

# metro

**FORT FREDERICA**  
Georgia site part of park service  
centennial celebration **Story, B-3**



**STATE TESTING**  
Judge weighs third-grade  
testing policy **Story, B-4**

# Rep. Brown fraud trial moved to November

Lawmaker now has more time to find lawyers to represent her

By Steve Patterson  
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U.S. Rep. Corrine Brown has more time to find a lawyer for her fraud trial after a judge agreed Tuesday to let two Orlando attorneys withdraw and moved the trial's target date to November.

U.S. Magistrate James R. Klindt told Brown to be

back in court Sept. 7 for a follow-up hearing but didn't set that as a firm deadline to have new counsel.

"I am convinced that Ms. Brown is making a good-faith effort to assemble a defense team," Klindt said after a closed-door hearing where he questioned the congresswoman and attorneys Mark NeJame and

David Haas, who last week asked to be released from her case because of "irreconcilable differences."

Three law firms have sent attorneys to Brown's court hearings since her indictment was unsealed July 8, but none are committed now to handle her defense all the way through a trial.

Brown faces 22 charges involving mail and wire

fraud, lying on income tax forms and concealing income that prosecutors contend came from a bogus charity she supported, an organization called One Door for Education.

A permanent attorney needs to be named before trial preparations can really begin. Prosecutors asked Klindt to consider appointing an attorney for

Brown, but the judge said that wasn't appropriate yet.

"There is no reason whatsoever to believe that she is trying to delay," Klindt said after he allowed reporters and attorneys back into the courtroom following more than an hour of private talks. "While it's somewhat unusual ... this is just one of

**BROWN continues on B-4**

# SIGNS OF EARLY VOTING



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Jerry Harvey, a volunteer supporting Kimberly Daniels, waits for cars to approach to hand out campaign literature to people making their way to the early voting site. As the primary election approaches a proliferation of candidate signs is growing near the site in the Gateway Branch of the Duval County Tax Collector's office on West 44th Street near Gateway Shopping Center. Duval County has 18 early voting sites. The main office for the Supervisor of Elections downtown will be open for early voting from 8 a.m. to 5 p.m. on weekdays and 8 a.m. to 4 p.m. on weekends. Other early voting sites will be open from 10 a.m. to 6 p.m. Aug. 30 is Election Day.

# City cleared in firefighters' suit

Court said Jacksonville shouldn't be held in contempt after hiring rules change with African-Americans

By Jim Saunders  
The News Service Of Florida

TALLAHASSEE | In an issue that goes back decades, a federal appeals court said Tuesday that the city of Jacksonville should not be held in contempt for its handling of an agreement that required hiring more black firefighters.

The case stemmed from a 1982 court-approved agreement, known as a consent decree, that required the city to begin hiring an equal number of black and white firefighters. Jacksonville was required to follow that hiring practice until the ratio of black firefighters to white firefighters matched the city's overall

racial makeup.

Jacksonville stopped following the consent decree in 1992 without going back to court, saying it had met the hiring requirement. That was followed by a "dramatic" drop in the hiring of black firefighters during the next five years, said Tuesday's ruling by a panel of the 11th U.S. Circuit Court of Appeals.

Plaintiffs in the case went to court in 2007 seeking to have the city held in

contempt for not following the consent decree since 1992. Settlement discussions lasted from 2007 to 2013 but were ultimately unsuccessful, Tuesday's ruling said.

A federal district judge later ruled in favor of the city on the contempt issue, finding that the plaintiffs waited too long — from 1992 to 2007 — before going back to court. The

**DECREE continues on B-4**

# Council signs off on funding for Hemming Park

Friends group will get \$58,000, which will have restrictions for use

By Christopher Hong  
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The city will continue paying the nonprofit that manages downtown's Hemming Park until October despite recent scrutiny into its performance and spending of public money, although the group's long-term future remains uncertain.

The Jacksonville City Council on Tuesday voted 16-3 to pay Friends of Hemming Park \$58,000 after taking much of the summer debating whether to do so.

The council also approved a \$3.13 million upgrade to Northwest Jacksonville's Lonnie Miller Park that includes new trails, tennis courts and baseball fields.

Friends of Hemming Park, which has received \$1.1 million from the city since it took over the park in 2014, struggled this summer to secure more money from the city that the group's leaders said was crucial to keep it afloat.

Council members have grown increasingly skeptical about the group's success in transforming the park into a vibrant area. Confidence in the

group further sank after city auditors released a report last month that found it spent tens of thousands in public money on staffers' meals, pricey gadgets and office furniture.

