



PALM BEACH COUNTY BAR ASSOCIATION

BULLETIN

www.palmbeachbar.org

July/August 2017



Incoming YLS President, Andrea Lewis presented outgoing YLS President, Ashley Wilson with a plaque for her outstanding leadership. YLS raised thousands of dollars and donated many hours of time to several local charities. Under Ashley's leadership, YLS received a grant for their "Go Green Project" from The Florida Bar.



Passing the Gavel during an informal ceremony from left to right: David Steinfeld (president-elect), Rosemarie Guerini (immediate past president) W Mason (president) and Judge Don Hafele who administered the Oath of Office

Mark your calendar

July 18
Pass the Gavel

Palm Beach County Bar Association Celebrates Its 95th Installation Banquet With Its Largest Banquet Attendance



Front sitting: John Whittles, immediate past president; Sia Baker-Barnes, president; Judge Moses Baker who administered the Oath of Office and Gregory Huber, president elect.
Directors standing left to right: Grasford Smith, Scott Smith, Julia Wyda, Jessica Callow, Ned Reagan, Andrea Lewis (YLS president), Lindsay Demmery, W Mason (NCS president), Lee McElroy and Dean Xenick

With a **record** breaking number of attendees, this year's banquet included 535 guests celebrating the induction of our first African American female president. Congratulations to Sia Baker-Barnes president, who will lead our organization through the next 12 months.

A special thank you to our event sponsors: **Grand Sponsor**, Searcy Denney Scarola Barnhart and Shipley. Brinkley Morgan, Daily Business Review, David J. Sales, P.A., Esquire Bank, Florida Power and Light, F. Malcolm Cunningham St. Bar Association, Fox Rothschild, Korte and Wortman, Law Offices of Edrick Barnes, Law Offices of Salesia Smith-Gordon, Lexis Nexis, Lytal Reiter Smith Ivy and Fronrath, Murray and Guari, Phipps Reporting, Pike and Lustig, Rehman, Rudolph and Associates, Sabadell United Bank, The Talarchyk Firm, U.S. Legal Support, Visual Evidence and Zele Huber.

Inside...

| | |
|------------------------------------|----|
| President's Message | 3 |
| CDI Luncheon..... | 4 |
| Diversity Corner | 5 |
| Pro Bono Recognition Evening | 6 |
| Veteran's Corner..... | 7 |
| NCS Honors Judge | 8 |
| Real Property Report | 9 |
| YLS Fishing Tournament | 10 |
| Technology Corner | 12 |

| | |
|-----------------------------|----|
| Probate Corner | 13 |
| New Members..... | 14 |
| UMC Breakfast | 14 |
| Appellate Seminar..... | 15 |
| Bankruptcy Corner..... | 18 |
| Installation Banquet | 20 |
| ADR Corner | 24 |
| Professionalism Corner..... | 25 |
| Personal Injury Corner..... | 28 |
| Bulletin Board..... | 29 |

THE
BULLETIN
PALM BEACH COUNTY
BAR ASSOCIATION

ROSALYN SIA BAKER-BARNES
President

www.palmbeachbar.org

CARLA THARP BROWN
Executive Director

Officers:

Rosalyn Sia Baker-Barnes, President
Gregory P. Huber, President-elect

Directors:

Lindsay Demmery
Jessica Callow
Robert Lee McElroy IV
Edward "Ned" Reagan
Grasford W. Smith
Scott B. Smith
Julia Wyda
Dean T. Xenick

John R. Whittles, Immediate Past President
Andrea A. Lewis, Young Lawyers Section President
W Scott Mason, North County Section President
Eric Gordon, Ex Officio, South Palm Beach County Bar President

Florida Bar Board of Governors Members:

Ronald P. Ponzoli
Adam T. Rabin
Robin Bresky
Gary S. Lesser

Florida Bar Young Lawyers Division Members:

Stephanie Cagnet
Denise Mutamba
Santo DiGangi

P.O. Box 17726
West Palm Beach, FL 33416
PHONE (561) 687-2800
FAX (561) 687-9007
EMAIL info@palmbeachbar.org

Advertising Information:

Mikki Johnson • mjohnson@palmbeachbar.org

Views and conclusions expressed in articles and advertisements herein are those of the authors or advertisers and not necessarily those of the officers, directors, or staff of the Palm Beach County Bar Association. Further, the Palm Beach County Bar Association, its officers, directors, and staff do not endorse any product or service advertised. Copy deadline is the first of the month preceding publication.

The mission of the Palm Beach County Bar Association is to serve its members, foster professionalism and enhance the public's understanding and awareness of the legal system.

LETTERS TO THE EDITOR

The Palm Beach County Bar Association Bulletin welcomes your comments on topics relating to the law, the legal profession, the Palm Beach County Bar Association or the Bar Bulletin. Letters must be signed, but names will be withheld upon request. The editor reserves right to condense.

Send letters to:
EDITOR Bar Bulletin
Palm Beach County Bar Association
P.O. Box 17726
West Palm Beach, FL 33416



Thank You Notes from the Public

Dear Lloyd,

Thank you for your presentation last evening on "Small Claims." My colleague Paula said you gave an excellent presentation that was both informative and engaging.

The topic was very relevant to our membership as evidenced by the number of people who attended. 32 is a very good audience for an evening program.

Thank you for sharing your expertise with us!

Alena Geidel, Librarian I
Glades Road Branch Library

Dear Mrs. Webber:

My advanced adult ESOL class had the pleasure of learning about American civil and criminal law from Jessica Latour. My students are from other countries and have limited knowledge of American laws and legal procedures. The presentation was interesting, informative and beneficial. I appreciated her taking the time to speak with my students and would like to participate in Law Week again next year!

Suzanne Katz,
Boca Raton High School

Have you paid your dues?

Membership has its privileges! Membership offers discounts on Bar Events, CLE's, plus many more perks. You will also miss out on the opportunity to network at many of our "Member Only" functions.

If you have not paid your dues, visit our website at www.palmbeachbar.org. Every member counts!

Board Meeting Attendance

| | JUL | AUG | SEPT | OCT | NOV | DEC | JAN | FEB | MAR | APR | MAY |
|-----------|-------|-----|-------|-------|-------|-----|-------|-------|-------|-------|-----|
| Barnes | X | | phone | X | X | X | X | X | X | X | X |
| D'Amore | X | X | X | phone | X | X | X | phone | X | | X |
| Huber | X | X | X | X | X | X | X | X | X | X | X |
| Mason | phone | X | X | X | X | X | X | X | X | X | X |
| McElroy | X | X | X | X | X | X | X | X | X | phone | X |
| Pressly | X | X | X | X | X | | X | X | X | X | X |
| Reagan | X | X | X | phone | X | X | X | X | | X | X |
| Smith, G. | X | X | X | X | X | X | X | X | X | X | X |
| Smith, S. | X | X | X | X | X | X | X | X | X | X | X |
| Whittles | X | X | X | X | X | X | X | X | X | X | X |
| Wilson | X | X | X | X | phone | X | X | phone | X | X | X |
| Wyda | X | X | X | X | X | | X | | phone | phone | X |
| Xenick | X | X | X | X | phone | X | phone | X | phone | phone | X |

President's Message



Vires ~ Artes ~ Mores!

by Sia Baker Barnes

Vires ~ Artes ~ Mores is the official motto of my alma mater. In Latin, these words mean strength, skill and character. As lawyers, we provide a great service to our clients in each of these respects, strength in facing tough challenges, skill in our zealous advocacy for our clients, and character both in our courtrooms and in our communities.

Last year, we saw these characteristics at their finest in our Immediate Past President, John Whittles, who has provided excellent service and commitment to our Association, in spite of significant challenges. With his leadership and dedication, we weathered the storm of serious fire damage to our building, all while continuing to provide top notch programs, services, continuing legal education and seamlessly welcoming our new Executive Director, Carla Tharp Brown, who along with our bar staff, has continued our tradition of excellence.

In the year to come, working together with our outstanding board and staff, I intend to accomplish three goals. First rebuilding and reopening our bar offices. We have hired both building and architectural consultants to ensure that the renovations are handled in the most efficient and appropriate manner, we are finalizing the Request for Proposal, and our plan is to finalize the selection of the contractor this summer and begin work as soon as possible. We will keep you all apprised of our progress along the way.

My second goal is to reach out to our members in new and innovative ways. To that end, we have established a new Paralegal Committee, designed to provide resources, CLE and support for paralegals- valuable members of our legal teams who assist in providing service to our clients. Plans are also in the works for a Small Firm/Solo Practitioner "Hub," designed to provide technological resources, services and small group meetings to discuss cases and issues with other lawyers.

My third goal- recognizing the outstanding contributions our members make in our community, both legal and beyond through our new initiative, "You've Been Served~ Local Attorneys Answer the Summons to Community Service." Although there are many examples of lawyers in our community exemplifying strength, skill and character, in the public eye, the perception of our profession is quite dismal. In a December, 2016 Gallup poll, only 18% of respondents rated attorneys highly on ethics and honesty, while 37% ranked them as "low" or "very low." This was in stark contrast to positive ratings for nurses (84%), doctors (65%) and engineers (65%), and only slightly higher than car salesmen and members of Congress!

Many people know that our members often volunteer to call attention to discriminatory practices and stand up for the rights of those who cannot speak for themselves. But it's a well-kept secret how much we help in a myriad of other ways: For

example, tutoring at neighborhood schools, providing meals to needy families, coaching kids' sports, sitting on non-profit boards, and even serving in local and legislative office.

The purpose of this campaign is two-fold:

- To encourage volunteerism, recognize reward our members who have had the greatest impact on our community; and
- To enhance perception that lawyers make the world a better place, both inside and outside the courtroom.

Here's how to get involved.

- Join our membership committee, chaired by Board member Jessica Callow, and help us with this program.
- Learn more about "You've Been Served!" at <http://www.palmbeachbar.org/ybs> and sign up as a community volunteer or speaker.
- Nominate a fellow PBCBA member for outstanding service by emailing ybs@palmbeachbar.org with the person's name, contact information, and your reasons for nominating him or her.

I look forward to your nominations, and I am excited about all that we will accomplish in the coming year.

Sabadell



WWW.SABADELLBANK.COM

Of all the banks in South Florida, only one has the distinction of being called "The Lawyers' Bank."

For over **30 years**, we have concentrated on providing law firms, their partners, associates, staff and clients with an uncommon level of attention and service. Which is why so many law firms in South Florida count on **Sabadell United Bank**.

Whether it's business or personal banking, or private banking, our goal is to make a measurable difference in all relationships through exceptional service, and constant focus on delivering measurable results to our clients.

FOR MORE INFORMATION, PLEASE CALL

Doug Clevenger, SVP • John B. Apgar, SVP

561.688.9400



Sabadell® is a registered mark of Banco de Sabadell, S.A. used by Sabadell United Bank, N.A., a subsidiary of Banco de Sabadell, S.A. Sabadell United Bank, N.A. is a member FDIC and an Equal Housing Lender. FDIC insurance is provided solely under our legal name, Sabadell United Bank®, N.A. There is no separate FDIC insurance for service marks and trade names, or for divisions of Sabadell United Bank®, N.A. 2016 Sabadell United Bank®, N.A., a subsidiary of Banco de Sabadell, S.A. All rights reserved.

Diversity Luncheon and Summit SOLD OUT

More than 100 members attended our third Diversity Luncheon and Summit, which featured a dynamic keynote speaker, exemplary panelists, awards, and productive round table discussions. A special "thank you" to co-chairs Nadine White-Boyd and Grasford Smith for leading this informative and successful afternoon program.



