for media in high-profile cases

MIAMI -- In the wake of the Elian Gonzalez custody battle, Miami-Dade Chief Judge Joseph Farina issued an administrative order to deal with high-profiled family court cases.

The plan designates a specific courtroom, establishes a media room, and restricts media traffic during high

visibility cases. The plan also calls for the creation of a media committee, with representatives from television, radio, print and wire services. The plan establishes a media room for interviews, and prohibits interviews or filming in non-designated areas.

The plan currently applies only to family cases. A similar one is being developed for

all Miami-Dade circuit court cases, according to Karla Hernandez, a spokeswoman for the courthouse.

Parent argues for open court

TALLAHASSEE – The Florida Supreme Court has heard arguments in support of opening access to parental rights hearings.

Kathy Bush sought to open hearings in front of a judge who will decide whether to terminate her parental rights. The state is attempting to sever Bush's parental rights to her daughter after Bush was convicted of child abuse. During her trial, Bush claimed she had Munchausen syndrome by proxy, in which a parent causes a child's illnesses to get attention. Bush would like her parental rights hearing open to the public to avoid a “star-chamber proceeding,” according to her attorney.

According to Fla. Stat. 38.809(4), hearings in which the state asks a judge to terminate parental rights must be closed to the public. (5/11/00)

Commissioner charged with violation

FORT MYERS – A Lee County commissioner was charged with violating a second-degree misdemeanor county law that requires government officials to disclose private meetings with lobbyists.

Commissioner John Manning was investigated for meeting for years with lobbyists who sought land-use changes, roads and multi-million dollar county contracts. Lee County requires that public officials file with the clerk's office disclosures of dates and times they met privately with lobbyists. Manning was one of

the commissioners to approve the requirement 10 years ago.

The (Fort Myers) News-Press discovered that Manning failed to file disclosures for three years. Prosecutors found the failure to disclose dated back to 1993. Manning said at first that he had not met with lobbyists during the three years *The News-Press*

questioned him about. Journalists found that Manning's appointment calendar showed meetings with people registered as lobbyists in Lee County. Manning said he had misinterpreted the disclosure requirement, and he thought his executive assistant filed his disclosures. (5/11/00)

ACCESS RECORDS

ACCESS MEETINGS

Investigation shows bug board didn't violate law

KEY WEST — A special prosecutor found that the Monroe County Mosquito Control Commissioners did not violate the Open Meetings Law in January 1999.

A newspaper reporter alleged that she had seen three commissioners violate the

law by speaking with a state senator's administrative assistant. The journalist said she did not overhear the conversation.

Assistant State Attorney David Paulus, who investigated the allegations, said in his report that there was no evidence of any

violations, especially because the journalist could not remember any of the statements made during the conversation. Florida prohibits two or more government officials from discussing a matter that may come before them for vote at a later date. (5/19/00)

ACCESS RECORDS CONTINUED

Settlement includes lesson in access to information

PENSACOLA — A settlement of a public records dispute with the Escambia County School Board requires the board to attend a seminar on Florida's Public Records Law.

The settlement ends a year-long dispute between a parent and a board member. The parent, Susan Watson, had requested access to board member Hal Mason's e-

mails since he took office in November 1998. She also requested his e-mail address book and the translation of any nicknames in e-mail addresses. Mason refused to provide the records.

In July 1999, a circuit court judge sided with Watson and ordered Mason to hand over the documents.

Watson's settlement requests included: a requirement that the board attend a seminar, which will be open to the public, given by a representative from the Office of the Attorney General about access to government information; a requirement that the board acknowledge its responsibilities under the Public Records Law and comply with it; and a requirement that the board pay Watson \$904.92, which are the expenses she incurred in the lawsuit. (5/16/00)

Charity hands over credit card records

MIAMI — Under the threat of a contempt order, a Miami Police Department charity agreed to give *The Miami Herald* access to months of credit card bills.

The paper sought to have Circuit Judge Murray Goldman find the Do The Right Thing organization, a law enforcement charity, in contempt for failing to hand over the records seven months after a judge ordered it to do so. In October 1999, a judge had ordered the group to give the paper the bills.