In response, the group's executive director, Vince Cavin, resigned and the group made other changes to its leadership.

While the group originally hoped to receive \$150,000 from the city, council members agreed to pay \$58,000 that would be limited to salaries and other basic operational expenses. The money will not be allowed to pay for event programming, which has been a central part of the group's plan to improve the park.

Those changes were enough to win the council's approval of the money, and some council members said they believed Friends of Hemming Park was back on track.

"I'm willing to give them a second chance," said Councilman Sam Newby.

However, council members Matt Schellenberg, Al Ferraro and John Crescimbeni voted against the

**COUNCIL continues on B-4**

# An urban oasis was once at the city's edge



mark walks jax  
mark woods

The sunlight was poking through the trees in the small park next to San Jose Boulevard, the morning traffic on the road starting to pick up.

Richard Thalleen stood in Nathan Krestul Park, pointing in each direction and talking about what was there. Not the creek and trees and birds that still are in a park that dates back to the 1920s. He described what used to be all around there, back when the city limits signs were a couple of miles north, back when he was a boy.

"We rode our bicycles all over here," he said. "We played until it got dark. Of course, that was a different era."



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The walk across Jacksonville picks up at Nathan Krestul Park on San Jose Boulevard, adjacent to Christopher Creek.

**WOODS continues on B-4**

# No ruling yet on third-grade testing

## Unclear if judge will support, shatter 'opt out' on tests for advancement

By **Brandon Larrabee**  
The News Service of Florida

**TALLAHASSEE** | A state judge is weighing a decision that could shake Florida's education-accountability system following a marathon hearing Monday in Tallahassee.

After nearly nine hours of testimony and arguments, Leon County Circuit Judge Karen Gievers wrapped up a hearing on state and local policies for allowing students to move to the fourth grade but did not rule on a request that would allow about a dozen students across Florida to advance.

The practical effect of Gievers' decision, and the appeals that are almost certain to follow, could either validate or shatter the "opt out" movement led by parents who say a state standardized test should not decide whether their children are allowed to move from third grade to fourth grade.

The parents of the students involved in the case told their children to "minimally participate" in the Florida Standards Assessment for third grade by filling in their names, breaking the seals on the tests and then refusing to answer any questions.

Those parents believe state law gives them the right to tell their children not to answer questions on the test. But while the law spells out ways to advance that don't require passing the assessment, the Florida

Department of Education and school districts say that doesn't give students the opportunity to refuse to take it.

Gievers, who seemed in an earlier hearing to sympathize with the parents, gave no clear indication of how she intended to rule on the request for an injunction.

But the hearing laid bare not only the legal questions at the heart of the case, but the philosophical ones: Is a report card based on a year's worth of work a better measure of a student's knowledge, or is an objective test the proper measure? Where is the balance between a parent's right to control his or her child's education and the state's right to determine how to measure learning?

The state cast the lawsuit as one that could undo years' worth of efforts to end social promotion and make sure that students have mastered reading before going to the fourth grade.

"This is a potential undermining of the entire assessment and accountability system," said Rocco Testani, an attorney representing the Florida Department of Education.

Those challenging the promotion policy tried to prove that the children deserved to move on without taking the Florida Standards Assessment or one of the alternative tests offered by the state. At times, they even drew on the testimony

of words of school district officials and employees.

Rebecca Dooley, who teaches one of the children, testified that the girl's report card showed she "demonstrated ability at grade level performance for all four marking periods."

Dooley also indicated the student shouldn't be forced to repeat material she had already mastered.

"I do not believe it would be in her best interests academically," Dooley told the court.

Michelle Rhea, the girl's mother, read from an email by the vice-chairwoman of the Orange County school board that indicated the last-minute rush to put together a portfolio for Rhea's daughter showed the district had erred.

"The ball got dropped on this one, and the district needs to learn from it and make changes going forward for it not to happen this way again," wrote Nancy Robinson, the vice chairwoman.

For its part, the state repeatedly showed that the parents had declined opportunities to have their children take alternative tests. The parents argued that doing so would simply expose their children to the same kind of high-stakes testing that they had tried to avoid by opting out.

State lawyers also tried to highlight how Florida's retention policy has improved education. Juan Copa, a deputy education commissioner who deals with the accountability system, said Florida's ranking on national tests and its graduation rate has improved since the

state began requiring the tests for advancement to the fourth grade.