Nadine White-Boyd, keynote speaker Hilarie Bass, Esq., Shareholder, Co-President of Greenberg Traurig and Grasford Smith



(Ret) Judge Edward Rodgers pledged an annual gift of \$2,500.00 for our Diversity Internship Program



FL Bar Board of Governor Gary Lesser, Judge Bradley Harper, Judge Sheree Cunningham and FL Bar President-Elect Michelle Suskauer



Chief Judge Jeffrey Colbath, Denise Mutamba and 4th DCA Judge Alan Forst



Attorney Benjamin Crump participated as a panelist moderated by Kalinthia Dillard



Courage Award recipients (ret) Judge Matthew Stevenson and (ret) Florida Supreme Court Justice James Perry will each receive an engraved brick, which will be placed in the front entry way of the Bar building



Lisa Kohring and Judge Lou Delgado

MCCABE RABIN, P.A. ATTORNEYS AT LAW



Ryon McCabe
rmccabe@mccaberabin.com



Adam Rabin
arabin@mccaberabin.com



Robert Glass
rglass@mccaberabin.com

**Business Litigation & Disputes
Securities Arbitration
Whistleblower/Qui Tam Litigation**

561-659-7878 or 877-915-4040 (toll free)

Centurion Tower 1601 Forum Place, Suite 505 West Palm Beach, FL 33401

www.McCabeRabin.com

BUSINESS, SECURITIES & WHISTLEBLOWER LITIGATION



Unconscious Bias: What It Is, Why It Matters, and Resources to Learn More

by Amy S.L. Terwilleger

If you have recently heard the buzzword “unconscious bias,” and wondered what it is, you are not alone. Unconscious bias is one of the big topics in the world of people who study workplaces right now and with good reason. All of us, no matter how diverse or inclusive we are – or think we are – have unconscious biases. Unconscious bias, also referred to as implicit bias or hidden bias, is simply a term that refers to certain mental shortcuts that we all use; unconscious biases are those that we are unaware of (hence, unconscious) and which are outside of our control. They are connections that our brains make to facilitate quick judgments and assessments of people and situations, and they are influenced by our background, cultural environment, and personal experiences.

Unconscious biases are not per se negative. Being able to quickly categorize people, things, and situations creates order in our lives. But, sometimes, unconscious biases can lead to stereotyping, prejudice, and conscious or even unconscious discrimination. Unconscious biases can apply to a wide array of human characteristics including gender, ethnicity, race, religion, sexuality, and many others.

Now, I am not suggesting that anyone reading this is prejudiced or acts with discriminatory animus. Just the opposite. Most of the time, unconscious bias manifests itself in unknown or unrecognized ways. People with the best intentions can still fall victim to unhelpful mental shortcuts. It is how we are wired. The problem is that unconscious bias can have an impact on hiring decisions, promotions, salaries, and even our interactions with clients, judges, or opposing counsel. This is why companies and organizations who are committed to diversity are beginning to tackle unconscious bias through research, writings, and hands-on trainings.

For example, a research team at Stanford University performed a study of hundreds of performance reviews, finding that women received two-and-a-half times more feedback about aggressive communication styles than their male counterparts. And, women were described as “supportive,” “collaborative,” and “helpful” twice as often as men (with twice the amount of references to team accomplishments). On the other hand, the men’s reviews contained twice as many words relating to assertiveness, independence, and self-confidence, with three times as much feedback linked to a specific business outcome, and twice the amount of references to their technical expertise. Not surprisingly, these same words and terms were overwhelmingly (90%) used when participants in an unconscious bias workshop were asked to pick a candidate to replace a top performer within their organization.¹ Studies such as these are beginning to highlight a fundamental reality: unconscious bias exists and our language choices can unwittingly reinforce it.

The legal profession is following suit and discovering

ways that it may be affected by unconscious (and sometimes conscious) bias. For example, the Florida Bar has recently undertaken to explore gender diversity in the practice of law and in 2015, the Young Lawyer’s Division conducted a ground-breaking survey on Women in the Legal Profession.² The results indicated that 43% of the respondents reported experiencing gender bias during their legal career. Moreover, the Florida Bar compiled other information that indicated that female attorneys on the whole earned significantly less than male attorneys, that female attorneys were less likely to be managing partners or shareholders, and that women represented less of the judiciary (although that number has been increasing).³ It is widely acknowledged that, in addition to the more rare overt biases, a significant portion of gender bias and disparity is attributable to unconscious bias. And, the same can be said when it comes to racial or ethnic bias.

Being aware of unconscious bias and actively working to combat it is important because it can actually lead to a better bottom line. Recently, McKinsey & Company released a report called Diversity Matters wherein they examined data for 366 public companies across a range of industries and determined that companies in the top quartile for racial and ethnic diversity were 35 percent more likely to have financial returns above their respective industry medians. Companies in the top quartile for gender diversity were 15 percent more likely to have financial returns above their industry medians. In other words, McKinsey found that diverse workforces equated with better financial success.⁴

The good news is that there are myriad resources for companies and individuals interested in learning about and correcting unconscious bias. Training programs abound, and the internet is full of useful tools. A good start for anyone looking to learn more is Harvard University’s Project Implicit (<https://implicit.harvard.edu/implicit/aboutus.html>). On their website, you can find free Implicit Association Tests, which measure the strength of associations between concepts and evaluative terms or stereotypes. Remember, the first step to combatting our unconscious biases is simply to recognize them.

Author Amy S. L. Terwilleger

(Professional Liability Defense and Business Litigation Attorney at Gunster;

Member of Gunster’s Women Leadership Forum; Member of the PBCBA Committee for Diversity and Inclusion)

² Results available here: <https://webprod.floridabar.org/wp-content/uploads/2017/04/results-of-2015-survey.pdf>.

³ More information available at: <https://www.floridabar.org/news/resources/issue-04/>.

⁴ See <http://www.mckinsey.com/business-functions/organization/our-insights/why-diversity-matters>, for more information.

¹ “Gender Bias at Work Turns Up in Feedback,” *The Wall Street Journal*, Sep. 30, 2015, available at <https://www.wsj.com/articles/gender-bias-at-work-turns-up-in-feedback-1443600759>.

29th Annual Pro Bono Recognition Evening

West Palm Beach, FL
– On Saturday evening, June 3, 2017, over 650 friends and supporters of the Legal Aid Society of Palm Beach County spent an “Evening in Paris” honoring those attorneys and law firms in our community who contributed over 1,000 hours of volunteer services in 2016.

Photos by Tracey Benson Photography.





The Veterans' Legal Services Framework in Florida – Part III

by James P. Curry

This article is the third in a series and briefly describes some institutions of the veterans' legal services framework in Florida to raise awareness and inspire Palm Beach County Bar Association attorneys

interested in serving veterans to act.

The focus of this article is United Way MISSION UNITED, the United States Department of Veterans Affairs ("VA") accreditation program for those attorneys who wish to assist veterans with claims for VA benefits as an area of practice, and fighting veterans homelessness in Palm Beach County.

United Way MISSION UNITED

Per the United Way MISSION UNITED website, "In 2013, a veteran worked with United Way of Broward County, Florida to create MISSION UNITED. Since then, more than 12,000 veterans in Florida and New York have received essential assistance through the United Way MISSION UNITED program."¹

The United Way is "now expanding MISSION UNITED to other communities across the U.S. where veterans still lack access to essential services. United Way MISSION UNITED enables military veterans and their families to successfully acclimate back to civilian life. Veterans can face challenges transitioning from active duty, and too many find themselves homeless, jobless, or unable to access treatment for substance abuse, brain injury, or other physical and mental health issues. MISSION UNITED is a free program that coordinates community services for veterans and their families, connecting them to affordable housing, job training, health care and other resources. By forming a coordinated network of community partners, MISSION UNITED provides veterans and their families with a single-entry point to the help they need."²

MISSION UNITED is a thriving resource for veterans. Attorneys in the Palm Beach County community who are interested in serving veterans should consider serving through MISSION UNITED.

VA Accreditation

The VA accreditation program³ exists to "ensure that Veterans and their family members receive appropriate representation on their VA benefits claims. VA accreditation is for the sole and limited purpose of preparing, presenting, and prosecuting claims before VA."⁴

Pursuant to the program rules, "an individual generally must first be accredited by VA to assist a claimant in the preparation, presentation, and prosecution of a claim for VA benefits – even without charge."⁵

The VA accredits three types of individuals for this purpose: (i) Representatives of VA-recognized veterans

service organizations (VSO); (ii) Attorneys (accredited in their individual capacity, not through a law firm); and (iii) Claims agents (accredited in their individual capacity, not through an organization).⁶

Attorneys in the Palm Beach County community may find it rewarding to earn VA accreditation and assist veterans with their claims for benefits as an additional area of practice.

Fight Veterans Homelessness in Palm Beach County

According to a HUD survey, in 2016 nearly there were nearly 40,000 homeless veterans in the United States and 3000 in Florida.⁷

On a broader scale, the National Coalition for Homeless Veterans ("NCHV") operates a nation-wide Stand Down program. Stand Down refers to a "grassroots, community-based intervention program designed to help the nation's estimated 107,000 homeless veterans on any given night 'combat' life on the streets. Homeless veterans are brought together in a single location for one to three days and are provided access to the community resources needed to begin addressing their individual problems and rebuilding their lives. In the military, Stand Down afforded battle-weary soldiers the opportunity to renew their spirit, health and overall sense of well-being. Today's Stand Down affords the same opportunity to homeless veterans."⁸

Locally, Stand Down House is a "transitional living facility that assists homeless male veterans who are struggling & have lost their ability to lead productive lives due to combat & non-combat related mental & physical wounds/illness (including PTSD & TBI), addictions, and/or other issues regain their independence and lives through a multi-tiered program and collaboration with government agencies, VSOs, & the community."⁹

Another great institution that assists homeless veterans is The Lord's Place.¹⁰ The Lord's Place is "dedicated to breaking the cycle of homelessness by providing innovative, compassionate and effective services."¹¹

There are ongoing pro bono homeless veterans' legal services opportunities to assist at a Stand Down, at Stand Down House, or at the The Lord's Place. Reach out to those institutions to learn more.

Conclusion

This article briefly describes some institutions of the veterans' legal services framework in Florida and the Palm Beach County community. If you are inspired to learn more about serving veterans, take the initiative and contact one or more of the institutions to find out how you can. Also, work with the PBCBA to aid them in coordinating with the ABA and the Military Affairs Committee of the Florida Bar in enhancing veteran's legal services in the Palm Beach County community.

⁶ Id.

⁷ http://nchv.org/index.php/news/media/background_and_statistics/

⁸ http://nchv.org/index.php/service/service/stand_down/

⁹ <http://www.standdown.org/sdpgm.html>

¹⁰ <https://support.thelordsplace.org/be-the-solution>

¹¹ Id.

¹ <http://www.unitedway.org/mission-united>

² Id.

³ <https://www.va.gov/ogc/accreditation.asp>

⁴ Id.

⁵ Id.

North County Section honors Judge Laura Johnson



(Ret) Judge John Phillips, and 2016 Jurist of the Year honoree, surprises Circuit Judge Laura Johnson with the North County Section's 15th Annual Jurist of the Year Award.