The *Herald* wanted access to the credit card records because a founder and top officer in the group, Donald Warshaw, admitted to using the charity's credit card for personal purchases. He said he paid

back more than \$100,000 of the charges with personal checks.

The charity previously granted access to only part of what was requested. The records request was for credit card bills from 1993 to 1998.

Washaw provided some of the bills and personal checks showing he had paid back his portions of the bills, but he did not provide the credit card statements from February 1995 to September 1997.

According to *The Miami Herald*, Warshaw refused to give the paper the records because he didn't have them, he was too busy, and he wasn't sure the paper had a legal right to the records. (5/16/00 — 5/21/00)

Paper drops suit against mayor

HIALEAH — *The Miami Herald* agreed to drop a public records suit against the mayor of Hialeah the same day the suit was filed.

A journalist for the paper requested records of phone calls received in the mayor's office. When the mayor's office didn't hand over the records, the newspaper filed suit. When the mayor provided the records, the paper dropped the suit.

The city must pay *The Miami Herald's* \$500 legal fees. (5/24/00)

ADVERTISING

Billboard companies sue Pinellas County

ST. PETERSBURG — Two billboard companies filed suit against Pinellas County to challenge an ordinance they say is unconstitutional.

Eller Media and Sunus Corp. claim the sign ordinance infringes on their First Amendment rights. The ordinance bans billboards in some unincorporated areas,

and it regulates the height and sizes of billboards.

The ordinance had been revised in 1992, and businesses had seven years to comply with the new requirements.

Eller Media applied for a variance for 212 billboards in unincorporated areas, but the request was rejected. (5/20/00)

DECISIONS ON FILE

Copies of case opinions, attorney general opinions, or legislation reported in any issue as on file may be obtained upon request from the Brechner Center for Freedom of Information, College of Journalism and Communications, 3208 Weimer Hall, University of Florida, Gainesville, FL 32611-8400, (352) 392-2273.

Sheriff boycotted TV stations, refused traffic control

FORT MYERS – A Lee County sheriff boycotted two television stations under the ownership of Waterman Broadcasting as a result of a child abduction story.

The boycott was short-lived, however. Within a few days, the sheriff had changed his mind.

Sheriff John McDougall said he was unhappy with the coverage of the Gretchen Grodin death investigation. The stations

aired stories alleging that the 11-month-old, who was found buried alive in May, might have survived had deputies responding to a December complaint about her parents done more investigating.

McDougall also claims that in November 1999 one of the stations spread a false rumor that he was having an extramarital affair.

As a result of the stories, McDougall refused to speak with reporters from WBBH-

NBC and WZVN-ABC. Employees of the sheriff's office hung up the phone on any Waterman employee who called. McDougall also refused to provide traffic control for a large event sponsored by WBBH.

After a meeting with the owner of Waterman Broadcasting, McDougall ended the boycott. He said after receiving an apology from the owner, he was willing to speak to the stations. (5/18/00 – 5/20/00)

FIRST AMENDMENT

Appellate court allows dance club zone

TAMPA – The 2nd District Court of Appeals upheld an injunction prohibiting nude dancing in an Ybor City dance club because a city zoning ordinance bans it.

Last year, a circuit judge issued an injunction prohibiting nude dancing at Club Flamingo in Ybor City.

The club's owners said they plan to appeal the appellate ruling as well.

The city allows adult entertainment in areas zoned for industrial and commercial use. The ordinance prohibits adult entertainment 500 feet from a residential area or office district, or within 1,000 feet of one another. The city has 10 pending zoning lawsuits against nude dance clubs. Since the city began filing suits, three nude dance clubs have closed. (5/10/00)

Town clerk fired for discussing suit

BEVERLY BEACH – A Beverly Beach town clerk lost his job after discussing a lawsuit against the town with a journalist.

Clerk Doug Cortney was fired after discussing a suit filed against the city by The Shark House seafood restaurant. The restaurant is embroiled in an annexation dispute with the city. Cortney

told the journalist that the suit may cost the town thousands of dollars.