Mary Jane Tappen, vice chancellor for K-12 public schools, also testified that there are questions about whether report cards are an accurate and fair measurement of whether students know everything they should.

"The concern is that those decisions are not based on the same scale and consistent from student to student across the state," she said.

While the hearing Monday was not as emotional as an earlier round of testimony, the lawsuit remains contentious. Even Gievers' authority to decide the case is in doubt.

Monday's hearing moved forward despite almost all of the school districts refusing to fully participate. The districts insist that Gievers doesn't have jurisdiction over their retention policies and have asked for their cases to be heard in their own counties and separate from the suit against the state.

That was one of a barrage of objections covering everything from whether revealing certain information about the students might violate their federal privacy rights to whether Attorney General Pam Bondi should have been formally notified about the case.

Gievers said she would rule on the venue for the case and the request for an injunction as quickly as possible. In the meantime, she swatted away the districts' objections and pushed ahead, keeping court in session through lunch and into the evening.

## First Coast Happenings

Compiled by Julie Kanner, the Times-Union

### WEDNESDAY

**7th Annual Nature and Wildlife Exhibit**, daily through Sunday, St. Augustine Art Association, 22 Marine St. Nature and wildlife in the great outdoors are celebrated in this gallery-wide exhibition. Artists' works are sold to benefit conservation and art education. (904) 824-2310 or staaa.org.  
**Smokey Joe's Cafe**, Dinner at 6:30 p.m., Show starts at 8 p.m. Tuesday-Friday, Meal at 11:15 a.m. and 6:30 p.m., Show at 1:15 p.m. and 8 p.m. Saturday, Meal at 12:15 p.m., Show at 2 p.m. Sunday through Sept. 4. Alhambra Theater & Dining, 12000 Beach Blvd. Nominated for 8 Tony Awards. The longest-running musical review in Broadway history. Tickets \$35-\$53 and include dinner, show & parking. Box office (904) 641-1212 or alhambrajax.com.

### THURSDAY

**Happy 100th Birthday National Park Service!** Castillo de San Marcos, 1 S. Castillo Dr., St. Augustine. Free admission. For more information call (904) 829-6506 or go to nps.gov/casa/index.htm.  
**Concerts in the Plaza**, 7 p.m., Plaza de la Constitucion, downtown just west of the Bridge of Lions, St. Augustine. Series continues Thursdays through Sept. 1. Bring lounge chairs and a picnic (optional). Free. (904) 825-1004 or ConcertsInThe-Plaza.com.

### FRIDAY

**Sing Out Loud Festival**, Friday through Sept. 11. St. Augustine will host the festival featuring 28 concerts at 10 different venues, showcasing over 130 musical acts. All events are free and open to the public. Presented by Community First Credit Union. Visit singoutloudfestival.com for full details.

**Theeb**, part of the Literary Guild of St. Simons Island Film series. 7 p.m., Friday, St. Simons Island Casino Theater, 550 Beachview Dr., St. Simons Island. United Arab Emirates 2014 film about the perilous desert journey of a Bedouin boy to guide a British officer to his secret destination. Set in the Ottoman province of Hijaz during World War I. In Arabic with English sub-titles. 140 minutes, rated R. A donation of \$3 is requested.

### SATURDAY

**Riverside Arts Market**, River Ruckus with St. Johns Riverkeeper. Morning Yoga with Marcy Knight, 9-10 a.m.; arts market, 10 a.m.-4 p.m. Saturdays through Dec. 17; under the Fuller Warren Bridge, 715 Riverside Ave. Live music and entertainment on the River Stage includes Savanna Leigh Bassett, 10:30-11:40 a.m.; Mike Shackelford with Steve Shanholtzer, noon-2 p.m.; Linda Greenville with Mike Pearson, 2:30-3:30 p.m., (904) 389-2449 or riversideartsmarket.com.  
**Mayport Village Storytellers**, 1 p.m., Saturday, Beaches Museum & History Park, 381 Beach Blvd., Jacksonville Beach. Hear tales (some taller than others) of life and adventure in the Village. For more information call (904) 241-5657 or visit beachesmuseum.org.  
**School of Rock Auditions**, 2 p.m., Saturday, Lighthouse Theatre, 11 Old Mission Ave., St. Augustine. Auditions, including orchestra, for the fall musical production, all under age 18. For students in 1st through 12th grades. For more information (904) 825-1164 or http://www.rnh.com/show/383/School-Of-Rock.