Circuit Judge Laura Johnson was recently recognized by the North County Section with its 15th Annual Jurist of the Year Award. The award was presented during the Section's annual end-of-year dinner at Ruth's Chris Steak House in North Palm Beach for more than 125 members, including 30 judges. In keeping with tradition (ret) Judge John Phillips, who was last year's honoree, was given the honor of recognizing Judge Johnson with his special remarks. The recipient's name is always secret and not revealed until the night of the event. We think Judge Johnson was truly surprised! Previous award honorees include Judges Mary Lupo, Roger Colton, Peter Blanc, Thomas Barkdull, Barry Cohen, Jonathan Gerber, David Crow, Edward Fine, Jack Cook, Ron Alvarez, Richard Oftedal, Lucy Brown, Ken Marra and John Phillips.



Bob Harvey, Debra Jenks and Judge Lou Delgado



Magistrate Sarah Willis, NCS Director Rina Clemens and Judge Daliah Weiss



NCS President W Mason and Vinnie Cuomo our loyal sponsor from Esquire Bank



NCS President-Elect David Steinfeld, Bill Johnson and Gary Lesser



Nicole Kruegel and Michelle Delong



Past NCS Presidents Greg Yaffa, Stan Klett, Fred Cunningham along with (ret) Judge Lucy Brown



Chief Judge Krista Marx and Judge Samantha Feuer



by *Manuel Farach*

Bank of America Corp. v. City of Miami, Case No. 15-1111 (2017).

A municipality has standing as “aggrieved person” under the Fair Housing Act, 42 U. S. C. §§3604(b), 3605(a), and may state a cause of action against a lender for discriminatory lending practices under the statute.

Mathers v. Wakulla County, Case No. 1D16-0852 (Fla. 1st DCA 2017).

Maintenance of a roadway under the requirements of Florida Statute section 95.361, not acceptance by a county, satisfies the requirements for statutory dedication of a roadway to a county. Additionally, private parties may invoke this statute section to argue that maintenance by a county has resulted in the dedication as a public roadway.

Andrea v. HSBC Bank, USA, National Association, Case No. 2D15-433 (Fla. 2nd DCA 2017).

A party need have personal knowledge that the requirements of Florida Statute section 90.803(6) were met, but there must be evidence the requirements were met.

Armao v. McKenney, Case No. 4D16-19 (Fla. 4th DCA 2017).

Oral cohabitation agreements that affect real property are enforceable in Florida and are not required to comply with the Statute of Frauds to be enforceable.

Kaplan v. Epstein, Case No. 4D16-1834 (Fla. 4th DCA 2017).

Review of voluntary binding arbitration beyond the circuit court is barred by Florida Statutes section 44.104 unless a constitutional issue is raised.

Villasol Community Development District v. TC 12, LLC, Case No. 5D16-774 (Fla. 5th DCA 2017).

A governmental unit waives sovereign immunity for the wrongful effects of an injunction when it takes affirmative steps to obtain the injunction.

Peebles v. Puig, Case No. 3D15-2237 (Fla. 3rd DCA 2017).

Matters already covered in a contract are not actionable in fraud. Moreover, fraud damages must be separate and distinct from breach of contract damages.

Clark v. Bluewater Key RV Ownership Park Property Owners Association, Inc., Case No. 3D16-1645 (Fla. 3rd DCA 2017).

Even though residential in use, the renting of residential r.v. spaces to “work campers” violates a “no businesses restriction” in restrictive covenants.

Kindred Nursing Centers Limited Partnership v. Clark, Case No. 16-32 (2017).

State laws which treat arbitration provisions differently than other contractual provisions are violative of the Federal Arbitration Act, 9 U. S. C. §2.

Midland Funding, LLL v. Johnson, Case No. 16-348 (2017).

The filing in bankruptcy court of a proof of claim that is time barred under state law is not a false, deceptive, misleading, unfair, or unconscionable debt collection practice within the meaning of the Fair Debt Collection Practices Act.

Fourth Estate Public Benefit Corporation v. Wall-Street. Com, LLC, Case No. 16-13726 (11th Cir. 2017).

Registration of a copyright (registration being a condition precedent to instituting suit for infringement) occurs when the Registrar of Copyrights “register[s] the claim,” 17 U.S.C. § 410(a), and not upon applying for registration.

Landmark a Crescent Ridge LP v. Everest Financial, Inc., Case No. 1D16-4532 (Fla. 1st DCA 2017).

A writ of certiorari cannot be taken from an order denying a motion to dissolve a lis pendens as any potential harm can be remedied on direct appeal.

Polk County v. Highlands-In-The-Woods, L.L.C., Case No. 2D15-5642 (Fla. 2nd DCA 2017).

A proposal for settlement applies in a suit seeking inverse condemnation, including declaratory relief, where the main component of the suit is a claim for damages.

Fritz v. Fritz, Case Nos. 3D16-479 and 3D16-2229 (Fla. 3rd DCA 2017).

The Third District adopts the Fourth District’s *Karten v. Woltin*, 23 So. 3d 839 (Fla. 4th DCA 2009), decision and holds that excessive payments, mismanagement and waste do not constitute the type of individualized harm necessary to allow the filing of a direct (as opposed to a derivative) action under Florida Statute section 607.07401 notwithstanding that the mismanagement and waste affect the value of shares owned by all the shareholders.

Ventures Trust 2013-I-Nh v. Johnson, Case No. 5D16-1020 (Fla. 5th DCA 2017).

A cause of action for mortgage foreclosure accrues the day after a mortgage payment is missed, not upon acceleration of the amounts due under the mortgage.

Bush v. Whitney Bank, Case No. 5D16-2344 (Fla. 5th DCA 2017).

Florida Statute section 95.11(5)(h)’s one year statute of limitations to bring deficiency actions does not apply to deficiency actions arising out of short sales.

TC Heartland LLC v. Kraft Foods Group Brands LLC, Case No. 16-341 (2017).

“Residence” for purposes of venue of a domestic corporation in a Patent Act case refers to the state of incorporation of the company.

Water Splash, Inc. v. Menon, Case No. 16-254 (2017).

The Hauge Service Convention does not prevent service by mail.

Hardee County, Florida v. FINR, Inc., Case No. SC15-1260 (Fla. 2017).

The Bert Harris Act, Florida Statute section 70.001, does not apply to property affected by government action on adjoining property.

Plaza Tower Realty Group, LLC v. 300 South Duval Associates, LLC, Case No. 3D16-1491 (Fla. 3rd DCA 2017).

Real estate brokers have an ownership interest in deposits arising from defaulted real estate contracts when the broker’s listing agreement with the owner specifies a fund upon which

Continued on Page 15

YLS Fishing Tournament



Congratulations to our Young Lawyers Section on another successful fishing tournament. YLS raised over their goal of \$15,000 for Legal Aid's Education Advocacy Project. Pictured (l-r) Robert Kane, Abigail McCall, Jared Gillman, Carla Tharp Brown, Sarah Cohen and Melissa Duncan



YLS Fishing Tournament



YLS Fishing Kickoff Party





Social Media Discovery in Florida After *Nucci v. Target*

by Christopher B. Hopkins

Despite the widespread use of internet social networking, there has been little recent case law clarifying social media discovery. This article discusses the few current decisions and trends nationwide, focusing on Florida and Facebook, so that practitioners can better frame requests or sharpen objections. [Due to space constraints, materials below are at www.hopkins.law]

Facebook remains ground zero for most social media discovery battles. In 2015, I wrote *Ten Steps to Obtain Facebook Discovery in Florida* which discussed the development of Florida's social media discovery precedent between 2011-2015. As discussed in that article, the 2015 case of *Nucci v. Target Corp.* was the most recent Florida appellate decision on social media discovery. Therein, the defendant selectively propounded a request for photographs which the plaintiff posted to Facebook. The *Nucci* court approved that limited request, agreeing that "there is no better portrayal of what an individual's life was like than those photographs which the individual has chosen to share through social media..." In injury cases like *Nucci*, images of the plaintiff typically overcome the low hurdle of relevance. To avoid being accused of impermissibly seeking "unfettered access" to the plaintiff's social media in injury cases, *Nucci* confirms that defendants should, at least initially, request photographs which the plaintiff posted online (during a relevant period). If a defendant needs more than pictures, a Louisiana case, *Impson v. Dixie Electric*, provides examples of appropriately tailored social media requests.

Fortunately for defense counsel, some courts have partially sustained objections to overbroad social media discovery and then cured the defendant's defective requests by ordering limited production. In *Hogwood v. HCA Holdings*, the defendant sought all social media content across various platforms (employing a form proposed in my now-outdated 2012 article, *Discovery of Facebook Content in Florida*). In an August 2015 order, circuit court Judge Meenu Sasser determined that the defendant's request was too broad. Post-*Nucci*, the circuit court ordered production of pictures during a limited period, finding that "all content on a Facebook page does not necessarily have the inherent value of a user's photo collection." Borrowing from *Nucci*, downloading images from Facebook was comparable to "a 'day in the life' slideshow produced by the plaintiff before the existence of any motive to manipulate reality."

Similarly, in a 2012 case involving a plaintiff with a jaw injury, the Florida district court in *Chiles v. Novartis* distilled a request for all Facebook content down to production of post-accident pictures of the plaintiff eating (but see *Palma v. Metro PCS*). Outside of Florida, courts have also trimmed social media requests and ordered production (see *Moll v. Telesector* and *Baxter v. Anderson*).

Plaintiff counsel, meanwhile, should combat social media discovery abuse by objecting on the basis of (1) relevance, (2) proportionality, and (3) vagueness/overbreadth. Objections relying on privacy, Stored Communications Act, and undue

burden are historically overruled and should be avoided (see *Nucci and Hogwood*).

First, as for relevance, it is frequently argued that the defendant failed to establish that the request is reasonably calculated to lead to discovery of admissible evidence (see *Hogwood*, *Root v. Balfour*, and *Smith v. Hillshire*). Plaintiff's counsel should rely on *Nucci* to argue that non-photographic content on Facebook is not relevant absent certain circumstances.

Second, in the May 2017 case of *Gordon v. TGR Logistics*, a Wyoming court applied "proportionality" to a broad request for complete access to the plaintiff's two Facebook accounts. Following Federal Rule 26(b)(1), the *Gordon* court considered the amount in controversy, resources, and importance to the case. Similarly, following Rule 26(c)(1), the court stated "discovery can be burdensome even if it is inexpensive" due to annoyance, embarrassment, or oppression. Plaintiff lawyers should be mindful that *Nucci* held that blanket objections along these lines without explanation are insufficient; meanwhile, a Pennsylvania court in *Trail v. Lesko* was a bit more indifferent, noting that almost all discovery is annoying or embarrassing.

Third, almost all social media discovery disputes include claims of vagueness and overbreadth if the requests were not limited to specific time periods, damages, or keywords. Using a practice that is often disliked by practitioners, some courts have defined categories of content to be produced and then left it to the producing party to be sure they produce what was ordered (see *Moll*, *Gordon*, and the 2017 order in *Brown v. City of Ferguson*).

Lawyers should be aware that a party lying about what was posted online may swing social media discovery wide open (see *Gordon*, *Thurmond v. Bowman*, and *Crowe v. Marquette*). However, at least one court noted that deleted Facebook content must be still relevant to be compelled (*Feaster v. Dopps*). Truthful preservation can also be an issue, as seen in *League of Women Voters v. Detzner*.