The town commission voted to fire Cortney because the members said they were embarrassed by his comments, which they considered "backstabbing." Mayor Charles Osbourne said the clerk was in no position to discuss policy issues. (5/6/00)

COURTS
CONTINUED

LIBEL

Journalist sues weekly paper for libel

TAMPA — A television journalist filed a defamation suit against the *Weekly Planet* claiming the paper published false information.

Steven Emerson, a Washington journalist who produced a documentary on the Islamic

Jihad, claims in the suit that the paper published false reports about him and his work. The *Weekly Planet* has published stories that challenge Emerson's reports.

Emerson is seeking more than \$33 million in damages. (5/18/00)

PRIVACY

Woman sues tabloid for story about affair

PALM BEACH – A woman who said she had a confidentiality agreement with *The National Enquirer* is suing the tabloid for divulging private information.

Tammy Phillips filed suit against the paper after it ran a story linking her to presidential candidate George W. Bush. Phillips told the paper she had had a sexual relationship with Bush, but insisted the paper embargo the story until she gave permission to run it. Phillips said she

required a written agreement with the paper before she would divulge information. After a reporter asked her "inappropriate questions," she decided not to pursue an agreement with the paper.

The paper then published a story about Phillips' claims and called her a "torrid temptress." The paper also ran a picture of her modeling lingerie.

Phillips claims the use of her name, picture and story were unauthorized. (5/23/00)

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Technology should make access to information easier

This article was reprinted with permission from the Public Trustee, the official publication of the Florida Association of Court Clerks.

With the development and growth of the Internet and technology, public access to government records

The Back Page

By J.K. "Buddy" Irby

is taking on a whole new definition.

To the "dot.com" generation,

access no longer means traveling to the local courthouse in person. Access now means having instant and remote electronic ability to view information on file in the court clerk's office.

The changing paradigm is transforming courthouse operations for clerks of courts and the way clerks do business.

Remote access is supported by state policy, codified in Section 119.01, Florida Statutes, requiring the state, counties and municipalities to strive to provide remote electronic access to public records to the extent feasible.

Today, electronic access to public records is more a question of funding and priorities than feasibility, and Florida's Clerks of Court are on the cutting edge of this rapidly evolving technology.

Many of Florida's Clerks are already on the worldwide web with information regarding agendas, commission minutes, traffic tickets, marriage licenses, service fees, jury duty, financial reports, and much more. Step two in the process is to provide the public with remote access to view indices of court cases and official records.

Clerks are quickly moving to provide remote electronic access to images of documents on file with the Clerks' offices.

Finally, electronic filing will become the standard for the courts, eliminating the need to optically image many court documents in order to provide them to the public.

Clerks are the first to recognize that there are problems and challenges with each new step. Not everyone will agree that a copy of his or her court judgement, mortgage, or traffic record should be on the Internet.



Irby

However, these records are already public as determined by the Legislature. Clerks, in an effort to expand and enhance our services to the citizens via remote access, are in effect only opening the doors of the courthouse seven days a week and 24 hours a day.

Our form of government is built upon citizenship responsibility. Citizenship requires participation.

Because of the efforts of the clerks, public access to county, court and financial records will no longer be limited to those few who can take time off during normal work hours to research public records and better participate in their government.

This technology will, in the final analysis, only serve to make the government more open and citizen participation easier.

The Hon. J.K. "Buddy" Irby has been the Clerk of Court for Alachua County since 1993.

Court clerk-related web sites of interest

The Alachua County Clerk's Office can be located online at <<http://www.clerk-alachua-fl.org>>.

The web site has a specific search engine for public records, leading the viewer to civil and criminal court documents. The site allows traffic citations to be paid online. It also has a search engine for old public records – archived records from 1830 to 1925.

For more information about county clerks around the state, click into the web site for the Florida Association of Court Clerks, which is located at <<http://www.flclerks.com>>. The association's site has links to clerks' web sites in more than 30 Florida counties. The site also offers textual information about the clerk in each county. The textual information includes contact information, such as address, phone number and e-mail address, as well as biographical information, such as when the clerk took office and lists of other governmental positions the clerk held.