**Complete listing at jacksonville.com/calendars.**

## WOODS

Continued from B-1

Mr. Thalleen is 81. When I finished the previous leg of a walk across Jacksonville at Christopher Creek, Thalleen asked if I'd like company when I resumed walking through this part of town — a town that during his lifetime expanded to become the largest in the lower 48.

As we started to walk south on San Jose Boulevard, he recalled when it was a much narrower road, leading out into the country. Across the street, now the site of Epping Forest, was the 60-acre duPont estate.

"We couldn't get in there, but we did our fishing over there, off the point," he said, pointing across the road to Christopher Point. "Driving here today, I was thinking about what a lucky guy I was."

His family moved here in 1947. He grew up north of what is now University Boulevard on Birchwood Avenue. It was a neighborhood full of new houses. A few doors away lived Sandra Huber. They started dating when they were both going to Jacksonville University. They've been married 60 years and live not far from where they grew up, in a house built in 1950.

As we walked toward DuPont Avenue, he recalled them both attending DuPont Middle.

She was there when it became a high school and graduated as part of the first class. He went to The Bolles School when it was an all-boys military school, the reincarnation of a hotel that was built shortly before the Great Depression and ended up in foreclosure. He played football — guard on offense, line-backer on defense — and graduated in 1953.

"We didn't have a very good football team," he said.

A lot has changed at his old school, beyond the football team's record. So when we reached Bolles,



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Richard Thalleen, 81, who attended Bolles when it was a military academy, has lived in this San Jose Boulevard neighborhood since he was a boy.

we took a detour onto the campus.

It was freshman orientation day. If the students arrived from the south, they passed a banner hanging on a fence near the football stadium — or perhaps more accurately, hanging with the swimming pools in the distance.

"The Path to GOLD begins at BOLLES," it said.

Three local swimmers — Ryan Murphy, Joseph Schooling and Caeleb Dressel — combined for six gold medals (only 14 countries won more). All trained in those pools at some point. Murphy and Schooling graduated from Bolles. Dressel, who graduated from Clay High School, swam for the Bolles Sharks club team.

As we walked around the campus, standing out a bit among the young faces, Thalleen pointed out the Bent Student Center, named after one of his fellow graduates in the Class of '53.

He certainly didn't end up as wealthy as some of his classmates. He didn't retire until he was 80. Not that he's complaining.

He lights up as he talks about his childhood (his mom was organist and choir director at Hendricks Avenue Baptist), his

family (four children, 11 grandchildren, 13 great-grandchildren), his church (All Saints Episcopal) and his memories of Bolles as a military school.

He recalled how one legendary teacher, Col. Ball, challenged students in history class to tell him exactly what George Washington said when crossing the Delaware.

"He said the answer was in the downtown library, in a book with a reddish cover," Thalleen said, laughing as he recalled when he and his buddies went to the library. "About 75 percent of the books about American history had a reddish cover."

They didn't find the answer. It wasn't until after the class was over that they learned that one of Washington's men, John Knox, was heavy enough to cause the small boat to list, prompting Washington to supposedly say, "Shift your arse, Knox, and trim the boat."

I was able to find the answer later in a matter of minutes on the internet. (And if it's on the internet, it must be true.) And while I suppose that's progress, an example of the power of modern technology, all of this also seems to be a reminder of something lost.

Kids hopping on bikes, heading to the public library, combing through old books.

With the temperature rapidly rising, we turned around and walked back to where our cars were parked at Nathan Krestul Park.

After Mr. Thalleen headed home, I continued walking. But first I took a few more pictures of the tidal creek that winds its way east, a narrow finger of it reaching my backyard. A blue heron landed in the marsh. A butterfly floated through the garden in the corner of the park, not far from a plaque in memory of Mary Brasfield Wheatley (1934-2014): "Noted musician, gardener and naturalist, who loved to create butterfly gardens and to teach the community about the importance of plants and wildlife to our lives."

After giving thanks for this and other urban oases — I'll save my complaints about the city's idea of a kayak launch for another day — I returned to where Mr. Thalleen and I had turned around.

To get into the shade, I shifted to the east side of San Jose. While walking in the grass near the road (there's no sidewalk for several stretches), I spotted something on the ground: a golf ball that said "PRACTICE."

It was a reminder that A) I was passing San Jose Country Club, and B) I've come along way from the start of the walk at Reni's Redneck Yacht Club, where the roadside debris was a little different.

People keep asking me when I'll finish the walk. My honest answer: I don't exactly know.