Lawyers need to cooperate under local rules and Florida's ESI rules. Requesting counsel should include instructions on how to download content (see *Crowe and Gordon*). To resolve disputes, counsel should consider the two social media production models in *Gordon*: (1) production of Facebook content referencing the subject accident and injuries as well as any "hits" based upon keywords chosen by the parties or (2) creating broad descriptions of content to be produced within temporal limitations. Alternatively, parties should consider retaining counsel experienced in social media discovery to serve as a social media mediator or private special master.

Christopher B. Hopkins is a member of McDonald Hopkins, LLC. Serve him with relevant and proportional comments at chopkins@mcdonaldhopkins.com.



Trust Reformation to Correct Mistakes of Fact or Law

by David M. Garten

Sec. 736.0415, F.S. reads: “Reformation to correct mistakes. Upon application of a settlor or any interested person, the court may reform the terms of a trust, even if unambiguous, to conform the terms to the settlor’s intent if it is proved by clear and convincing evidence that both the accomplishment of the settlor’s intent and the terms of the trust were affected by a mistake of fact or law, whether in expression or inducement. In determining the settlor’s original intent, the court may consider evidence relevant to the settlor’s intent even though the evidence contradicts an apparent plain meaning of the trust instrument.”

“A reformation relates back to the time the instrument was originally executed [or amended] and simply corrects the document’s language to read as it should have read all along.” *Morey v. Everbank*, 93 So. 3d 482 (Fla.1st DCA 2012), citing *Providence Square Ass’n, Inc. v. Biancardi*, 507 So. 2d 1366 (Fla. 1987).¹

So, when can you reform a trust? Refer to the following four examples:

In *Megiel-Rollo v. Megiel*, 162 So. 3d 1088 (Fla. 2nd DCA 2015), the settlor’s trust was reformed to correct an alleged drafting error by the drafting attorney who neglected to prepare and incorporate into the trust instrument a contemplated schedule of beneficial interests when the trust was executed.

In *Morey v. Everbank*, 93 So. 3d 482 (Fla.1st DCA 2012), the trustee filed a petition to reform the trust to express the settlor’s purported intent that life insurance proceeds payable to the trust were to be used for the sole and exclusive use of the settlor’s children and not to pay administration expenses and creditor’s claims. The trial court denied the petition and the appellate court affirmed. The court relied in part on the drafting attorney who testified that the decedent, an experienced businessman, read everything before executing the trust amendments. The court reasoned that although proof that the decedent reviewed the documents before executing them does not alone preclude an order of reformation [See Restatement (Third) of Prop. Wills & Other Donative Transfers §12.1 cmt. 1 (2003)], there was no evidence that the decedent was not fully capable of understanding the trust documents as written. In addition, the court held that the deterioration in the decedent’s financial circumstances between the time he executed estate planning documents and the date of his death did not constitute a “mistake” requiring reformation of the trust documents. Reformation is not available to modify the terms of a trust to effectuate what the settlor would have done differently had

the settlor foreseen a change of circumstances that occurred after the instruments were executed. See, e.g., Restatement (Third) of Prop.: Wills & Other Donative Transfers. at cmt. h (2003) (Reformation is not “available to modify a document in order to give effect to the donor’s post-execution change of mind . . . or to compensate for other changes in circumstances.”).

In *Reid v. Estate of Sonder*, 63 So. 3d 7 (Fla. 3rd DCA 2011), the settlor executed a trust which provided for a number of specific bequests following his death. After the settlor died, the PR determined that the trust funds were insufficient to pay all of the specific bequests and filed a petition to abate the bequests proportionately and for an order determining that the settlor’s apartment was a specific devise to Reid and not subject to abatement. After the court denied the petition, the trustee petitioned to reform the trust claiming that the trust did not evidence the settlor’s intent which was to give his apartment to Reid not subject to abatement. The trial court denied the trustee’s petition and the appellate court affirmed. The court reasoned in part: “At the trial, William Palmer, the scrivener of the Edgar Sonder Trust, testified that Sonder never instructed him to create a priority between the gifts, and that the inclusion of the terms “after giving effect to” in paragraphs 2. and 3. was his own doing. However, he conceded Sonder read the trust and approved the language. It also is undisputed that Sonder made two subsequent amendments to the trust, and both times expressly ratified the language, making the gift of the apartment subordinate to the gifts provided in paragraphs 1. and 2. Even assuming the probate court found Palmer’s testimony credible, there is no evidence Sonder would not have been capable of understanding the trust as written. In fact, nothing in the record explains why Sonder, an articulate and precise businessman, would have approved the plain and simple trust terms if they did not reflect his intent. Further, although it is clear Sonder intended for Reid to have the apartment, it is equally apparent Sonder intended for Hebrew Union College to have \$125,000 as part of an endowment fund in honor of his deceased wife. These two gifts together constitute the bulk of the trust assets. The testimony does not establish Sonder would have preferred the gift to Reid over the endowment gift in the event both could not be satisfied. Therefore, we affirm the probate court’s order on the petition to reform.”

In *Kelly v. Lindenau*, 2017 Fla. App. LEXIS 6959; 42 Fla. L. Weekly D 1133; 2017 WL 2180970 (Fla. 2nd DCA May 17, 2017), the settlor was an Illinois resident and created an Illinois revocable trust. After moving to Florida, the settlor asked his Illinois attorney to amend his trust. The trust amendments were prepared pursuant to Illinois law and were only signed by one witness. After the settlor’s death, the trustee filed a petition to determine the validity of the trust amendments. In response, a trust beneficiary filed a counterclaim seeking to reform the trust on that basis that the error in failing to have two witnesses sign the second amendment was a mistake of law. The trial court granted the beneficiary’s petition and the appellate court reversed. The court held that an improperly executed trust amendment cannot be validated through reformation.

Continued on page 15

¹ Reformation and modification are different remedies. Modification is used: (a) to amend a trust with respect to either administrative or distribution terms; (b) to terminate a trust in whole or in part; (c) to modify a trust to direct or permit a trustee to do unauthorized or prohibited acts; or (d), to modify a trust to preclude a trustee from doing authorized or required acts. Refer to §§736.0410-736.0414 and 736.0416, F.S. and The Florida Trust Code Scrivener’s Summary. In contrast, reformation is used to conform the trust to the settlor’s intent when the terms were affected by a mistake of fact or law. Refer to §736.0415, F.S.



Welcome New Members!

The following represents each new member's name, law school, date of admission to The Florida Bar, and law firm association.

Shakira Ali: University of Florida, 2011; Associate in Groelle & Salmon, P.A., Royal Palm Beach.

Mark J. Berkowitz: Saint Louis University, 1981; Solo Practitioner, Ft. Lauderdale.

Elise J Berry: Law Student Membership, Tallahassee.

John W. Bizanes: John Marshall Law School, 2014; Associate in Nason Yeager, Boca Raton.

David M. Gobeo, II: University of Florida, 2005; Associate in Ford & Harrison, LLP, West Palm Beach.

Trevor M Gordon: Quinnipiac University, 2014; Associate in Gordon & Doner, P.A., Palm Beach Gardens.

David Hollander: Florida Coastal University, 2006; Solo Practitioner, West Palm Beach.

Justin Infurna: Florida State University, 2010; Solo Practitioner, Orlando.

Touff Louis Kalin: University of Massachusetts, 2015; Boynton Beach.

Conner R Kempe: Stetson University, 2015; Associate in Joseph C. Kempe, P.A., Jupiter.

Roger Levine: University of Florida, 2012; Associate in Shield & Levine, P.A., Boca Raton.

Shaye C Lindsley: Nova Southeastern University, 2015; Associate in Kelley, Kronenberg, P.A., West Palm Beach.

Donovan Mendoza: Notre Dame University, 2015; Associate in Cole, Scott & Kissane, P.A., West Palm Beach.

Lori Padilla: Thomas Cooley Law School, 2017; Associate in TDM LAW, P.A., Lake Worth.

Susanne Riedhammer: Nova Southeastern University, 1998; Associate in Sonneborn Rutter Cooney Viergever Burt & Lury, West Palm Beach.

Matthew Rochman: University of Florida, 2010; Associate in Proskauer Rose LLP, Boca Raton.

Christopher D. Ryan: Law Student Membership, Lawrenceville, Ga.

Evett L. Simmons: Mercer University, 1982; Associate in Greenspoon Marder, P.A., West Palm Beach. *(Shareholder)*

Nina F. Smith: Florida International University, 2015; Associate in Beltrano & Associates, Jupiter.

Mark J. Stempler: Florida International University, 2005 ; Associate in Becker & Poliakoff PA, West Palm Beach.





Real Property.

Continued from page 9

the brokers can claim.

Friedle v. The Bank Of New York Mellon, Case No. 4D15-1750 (Fla. 4th DCA 2017).

A promissory note introduced into evidence which is not in the same condition as the copy attached to the complaint does not prove standing.

Spector v. Spector, Case No. 4D16-0922 (Fla. 4th DCA 2017).

Alimony creditors, in addition to taxes, consensual liens and construction liens, are a fourth exception to the protection against forced levy of homestead under the Florida Constitution.

McClandon v. Dakem & Associates, LLC, Case No. 5D16-3300 (Fla. 5th DCA 2017).

A trial court may appoint a receiver to carry out the provisions of a charging order on a LLC, but may not give the receiver managerial control over the LLC.

Trust Reformation.

Continued from page 13

BURDEN OF PROOF: The party seeking reformation has the burden to prove, by *clear and convincing* evidence, that the trust as written does not reflect the settlor's intent. This standard is an intermediate standard of proof between the "preponderance of the evidence" standard used in most civil cases, and the "beyond a reasonable doubt standard" of criminal cases, requiring the evidence to be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established. *See Reid v. Estate of Sonder*. The evidence must be credible; the memories of the witnesses must be clear and without confusion; and the sum total of the evidence must be of sufficient weight to convince the trier of fact without hesitancy. *See Owens-Corning Fiberglas Corp. v. Ballard*, 749 So. 2d 483 (Fla. 1999), citing *In re Adoption of Baby E.A.W.*, 658 So. 2d 961, 967 (Fla. 1995).



Palm Beach County Bar Association Committee Chairs & Board Members 2017-2018 Fact Sheet

CONTACTING THE BAR OFFICE
Lawyer Referral Service:

PHONE: 561-687-2800
Phone 561-687-3266

ADDRESS: P.O. BOX 17726 WPB, FL 33416
Email: lrs@palmbeachbar.org

Carla Tharp Brown
Lynne Poirier
Jennifer Iacobucci
Dee Maeyens
Eva Gray
Kathy Clark
Mikki Johnson
Nicole Nelson

Executive Director
Communications Director
CLE Coordinator
Lawyer Referral Service
Admin Asst/Lawyer Referral Service
Membership/Event Coordinator
Publications Coordinator
Bookkeeper/Admin Asst to ED

ctbrown@palmbeachbar.org
lpoirier@palmbeachbar.org
jen@palmbeachbar.org
lrs@palmbeachbar.org
egray@palmbeachbar.org
kclark@palmbeachbar.org
mjohnson@palmbeachbar.org
nnelson@palmbeachbar.org

The mission of the Palm Beach County Bar Association is to serve its members, foster professionalism and enhance the public's understanding and awareness of the legal system.

CONTINUING LEGAL EDUCATION SEMINARS

All CLE Committees are expected to produce at least one CLE Seminar each year. Your responsibility is to plan the content of each seminar. This includes selecting a topic and obtaining speakers. **Please be sure to contact CLE Coordinator, Jennifer Iacobucci, before scheduling a seminar to make sure the date doesn't conflict with any other events.** The bar office will make all arrangements concerning location and pricing. All requests for CLE credit must be received in the PBCBA office no later than eight weeks prior to the event in order to meet The Florida Bar CLE requested requirements. Seminars should be advertised to its members at least two times in the Bulletin before the seminar and additional advertising through the web site and broadcast e-mailing will also be done by Bar staff.

