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## **Morrill: Plan Discourages Retired Attorneys from Advising Poor Floridians**

*By David E. Morrill, Guest Column*

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Notwithstanding the gifts of money and time provided by many Florida attorneys and the hard work of the staff attorneys in legal-aid societies, justice in civil matters is denied to the vast majority of low-income Floridians because they cannot afford to retain an attorney.

To help meet this need, Chapter 12 of the Florida Bar Rules allows retired attorneys from jurisdictions other than Florida, under certain conditions, to be licensed as Emeritus Attorneys with the authority to appear in Florida courts and administrative agencies as volunteers without fee to represent low-income Floridians in civil matters.

The Association of Retired Attorneys of Sarasota, a local nonprofit with a membership of over 125 attorneys and law professors — the vast majority of whom have retired in other jurisdictions and are not licensed in Florida — has for more than 20 years encouraged its members to volunteer as Emeritus Attorneys under the auspices of

Legal Aid of Manasota and Gulf Coast Services in Sarasota and Manatee Counties.

Both of these local legal-aid entities have benefited greatly from the use of Emeritus Attorneys in carrying out their mission. I have been privileged to have served as an Emeritus Attorney under the auspices of Legal Aid of Manasota for 15 years.

The Florida Supreme Court has issued an opinion, which is not yet final, which would modify the Emeritus Attorney Rule, but the modification fails in two areas to encourage more Emeritus Attorneys to participate.

In the first area, the non-final rule changed the name of “Emeritus Attorney” to “Emeritus Lawyer” without containing a grandfather clause which would make current Emeritus Attorneys automatically become Emeritus Lawyers.

Most currently licensed Emeritus Attorneys would not qualify to become Emeritus Lawyers under the new rule because of the second problem area, which requires applicants to have actively practiced law for 10 years out of the last 15 years prior to the application.

I have not practiced law at all under the meaning of the rule for the last 15 years. Most out-of-state retired attorneys had been retired for over five years before deciding to volunteer. The non-final rule would authorize retired judges and law professors to become Emeritus Lawyers, but only those who have practiced law for 10 years out of the last 15 years before their application. I doubt that this will result in many judges and law professors in applying.

On Oct. 1, 2015, Jorge Labarga, Chief Justice of the Florida Supreme Court, submitted the first interim report of a commission to encourage more attorneys to participate in furnishing pro bono legal services to low-income people. The report included a revision of the Emeritus Attorney Rule that did not change the title of Emeritus Attorneys and contained a provision requiring that, to

qualify, an applicant would have to have practiced law for any 10 years prior to application.

Chief Justice Labarga recommended to the other justices that they approve this amendment. Instead, the proposed amendment was referred back to the Florida Bar for comments, resulting in the alteration of the amendment which we oppose.

Through the Florida Bar Foundation, whose main purpose is to encourage pro bono services for low-income persons in civil matters, our Association made our objections known to the Florida Bar over two years ago, but they were ignored.

In addition to our members serving as Emeritus Attorneys, many are contributing as Guardians Ad Litem, appearing in Sarasota County schools supporting law programs and celebrating Law Day, and assisting in Teen Court.

But out-of-state retired attorneys and law professors throughout Florida are standing by and want the opportunity in many innovative ways to be able to give free legal advice to low-income people.

We believe that the practice of law is a calling, a calling which does not go away when we retire. We recognize the need for civil representation of the disadvantaged.

Do the Florida Bar and Florida Supreme Court agree with us? If not, please explain.

*David E. Morrill is Secretary of the Association of Retired Attorneys of Sarasota, Inc.*