I do know that the day that began with a sunrise at Christopher Creek ended under the midday sun at Goodbys Creek, about 7 miles from the finish line of Julington Creek. Of course, that's as the heron flies, not as I walk.

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## DECREE

Continued from B-1

judge also dissolved the consent decree, at least in part because of changes in affirmative-action laws over the years.

The panel of the appeals court Tuesday upheld the district judge's ruling. It cited issues such as a 1993 letter from the president of the Jacksonville Brotherhood of Firefighters, which represents minority firefighters, questioning the city's decision to stop using the hiring practice included in the consent decree.

The appeals court also cited a 1997 Times-Union report about a drop in the number of black firefighters being hired and a 1999 ordinance that sought to remove obstacles to minority hiring — though it also noted that the hiring of black firefighters remained low after 1999.

Tuesday's 21-page ruling backed the district judge's finding that "the plaintiffs' inexcusable delay unduly prejudiced the city's ability to defend itself, because unclear memories and incomplete documents made it impossible to determine whether the city was, in fact, in contempt when it ended compliance in 1992."

"The city did not lie or conceal any information — it was true that the city had stopped complying with the decree because it believed that it had fulfilled its duties under the decree," said the appeals-court ruling, written by Judge John M. Rogers and joined by judges Gerald Tjoflat and Stanley Mar-

cus. "These individuals [black firefighters] could have inquired further about the propriety of the city's ending its compliance with the consent decree — especially given the fact that they noticed that African-Americans were unrepresented in new hires — but did not. Armed with the information that the city had stopped complying with the decree without first seeking the court's permission, the plaintiffs could have immediately gone to court. If the plaintiffs perceived the city's responses as giving them 'the runaround,' this provided all the more reason for them to take their grievances to the district court immediately."

But in a brief filed last year, attorneys for the plaintiffs said the impact of the city's decisions "remains and taints the city and class plaintiffs to this day."

"There is and has been since 1992 a serious dearth of African-American firefighters at the [Jacksonville Fire & Rescue Department], until these contempt proceedings commenced," the brief said "As argued by appellants [plaintiffs] throughout this case, and likewise undisputed, most of the African-American hires occurred prior to 1992, when the city actually appeared to attempt to comply with the decree: when it walked away in 1992, only one black was hired in five years. It is further undisputed that the African-Americans hired in that time period have either retired or are ready to retire."

## COUNCIL

Continued from B-1

money. And while Councilman Aaron Bowman voted for the money, he said he's lost confidence in the group and that someone else needs to take over the park in the future.

The council must now decide whether to approve an additional \$250,000 that Mayor Lenny Curry included in his proposed budget that would allow the group to continue operating until March. Council members are also expected to discuss whether they'll seek new proposals to take over the park.

### LONNIE MILLER PARK

The council also ap-

## BROWN

Continued from B-1

those cases where it may take more time than other cases for the representation issue to be settled."

Tuesday's rulings left Brown's trial scheduled to start as early as Nov. 7, the day before the general election when Brown is seeking voter approval for a 13th term in Washington.

But Brown would first have to prevail in next week's Democratic primary vote, where she faces challenges from former state Sen. Al Lawson and health-care advocate LaShonda "L.J." Holloway.

The trial could still be moved back.

Assistant U.S. Attorney A. Tysen Duva told Klindt on Tuesday that the attorney for Ronnie Simmons, the congresswoman's chief

of staff and co-defendant, could have a conflict of interest because he represented an unnamed witness who was subpoenaed by the grand jury that investigated Simmons and Brown. Prosecutors later filed papers asking Klindt to look into the potential conflict.

In asking to be removed last week, NeJame and Haas mentioned "an atmosphere of hostility and dis-

trust" hurting their ability to represent her.

NeJame downplayed that Tuesday, saying tense exchanges they had with Brown were similar to many squabbles between friends and family. NeJame said he and Brown have been good friends for years and remain so, but that sometimes a client needs a lawyer more than a friend.

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proved a major revamp of Lonnie Miller Park.

The \$3.13 million project includes building seven tennis courts, eight basketball courts, a baseball field complex, an outdoor amphitheater stage, new parking lots and a walking trail.

Councilman Reginald Brown introduced the legislation to pay for the upgrades, which will use leftover money from past projects and unused money raised by the Moncrief-Soutel redevelopment district.

The city must remediate contamination left by old trash incinerators before the project can be completed, and the council will vote on a plan to do so later this year.

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