PREPARING FOR YOUR YEAR

Congratulations! Please know that the Bar staff is available to provide you with as much assistance as possible during the coming year. We encourage you to get others involved and increase participation.

USE YOUR WEBSITE

Don't forget about all of the great things on the Bar's award-winning web site and encourage your members to use it!

www.palmbeachbar.org

- Updated calendar of events, seminars and the ability to register for those events on-line
- Past Bulletin Copies
- Judicial Profiles
- Classified Advertising Including Job Listings
- Up-to-date legal announcements such as judicial openings
- Legal research links
- Listing of Member Benefits

The Bulletin

Practice Committees are encouraged to submit at least one substantive law article for the *Bulletin* each year. Articles should be no longer than about 800 words and should be e-mailed to ctbrown@palmbeachbar.org. The *Bulletin* is published 11 times per year.

BULLETIN PRODUCTION SCHEDULE

| Issue | Deadline |
|-------------|--------------|
| September | July 25 |
| October | August 25 |
| November | September 25 |
| December | October 25 |
| January | November 15 |
| February | December 15 |
| March | January 25 |
| April | February 23 |
| May | March 23 |
| June | April 25 |
| July/August | June 15 |

NEED CLIENT REFERRALS?

The Bar offers two Programs:

1) **FIND A LAWYER**-This is a web based search program. \$150.00/month; only \$99.00/month with a 1 year commitment. Info: lpoirier@palmbeachbar.org

2) **LAWYER REFERRAL SERVICE**

Our LRS staff vets calls and matches them with an appropriate attorney to handle their legal needs. \$150/yr with a small percentage coming back to the bar on successful cases.

Info: lrs@palmbeachbar.org

Officers & Directors 2017-18

President

Rosalyn Sia Baker-Barnes
Searcy, Denney et al.
2139 Palm Beach Lakes Blvd
West Palm Beach 33409
686-6300 FAX 383-9401
rsb@searcylaw.com

President-Elect

Gregory P. Huber
Zelev Huber Trial Attorneys, P.A.
4600 Military Trail #212
Jupiter 33458
630-9700 FAX 630-9707
ghuber@myinjuryjustice.com

Directors

Dean Xenick
Zelev Huber Trial Attorneys, P.A.
4600 Military Trail #212
Jupiter 33458
630-9700 FAX 630-9707
dtxhuber@zhattorneys.com

Edward "Ned" Reagan
Law Offices of Edward D. Reagan, PA
658 W. Indiantown Rd. 209
Jupiter 33458
832-7443 FAX 683-7443
nedr@bellsouth.net

Grasford W. Smith
Jones, Foster, Johnston & Stubbs
505 South Flagler Dr, Ste 1100
West Palm Beach 33401
659-3000 FAX 650-5300
gsmith@jonesfoster.com

Jessica M Callow
Office Depot
6600 N. Military Trail, C434
Boca Raton 33496
478-7983 FAX 438-8201
jessica.mason@officedepot.com

Julia Wyda
Brinkley Morgan
2255 Glades Rd
Boca Raton 33431
241-3113 FAX (954) 522-9123
julia.wyda@brinkleymorgan.com

Robert Lee McElroy IV
Downey McElroy, P.A.
3501 PGA Blvd #201
Palm Beach Gardens, FL 33410
691-2043 FAX 691-8078
lmcclroy@downeypa.com

Lindsay Demmery
Prestige Land & Law PLLC
120 Butler St #B
West Palm Beach 33401
833-8773 FAX 832-2932
ldemmery@prestigelandlaw.com

Scott B. Smith
Lytal, Reiter, Smith, Ivey & Fronrath
515 North Flagler Dr, 10th Floor
West Palm Beach 33401
655-1990 FAX 832-2932
ssmith@foryourrights.com

Young Lawyers Section President

Andrea A Lewis
Searcy Denney Scarola Barhart & Shipley
2139 Palm Beach Lakes Blvd
West Palm Beach 33409
686-6300 FAX 383-9456
alewis@searcylaw.com

North County Section President

W Scott Mason
Fox Rothschild LLP
222 Lakeview Ave #700
West Palm Beach 33401
835-9600 FAX 835-9602
wmason@foxrothschild.com

Immediate Past President

John R. Whittles
Mathison Whittles, LLP
301 Pine Street
West Palm Beach 33407
469-1160 FAX 469-1162
jwhittles@mathisonwhittles.com

Ex Officio Members

South County Bar President

Eric Gordon
Akerman LLP
777 S. Flagler Dr Ste 1100
West Palm Beach, FL 33401
653-5000 FAX 659-6313
eric.gordon@akerman.com

FL Bar Board of Governors

Ronald P. Ponzoli
Richman Greer, P.A.
250 Australian Ave, S #1504
West Palm Beach, FL 33401
803-3500 FAX 820-1608
rponzoli@richmangreer.com

Adam T. Rabin
McCabe Rabin, P.A.
1601 Forum Place, #505
West Palm Beach, FL 33401
659-7878 FAX 242-4848
arabin@mccaberabin.com

Robin Bresky
Law Firm of Robin Bresky
150 E. Palmetto Park Rd Suite 340
Boca Raton, FL 33432
994-6273 FAX 880-6900
rbresky@breskyappellate.com

Gary S. Lesser
Lesser, Lesser, Landy & Smith, PL
101 Northpoint Pkwy
West Palm Beach 33407
655-2028 FAX 655-2033
glessler@lesserlawfirm.com

2017-2018 Committee Chairs:

ADR

Rosine Plank 625-9275
rplankbrum@gmail.com

Appellate Practice

Samuel Walker 647-7887
swalker@cplspa.com

Bankruptcy Law CLE

Nadine White-Boyd 351-6895
Nadine@wblawpa.com

Business Litigation CLE

William Lewis 227-5858
wlewis@forthepeople.com

Circuit Civil Practice

Jonathan Burns 305-803-1865
jburns@gmail.com

Community Assn. Law CLE

Tanique Lee 655-6224
taniquelee@hotmail.com
Sandra Powery Moses 655-8944
spowery@legalaiddpbc.org

Committee for Diversity/Inclusion

Jean Marie Middleton 434-8748
Jean.middleton@palmbeachschools.org
Dean Xenick 630-9700
dtxhuber@myinjuryjustice.com

Construction Law CLE

William Cea 655-5444
wcea@bplegal.com

Criminal Law CLE

Ilana Marcus 355-7598
imarcus@pd15.state.fl.us
Hope Baros 355-7100
hbaros@sa15.org

Elder Law Affairs Committee

Heather B. Samuels 733-4242
HSamuels@solkoff.com
Tequisha Myles 655-8944
tmyles@legalaiddpbc.org

Employment Law CLE

Shayla Waldon 653-5000
Shayla.waldon@akerman.com

Estate/Probate Law CLE

Duane Pinnock 694-7979
dpinnock@bfmlaw.com

Family Law CLE

Cathy Purvis Lively 370-3691
clively@livelylaw.com

Guardianship Education

Katherine Perrin 379-2613
knperrin@gmail.com

Judicial Relations

Rina Clemens 848-8300
rclemens@traublieberman.com
Nichole Segal 721-0400
njs@FLAppellateLaw.com

Law Related Education

Andrew Kwan 835-0900
kwan@beasleylaw.net

Law Week

Kelsey Burke 655-1990
kburke@foryourrights.com
Heather Wallace-Bridwell
772-286-9881
heatherbridwell@stuart-law.net

Lawyers for Literacy

Bradley Avakian 246-3866
brad@kirkgrantham.com

Membership

Jessica Callow 438-7983
Jessica.mason@officedepot.com

Paralegal

Patricia DeRamus 837-5000
pcdcla@bellsouth.net

PI/Wrongful Death CLE

Brian Sullivan 615-8345
bps@sullivanlawpa.com

Probate/Guardianship

Jamison C. Evert 655-1980
jevart@gunster.com

Professionalism

Kara Berard Rockenbach 721-0400
kbrock@flacivillaw.com
Chief Judge Cory Ciklin 242-2000
ciklinc@flcourts.org

Real Estate CLE

Leanna Lalla 475-2295
leanna@creativelaw.net

Securities Law CLE

TBD

Small Claims Court Clinics

Lloyd A Comiter 883-7806
lcomiter@comiterlaw.com

Solo & Small Firm Practitioners

Misty Chaves 835-6775
mtc@kingchaves.com
Amy Pettway 310-8060
amypettway@pettwaylaw.com

Technology

Chioma Deere 615-5666
cdeere@wclaw.com

Transaction Law Committee

Kristin Vivo 855-0006
kvivo@kristinvivolaw.com

Unified Family Practice

Trisha P. Armstrong 689-4378
tarmstrong@sasserlaw.com
Georgia T. Newman 296-1400
georgia@gnemanlaw.com

Workers' Compensation

Nicole Hessen 546-6666
nicole@injuredworkersonly.com

Bench Bar

Santo DiGangi 842-2820
sdigangi@lawclc.com
Lawonda Warren 243-7091

BANKRUPTCY SEMINAR





Filing a Proof of Claim on Stale Claim Does Not Give Rise to a FDCPA Claim

by Jason S. Rigoli

On May 15, 2017, the United States Supreme Court issued its opinion in *Midland Funding, LLC v. Johnson*, No. 16-348, – S.Ct. –, 2017 WL 2039159 (2017) holding that the filing of a proof of claim that stated on its face was time barred is not a false, deceptive, misleading, unfair, or unconscionable debt collection practice within the meaning of the Fair Debt Collection Practices Act (FDCPA), overruling the Eleventh Circuit’s opinion entered in May 2016.

The Fair Debt Collections Practices Act

The Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 *et seq.* (“FDCPA”), prohibits a debt collector from asserting any “false, deceptive, or misleading representation,” or using any “unfair or unconscionable means” to collect, or attempt to collect, a debt, §§ 1692e, 1692f.

Whether the Claim was False, Deceptive, or Misleading

In determining whether the claim was “false, deceptive, or misleading,” the Court looked to the Bankruptcy Code’s definition of “claim,” as a “right to payment,” 11 U.S.C. § 101(5)(A), and that “[s]tate law usually determines whether a person has such a right.” *Id.* *4 (citations omitted). In this case the “relevant Alabama law provides that a creditor has the right to payment of a debt even after the limitations period has expired.” *Id.* (citing *Ex parte HealthSouth Corp.*, 974 So.2d 288, 296 (Ala. 2007) (passage of time extinguishes remedy but the right remains)).

Debtor, conversely, argued that the word “claim” means “enforceable claim.” The Court stated that “the word ‘enforceable’ does not appear in the [Bankruptcy] Code’s definition, and [debtor]’s interpretation is difficult to square with Congress’s intent ‘to adopt the broadest available definition of ‘claim.’” *Id.* (internal citations omitted). The Court went on to contrast debtor’s interpretation of “claim” with

other section of the Bankruptcy Code including §§ 502(a), (b)(1), and 558, which respectively state that a properly filed proof of claim is prima facie evidence of its validity, that if a claim is unenforceable it will be disallowed, and that the expiration of the limitations period is an affirmative defense to be raised after the creditor makes the claim. *Id.* at *5.

The Court ultimately resolved the issue stating that § 101(5)(A) “makes clear that the unenforceable claim is nonetheless a “right to payment,” hence a “claim,” as the [Bankruptcy] Code uses those terms.”

When the Court addressed whether the statement was “misleading,” it relied on the legal sophistication of the trustee to understand the “timeliness” of the claim and raise the necessary objections such that the proof of claim is not misleading. *Id.* at *6.

Whether Creditor’s Proof of Claim Was “Unfair” or “Unconscionable”

The Court next addressed whether filing the claim was “unfair” or unconscionable.” The Court rejected the debtor’s reliance on lower court precedents finding violations of the FDCPA in civil suits based upon untimely claims, saying that the “context of a civil suit differs significantly from” a bankruptcy case and went on to address the concerns in the non-bankruptcy civil arena that are “significantly diminished” in bankruptcy. *Id.* at *6-9.

The Court was satisfied keeping untimeliness as an affirmative defense, without creating and defining a new exception, and preserving the distinct purposes and structures of the FDCPA and Bankruptcy Code. *Id.* at *7-8. And, found that Rule 9011 did not impose an affirmative duty to certify that there was no valid statute of limitations defense. *Id.* at 8.

Dissent

Justice Sotomayor, joined by Justices Ginsburg and Kagan, dissented from the opinion, deriding the debt collection practice of “buying stale debt, filing

claims in bankruptcy proceedings to collect it, and hoping that no one notices that the debt is too old to enforce.” *Id.* at *9. Stating that “[t]his practice is both ‘unfair’ and ‘unconscionable.’” *Id.*

This article submitted by Jason S. Rigoli, Esq., Furr Cohen, 2255 Glades Road, Suite 337W, Boca Raton, FL 33431, jrigoli@furrcohen.com

Do You Need a Mentor?



The Palm Beach County Bar Association’s Mentor Program is designed to provide members with a quick and simple way to obtain advice, ideas, suggestions, or general information from an attorney that is more experienced in a particular area of law. The mentors provide a ten-to-fifteen-minute telephone consultation with a fellow attorney, at no fee. Any member of the Palm Beach County Bar, whether newly admitted or an experienced practitioner, can use the program. Call the Bar office at 687-2800, if you need a Mentor.

New Member Benefit



Clio is the most widely-used, cloud-based practice management system in the world. Every day, tens of thousands of lawyers use Clio to schedule meetings, organize cases, track time, and invoice their clients. Palm Beach County Bar Association members receive a 10% lifetime discount on Clio.

Sign up today at
landing.goclio.com/pbcbar



4th DCA Chief Judge Jonathan Gerber and Tracy Gerber



PBCBA past presidents Jill Weiss, Michelle Suskauer, Judge Lisa Small, Sia Baker-Barnes and Judge Meenu Sasser



Rina and Aaron Clemens



Judges Cheryl Caracuzzo and Jeffrey Colbath



Mariano and Shelley Garcia



Julie and Howard Rudolph



Scott and Melissa Wortman



Ellen and Bruce Malasky



Pauline Joerger and David Sales



Sia Baker-Barnes and Kalintha Dillard



Greg Huber



John Whittles-Immediate Past President



Shannon Mahoney, John Whittles and Sia Baker-Barnes



Ned and Patricia Reagan



Robin and Ken Bresky



Darryl and Salonia Lewis



Leonard Feuer and Hon. Samantha Schosberg-Feuer



2017-18 Board of Directors with Hon. Moses Baker, Jr.



The Links with the Hon. Sheree Davis Cunningham



Mike and Cathy Downey



**Edrick Barnes,
Hon. Moses Baker, Jr.
and Moses B. Baker**



**Chanelle Harper,
Hon. Lou Delgado and
Hon. Bradley Harper**



**John Howe,
Jamie Howe and
Scott Smith**

Installation Banquet



Installation Banquet





Dispute Settlement under Trade Agreements: A Key to Making Them Work

by Rosine Plank-Brumback

International trade agreements have been derided on political campaign trails as being bad for the US economy, and particularly unfair to American manufacturing workers. Regardless of whether these attacks are fully justified, they ignore recent and ongoing efforts to expand and improve the substantive commitments and rules governing goods and services trade under the multilateral World Trade Organization (WTO), like on trade facilitation, as well as under regional and bilateral free trade agreements (FTAs) since North American Free Trade Agreement (NAFTA), like on intellectual property, labor and environmental protection. A key element in realizing the benefits that governments expect to obtain in negotiating mutual reductions in trade barriers with their trading partners, is a robust dispute settlement system, which assures compliance and may also deter disputes in the first place through the threat of sanctioned retaliation for violations.

Most international trade arrangements provide for a system of dispute resolution through ad hoc panels or arbitral tribunals. The most institutionalized and frequently used system for resolving trade disputes – given *inter alia* the size of its membership of 164 countries – is that of the WTO, which has a standing Appellate Body to review errors of law in the reports by first instance panels.

Negotiating a dispute settlement chapter under an international trade agreement, even though largely procedural, is as critical and complex as negotiating the substantive rules under other chapters like agriculture, customs, subsidies, government procurement, services, etc. In drafting dispute settlement provisions, trade negotiators must consider; e.g., scope of application, choice of forum, bilateral consultations, good offices, recourse to and establishment of a panel, interim findings, appellate review, panel report adoption, compliance monitoring, and remedies/sanctions (suspension of benefits or monetary assessment). There should be deadlines imposed for each step and also default procedures to assure that the process moves forward. Negotiators must determine which substantive commitments, rules or related instruments under the agreement will be subject or not to its dispute resolution system; e.g., NAFTA excludes the competition policy chapter, and the US-Central America-Dominican Republic FTA (CAFTA-DR) excludes trade capacity building provisions. Some US FTAs provide specific procedures; e.g., for the review of anti-dumping and countervailing duty determinations or for claims by a private investor of one State party to the FTA against another State party for violating investment rules.

In drafting procedures for the panel stage of government to government dispute settlement under an FTA, negotiators must determine panel composition, terms of reference, standard of review, conduct of proceedings, and the follow-up to rulings; e.g., the qualifications for being a panelist/arbitrator (generally international law or trade expertise), including specialized knowledge of particular subject areas; the number of panelists

that should rule on a case (generally 3); whether panelists should be governmental or non-governmental persons; whether they should be nationals or non-nationals of the disputing parties or third parties; whether the roster of eligible panelists proposed by State Parties and from which panelists may be drawn, is indicative or obligatory; how panelists will be selected; the role of experts; what ethical rules should apply to panelists and other participants; and how impasses in panel selection, terms of reference, the adoption and implementation of panel reports, or other aspects will be resolved. Establishing the rules of the game ahead of time is essential as once disputes inevitably arise, the parties may be less able to resolve any procedural or sequencing differences expeditiously.

An additional consideration is the transparency of the process. The parties to the dispute and third parties are recognized as having the right to be heard by the panel/tribunal. The trend is for panel deliberations to be increasingly open to the public through the release of non-confidential summaries of party submissions, through public observation of hearings (e.g., via webcam in a separate room), and by allowing amicus curiae briefs to be submitted.

Dispute settlement under an international trade agreement is necessarily linked to institutional arrangements. Who provides legal advice to the panel and assists in writing its report? Who completes the panel if the parties cannot agree? If it is a permanent secretariat, then it is not merely administrative but technical like the WTO. If panelists rely on their own assistants and panel selection is decided by lot, this is the NAFTA model of national sections, with more party and less institutional control.

Confidence in the quality and neutrality of the legal arbiters is at the heart of any effective dispute settlement system and whether it is perceived as rendering competent rulings. A system that arrives at the right answer in a fair way is key to assuring that the States parties to an agreement are complying with their obligations and obtaining the benefit of their initial bargain.

Rosine M. Plank-Brumback is a Florida attorney, trade policy consultant, and Consulting Senior Fellow at Georgetown University's Institute of International Economic Law. She is on the rosters of arbitrators under several FTAs. She has held positions at the Organization of American States, the GATT Secretariat, the U.S. Mission to the European Communities, and the U.S. Foreign Agricultural Service.



Putting the “Pro” in Professionalism

by Tami Augen-Rhodes

On Friday, April 21, 2017 Palm Beach County proudly hosted the First Annual “Putting the “Pro” in Professionalism” Symposium presented by The Florida Bar’s Standing Committee on Professionalism and The Center for Professionalism of The Florida Bar. The program commenced with President Elect Michael Higer introducing keynote speaker Eugene Pettis, a former Florida Bar President.

President Pettis gave a dynamic keynote address on “Reconnecting to Your Why.” He asked if it was possible to achieve professionalism through regulation alone; he encouraged us all to take a deeper look - a self assessment - to determine if we are living our “why”; and he advised us that our “why” cannot be defined by finances alone. If we are solely driven by money, we have lost our “why.” President Pettis reminded us all that our “why” should be something that excites us and fills us with adrenaline. We should not be comparing ourselves to others; we should be leaders who “lift people up to the table of opportunity.” If we are able to connect to our “why,” we can use this as a guiding light through our own, unique journey in the practice of law. Do not ignore the little voice that tells you what you should be doing; instead, do it! Do public good in your life, treat people fairly, give of yourself to your community and fulfill the uniqueness of you being an attorney! President Pettis conveyed a powerful message to everyone in attendance at the Symposium.

After lunch, attendees participated in breakout sessions. Professor Scott Rogers from University of Miami School of Law, Dr. Kirsten Davis from Stetson University College of Law, and Professor Larry Krieger of Florida State University College of Law shared information and insights that go beyond the mere practice of law. Professor Rogers discussed Mindfulness and Reciprocal Practice teaching us that “[m]indfulness invites us to direct our attention to what’s actually arising in the present moment and to sustain that focus by attending to it in a manner that is interested in what is taking place and open to the mystery of its natural unfolding.” Scott Rogers,

Mindfulness, Law and Reciprocal Practice, 19 Rich. J.L. & Pub. Int. 331 (2016). Dr. Davis provided an overview of The Communication Model and discussed the components as well as goals of professional communication. Dr. Davis demonstrated mechanisms to create a professional impression in communication by managing your message so that same comes across as competent, polite, likable, and dedicated. Finally, Professor Krieger discussed insights gleaned from his most recent, groundbreaking study regarding professional success from a must read article “What Makes Lawyers Happy?: A Data-Driven Prescription to Redefine Professional Success”. See Krieger and Sheldon, 83 Geo. Wash. L.R. 554 (2015).

Dr. Mimi Hull then taught us a twist on “The Golden Rule.” Rather than “do unto others as you would like done to you...”, we should now, “do unto others as they would like done to them...” We all have behavioral, surface traits along the continuum of Dominance, Influence, Conscientiousness, and Steadiness. Learning about these DiSC® Behavioral Styles – for yourself and others – enables us to understand, accept, and communicate more effectively.

Attendees also enjoyed two panel discussions. The first, dealing with Incivility in the Courtroom, featured a judicial panel comprised of two federal court judges who were previously state circuit court judges, Judge Robin Rosenberg and Judge Robert Scola, as well as Fourth District Court of Appeal Judge Dorian Damoorgian and Eleventh Circuit Court Judge Sarah Zabel. Part of the discussion focused on what attorneys and litigants should expect from the bench and vice versa. Specifically, everyone should be on time, respectful, and prepared. Attorneys must remember that the dispute is about a case, not with each other. Counsel should assist in bringing a sense of peace to the case and to her client. Remember that your opposing counsel is another person who you should work with to seek more kindness in the courtroom, engage in communication, and attempt to be resolution oriented throughout the case.

The second discussion panel taught the Professionalism Expectations for Florida Lawyers. As of January

30, 2015 the Florida Bar Board of Governors approved the “Professionalism Expectations” which consists of seven broad statements and ninety-five detailed expectations. These Professionalism Expectations replaced the “Ideals and Goals of Professionalism.” Both documents can be located on The Florida Bar’s website under Professionalism, Resources. Importantly, the root of the Professionalism Expectations is to “expect,” meaning that we expect this behavior of our fellow lawyers and judges. This has been a shift in that previously, ideals and goals were merely seen as aspirational. The expectations are a floor as to the behavior that we should expect from each other, not a ceiling. Practice tips from this panel include: maintaining formality and using last names when in Court; comply with our Local Rule 4 and pick up the phone to make a good faith attempt to work out issues with the other side as “tone” can be lost in email communication; and do not let a client’s ill will toward the other side become your ill will.

The day concluded with several Professionalism Awards presented by the Florida Bar’s Standing Committee on Professionalism. First, Debra Moss Curtis, Associate Dean for Academic Affairs and Professor of Law at Nova Southeastern University, Shepard Broad College of Law, received the Law Faculty Professionalism Award which Greg Colman accepted in her absence. The Group Professionalism Award went to our very own Palm Beach County Bar Association, Judicial Relations Committee, for the “Breakfast with Judges” Program. Chief Judge Jeffrey Colbath and Chair Liz Herman accepted the award.

The day of professionalism left attendees reinvigorated and determined to reconnect to their “why.” By examining what it means to each of us to be a lawyer, to be privileged to be a part of this profession, to revere the law, and to dedicate ourselves to meeting and exceeding the professionalism expectations, we can transfer those behaviors into more effective interactions with clients, other counsel, and the community and continue on the journey of fulfilling our WHY!



IN NEED OF CLER CREDIT? WE CAN HELP

REV. 06/12/17

The Palm Beach County Bar Association (PBCBA) offers CLE hours from audio CD's recorded at previously held live seminars. We also have copies of audio CD's of live seminars from the Orange Co. Bar Assoc. (OCBA), Clearwater Bar Assoc.(CBA), Hillsborough Co. Bar Assoc.(HCBA), and the Dade Co. Bar Assoc.(DCBA). Members and non- members may acquire CLE and Ethics hours. To order, complete this form and return to the Palm Beach County Bar Association, PO BOX 17726, West Palm Beach, FL 33416. To order with credit card, please place your order online at <http://www.palmbeachbar.org/apps/cle>
PLEASE WATCH EXPIRATION DATES, we attempt to remove expired CD's but due to the distribution of this list occasionally courses will appear even though they have expired.

| ✓ | Sponsor | Course Title | Credit Gen'l | Ethics Hours | PBCBA Member | Non Member | Expires |
|------------|---------|---|--------------|--------------|--------------|------------|----------|
| | | PBCBA | | | | | |
| CD ONLY | PBCBA | Personal Property List +++1.0 RE | 1.0 | | \$25.00 | \$65.00 | 7/06/17 |
| | PBCBA | Billing and Liens Issues +++1.0 CT | 1.0 | | \$25.00 | \$65.00 | 7/15/17 |
| | PBCBA | Position Yourself as An Expert: How to Give a Presentation without Passing Out! | 1.0 | | \$25.00 | \$65.00 | 7/26/17 |
| | PBCBA | Social Media: Use & Benefits to Law Firm | 1.0 | | \$25.00 | \$65.00 | 07/27/17 |
| | PBCBA | ADR in 2016 Challenging Old Paradigms | 9.5 | 3.0 | \$280.00 | \$320.00 | 08/08/17 |
| | PBCBA | The Revised Florida Arbitration Code +++BL 4.0 | 4.0 | 0.0 | \$100.00 | \$140.00 | 10/07/17 |
| | PBCBA | Marital & Family Law Agreements in Florida+FL 5.0 | 5.0 | 0.0 | \$125.00 | \$165.00 | 10/08/17 |
| | PBCBA | 2015 Compressed into One Hour...+++BL 1.0 | 1.0 | 0.0 | \$25.00 | \$65.00 | 10/11/17 |
| | PBCBA | Taxing Issues Concerning Case Management CLER: 5.0+++5.0 WC | 5.0 | 0.0 | \$125.00 | \$165.00 | 10/15/17 |
| | PBCBA | Local Rule 4 & Unified Motion Calendar | 1.0 | | \$25.00 | \$65.00 | 10/22/17 |
| | PBCBA | Social Media – Judicial Lunch CLER: 1.0 | 1.0 | 0.0 | \$25.00 | \$65.00 | 10/28/17 |
| | PBCBA | Probate Boot Camp +++ED 8.0 +++EP 8.0 | 8.00 | | \$200.00 | \$240.00 | 11/09/17 |
| | PBCBA | Professionalism Expectations | 1.0 | 1.0 | \$30.00 | \$70.00 | 12/15/17 |
| | PBCBA | 9.29.16 Social Media-How to Build Your Presence | 1.0 | | \$25.00 | \$40.00 | 03/29/18 |
| | PBCBA | 11.17.16 LAW FIRMS & PI: COMPLYING W/ Privacy & Data law | 1.0 | 1.0 | \$40.00 | \$80.00 | 05/17/18 |
| | PBCBA | 11.17.16 Procedural Ins and Outs of Child Support | 1.0 | | \$25.00 | 65.00 | 05/17/18 |
| | PBCBA | 12.8.16 Ethical Limits in e-Discovery & How to Avoid Sanctions | 1.0 | 1.0 | \$40.00 | \$80.00 | 06/08/18 |
| | PBCBA | 12.9.16 The 19th Elder Law Seminar | 6.0 | 1.0 | \$175.00 | \$215.00 | 06/09/18 |
| CD ONLY | PBCBA | 1.12.17 Technical Writing for E-Reading | 1.0 | | \$40.00 | \$65.00 | 07/12/18 |
| CD ONLY | PBCBA | 1.24.17 SOCIAL MEDIA DISCOVERY | 1.0 | | \$25.00 | \$40.00 | 07/24/18 |
| CD ONLY | PBCBA | 2.6.17 WORKER'S COMP JCC PROCEDURES | 1.0 | | \$25.00 | \$40.00 | 08/06/18 |
| CD ONLY | PBCBA | 2.7.17 COMMON SECURITY THREATS | 1.0 | | \$25.00 | \$40.00 | 08/07/18 |
| CD ONLY | PBCBA | 2.9.17 GUARDIANSHIP BOOTCAMP | 7.5 | 1.0 | \$250.00 | \$290.00 | 08/09/18 |
| CD ONLY | PBCBA | 2.13.17 ADR- A HELP NOT A HURDLE | 8.5 | 1.0 | \$240.00 | \$280.00 | 08/13/18 |
| CD ONLY | PBCBA | 2.24.17 YOU'VE BEEN HACKED | 1.0 | | \$25.00 | \$40.00 | 08/24/18 |
| CD ONLY | PBCBA | 3.31.17 ROAD TO THE BENCH | 2.5 | | \$25.00 | \$40.00 | 09/30/18 |
| CD ONLY | PBCBA | 4.20.17 Cannabis Law Summit | 4.5 | 0.0 | \$140.00 | \$180.00 | 10/20/18 |
| CD ONLY | PBCBA | 4.28.17 Modification of Parenting Plans: Seven Practical Tips | 7.0 | 1.0 | \$200.00 | \$240.00 | 10/28/18 |
| CD ONLY | PBCBA | 5.19.17 Real Estate for the Current Times | 7.5 | | \$225.00 | \$265.00 | 11/19/18 |
| CD ONLY | PBCBA | 5.23.17 Social Media Discovery +++TC 1.0 | 1.0 | 1.0 | \$55.00 | \$95.00 | 11/23/18 |
| CD ONLY | PBCBA | 6.1.17 From the Horse's Mouth +++TC:1.0 | 4.5 | .05 | \$125.00 | \$165.00 | 12/01/18 |
| CD ONLY | PBCBA | 6.8.17 Preservation of Error for Trial Attorneys+++AP 1.0 | 1.0 | | \$25.00 | \$65.00 | 12/8/18 |
| CD ONLY | PBCBA | 6.9.17 28th Annual Community Law Seminar +++CL | 5.5 | 2.0 | \$190.00 | \$230.00 | 12/09/18 |
| | | CBA | | | | | |
| | CBA | Forensic Accounting in Family Law +++FL: 1.0 | 1.0 | | \$25.00 | \$65.00 | 07/16/17 |
| | CBA | Estate Planners Guide to Business Exit Planning | 1.0 | | \$25.00 | \$65.00 | 09/17/17 |
| | | HBA | | | | | |
| | HCBA | Practice Pointers for Attorneys Representing Deplo+++AG: 2.0 | 2.0 | | \$50.00 | \$90.00 | 07/13/17 |
| | HCBA | Fundamental Judgment Collection | 1.0 | | \$25.00 | \$65.00 | 07/26/17 |
| | HCBA | Complex Issues in Equitable Distribution +++FL:2.0 | 2.0 | | \$50.00 | \$90.00 | 08/04/17 |
| | OCBA | How to Succeed in Probate without Really Trying +++2.0 EL | 2.0 | | \$50.00 | \$90.00 | 02/18/17 |
| | OCBA | What Family Law Attorneys Need to Know About...+++1.0 EL+++1.0 FL +++1.0 Wills Trusts & Estates | 1.0 | | \$25.00 | \$65.00 | 02/21/17 |
| | OCBA | Proposed Jury Instructions for Business Law Cases+++BL 1.0 | 1.0 | | \$25.00 | \$65.00 | 03/02/17 |
| | OCBA | Competence & Evaluating Your Client Before You Get In Trouble +++1.0 Mental Illness | 1.0 | | \$25.00 | \$65.00 | 03/16/17 |
| | OCBA | Financial Statements Review for Litigators +++1.0 BL / +++1.0 CT | 1.0 | | \$25.00 | \$65.00 | 04/07/17 |
| | OCBA | Advanced Family Law Pleading and Practice +++3.5 FL | 4.5 | 1.0 | \$125.00 | \$165.00 | 04/16/17 |
| | OCBA | Tech Tools for Legal Professionals: Note Taking App | 1.0 | | \$25.00 | \$65.00 | 04/21/17 |
| | OCBA | Time Management and Work Life Balance | 1.0 | | \$25.00 | \$65.00 | 04/30/17 |
| | OCBA | Transform Your Practice with Technology | 1.0 | | \$25.00 | \$65.00 | 04/30/17 |
| | OCBA | Transform Your Law Firm Success: Billing Made Easy | 1.0 | 1.0 | \$40.00 | \$80.00 | 04/30/17 |
| Not Online | OCBA | Hiring Practices-How To Hire, How to Interview | 1.0 | | \$25.00 | \$65.00 | 04/30/17 |
| | OCBA | Biting Off More Than You Can Chew | 1.0 | .05 | \$35.00 | \$75.00 | 04/30/17 |
| Not Online | OCBA | Looking Down the Rabbit Hole Alice has Led Us Down +++IP 1.0 | 1.0 | | \$25.00 | \$65.00 | 05/10/17 |
| | OCBA | Legal and Ethical Obligations Under Brady and Giglio | 4.00 | 4.00 | \$160.00 | \$200.00 | 05/13/17 |
| | OCBA | Panel Discussion State of Business Law Market +++BL 1.0 | 1.0 | | \$25.00 | \$65.00 | 06/02/17 |
| | OCBA | Fighting Creditor Claims Due to the Statute | 1.0 | | \$25.00 | \$65.00 | 06/18/17 |
| | OCBA | Grievance Procedures: What To Do If You Get Stung | 1.0 | 1.0 | \$40.00 | \$80.00 | 07/19/17 |

| | | | | | | | |
|-------------|------|--|-----|-----|----------|----------|----------|
| | OCBA | Medicaid Qualifications & the Newest Numbers +++ ED 1.0 | 1.0 | | \$25.00 | \$65.00 | 07/20/17 |
| | OCBA | State of the Business Court +++ BL 1.0 | 1.0 | | \$25.00 | \$65.00 | 08/03/17 |
| | OCBA | County to Circuit Appeals in the 9th Judicial +++AP 1.0 | 1.0 | | \$25.00 | \$65.00 | 08/24/17 |
| | OCBA | Significant Business Law Cases From the Past Year+++BL 1.0 | 1.0 | | \$25.00 | \$65.00 | 09/02/17 |
| Not Online | OCBA | I Have a Non-US Citizen Client. Now What Do I Do? +++IM 1.0 | 1.0 | | \$25.00 | \$65.00 | 09/07/17 |
| | OCBA | Women & the Law Throughout the Years | 1.0 | | \$25.00 | \$65.00 | 09/15/17 |
| | OCBA | Taxes: A Family Law Perspective+++FL 1.0 | 1.0 | | \$25.00 | \$65.00 | 09/18/17 |
| | OCBA | The Calculation of Lost Profits in Commercial +++BL 1.0 | 1.0 | | \$25.00 | \$65.00 | 10/06/17 |
| | OCBA | Everything a Lawyer Needs to Know About Appeal+++AP 1.0 | 1.0 | | \$25.00 | \$65.00 | 10/18/17 |
| | OCBA | The LLC Act and the State of Legislation | 1.0 | | \$25.00 | \$65.00 | 11/04/17 |
| | OCBA | Professionalism & Civility: Stepping Stones... | 1.0 | | \$25.00 | \$65.00 | 11/17/17 |
| | OCBA | Sex and Security+++FL 1.0 | 1.0 | | \$25.00 | \$65.00 | 11/20/17 |
| | OCBA | Arbitration: An Alternative to Dispute Resolutions | 1.0 | | \$25.00 | \$65.00 | 12/01/17 |
| | OCBA | Drafting to Protect Digital Assets +++ED 1.0 / EP 1.0 | 1.0 | | \$25.00 | \$65.00 | 12/13/17 |
| Not Online | OCBA | Getting to Know the Honorable Mike Murphy | 1.0 | | \$25.00 | \$65.00 | 12/17/17 |
| | HCBA | Where Are They Now? +++CL: 4.5 | 4.5 | | \$110.00 | \$150.00 | 08/18/17 |
| | HCBA | IP Enforcement by US Customs and Border Patrol +++IP: 2.5 +++AG: 2.5 | 2.5 | | \$65.00 | \$105.00 | 08/25/17 |
| | HCBA | Judicial Luncheon: Federal or State The Great Debate | 2.0 | | \$50.00 | \$90.00 | 09/09/17 |
| | HCBA | Education or Incarceration Examining the School to Prison Pipeline+++AP: 2.5 +++CR: 2.5 +++EL: 2.5 +++JL: 2.5 | 2.5 | | \$65.00 | \$105.00 | 09/10/17 |
| CD ONLY | HCBA | Written Discovery :How to Draft to Get What You Need | 1.0 | 1.0 | \$40.00 | \$80.00 | 09/30/17 |
| CD ONLY | HCBA | What Attorneys Should Know Regarding the US Immigration and Customs Enforcement +++IM: 2.0 +++LE: 2.0 | 2.0 | | \$50.00 | \$90.00 | 10/11/17 |
| CD ONLY | HCBA | Florida Family Law Involving Active Duty, Reserve...+++FL:2.0 | 2.0 | | \$50.00 | \$90.00 | 10/28/17 |
| CD ONLY | HCBA | The Ins and Outs of Securities Arbitration and Mediation +++1.0 | 1.0 | | \$25.00 | \$65.00 | 11/02/17 |
| CD ONLY | HCBA | The Future of IP Law: The Next 10 Years +++IP: 4.5 | 4.5 | | \$110.00 | \$150.00 | 11/06/17 |
| CD ONLY | HCBA | What's Appealing to Appellate Courts: Procedures, Practices, and Professionalism +++AP: 4.0 | 4.0 | 1.0 | \$115.00 | \$155.00 | 11/11/17 |
| CD ONLY | HCBA | Introduction to Qui Tams | 1.0 | | \$25.00 | \$65.00 | 06/06/18 |
| CD ONLY | HCBA | Collection, Enforcement & Modification of Final +++FL 4.0 | 4.0 | | \$100.00 | \$140.00 | 07/18/18 |
| CD ONLY | HCBA | Daubert Challenges in State and Federal Construction +++CT 1.0 CL 1.0 | 1.0 | | \$25.00 | \$65.00 | 07/19/18 |
| CD ONLY | HCBA | A Conversation about Professionalism with Local Pro Committee+++PR 1.0 | 2.0 | 1.0 | \$60.00 | \$100.00 | 07/28/18 |
| CD ONLY | HCBA | The USPTO +++ IP 2.0 | 2.0 | 0.5 | \$55.00 | \$95.00 | 08/02/18 |
| CD ONLY | HCBA | The Adolescent Brain: How the Research...+++CR 1.0; CT 1.0; JL 1.0 | 1.0 | | \$25.00 | \$65.00 | 08/06/18 |
| CD ONLY | HCBA | Presenting Powerfully Effective Opening Statements | 2.0 | 1.0 | \$60.00 | \$100.00 | 09/22/18 |
| OCBA | | | | | | | |
| CD ONLY | OCBA | Is Subscription Licensing Killing the First Sale | 1.0 | | \$25.00 | \$65.00 | 10/04/18 |
| CD ONLY | OCBA | Same Sex Couples: Unique Issues or Practice+++AL:1.0; FL 1.0 | 1.0 | | \$25.00 | \$65.00 | 09/06/18 |
| CD ONLY | OCBA | Workplace Violence+++LE:2.5 | 2.5 | | \$65.00 | \$105.00 | 08/17/18 |
| CD ONLY | OCBA | How to Get Medical Records Electronically+++HL 1.0 | 1.0 | .05 | \$35.00 | \$75.00 | 06/08/18 |
| CD ONLY | OCBA | Ethics: E-filing, E-Servive, E-access | 1.0 | 1.0 | \$40.00 | \$80.00 | 06/12/18 |
| CD ONLY | OCBA | Understanding and Using Metadata+++TC 1.0 | 1.0 | | \$40.00 | \$80.00 | 06/16/18 |
| CD ONLY | OCBA | How to Handle the Vocational Expert Prior to the Hearing | 1.0 | | \$25.00 | \$65.00 | 07/12/18 |
| CD ONLY | OCBA | From the Newlywed to the Nearly Dead+++EP 1.0 | 1.0 | | \$25.00 | \$65.00 | 07/13/18 |
| CD ONLY | OCBA | How to Compel Surrender of Real Property in Bankruptcy | 1.0 | | \$25.00 | \$65.00 | 07/27/18 |

+++Indicates Certification credits available; **CME credits.

Please contact the Palm Beach County Bar Association for more detailed information.

Please call Eva Gray at (561) 687-2800 with any questions or for additional information. Email: egray@palmbeachbar.org

PLEASE ALLOW SEVEN (7) BUSINESS DAYS PREPARATION TIME WHEN ORDERING CD's.
THERE WILL BE A \$25 FEE FOR RUSH ORDERS. FOR MEMBERSHIP, OR RENEWAL, CAN BE OBTAINED ON OUR WEBSITE AT www.palmbeachbar.org.

Please fill out this form and return it to Eva Gray, Palm Beach County Bar Association, PO BOX 17726, WPB, FL 33416. To order with credit card, please place your order online at <http://www.palmbeachbar.org/continuing-legal-education/>

Name: _____ Firm Name: _____

Street Address (no P.O.Boxes): _____

City _____ State _____ Zip _____ ☐ PBCBA Member ☐ Non-PBCBA Member

Telephone: _____ Email Address: _____

☐ Add \$25 for rush fee (order processed w/in 3 business days) ☐ Please call when order is ready to be picked up

☐ Please mail (add \$10.00 for shipping and handling) (payment must be received before items will be mailed or picked up)

PAYMENT INFORMATION: Payment Enclosed: Check # _____ Amount: \$ _____

Order Subtotal: \$ _____

If payment by credit card, please contact Eva Gray at Bar Office (561) 687-2800

Shipping/Handling: + \$10.00

Rush Fee: + \$25.00

Total Due: \$ _____

NOTE: THE PURCHASE OF EACH CD IS VALID FOR INDIVIDUAL USE ONLY. DEFECTIVE RECORDINGS WILL BE REPLACED ONLY IF RETURNED WITHIN 30 CALENDAR DAYS FROM INVOICE DATE.



The Final Word On The Litigation Privilege And Malicious Prosecution

by Ted Babbitt

The tort of malicious prosecution has been recognized in the State of Florida since at least 1926. In *Alamo Rent-A-Car, Inc. v. Mancusi*, 632 So. 2d 1352, 1355 (Fla. 1994) the Florida Supreme Court established the following elements for a malicious prosecution action.

- (1) an original criminal or civil judicial proceeding against the present plaintiff was commenced or continued;
- (2) the present defendant was the legal cause of the original proceeding against the present plaintiff as the defendant in the original proceeding;
- (3) the termination of the original proceeding constituted a bona fide termination of that proceeding in favor of the present plaintiff;
- (4) there was an absence of probable cause for the original proceeding;
- (5) there was malice on the part of the present defendants; and
- (6) the plaintiff suffered damage as a result of the original proceeding.

Florida has also established a litigation privilege protecting against an action for liable or slander anything said in a lawsuit by a lawyer or a judge. In *Wolfe v. Foreman*, 128 So. 3d 67 (Fla. 3rd DCA 2013). The Third District held that the litigation privilege applied to a cause of action for malicious prosecution. The Fourth District Court of Appeal in *Fischer v. Debrincat*, 169 So. 3d 1204 (Fla. 4th DCA 2015) was faced with the same issue raised in *Wolfe*, *supra*. The Fourth District at 1209 declined to follow the Third District's opinion in *Wolfe* and held:

Because the commencement or continuation of an original criminal or civil judicial proceeding is an act "occurring during the course of a judicial proceeding" and having "some relation to the proceeding," malicious prosecution could never be established if causing the commencement or continuation of an original proceeding against the plaintiff were afforded absolute immunity under the litigation privilege. If the litigation privilege could apply to bar a malicious prosecution action, this would mean that the tort of malicious prosecution would be effectively abolished in Florida – or, at the very least, eviscerated beyond recognition.

The Fourth District certified conflict with *Wolfe* and the Supreme Court in *Debrincat v. Fischer* at 42 Fla. L. Weekly S141 (Fla. Feb. 9, 2017) declined to uphold the Third District's opinion in *Wolfe* and affirmed and approved the Fourth District

Court of Appeals decision in *Fischer v. Debrincat*. At 1207 the Supreme Court held

Applying the litigation privilege here would eviscerate this long-established cause of action for malicious prosecution. Specifically, the first element of a claim for malicious prosecution is that "an original criminal or civil judicial proceeding against the present plaintiff was commenced or continued." *Id.* (emphasis added). Certainly, the filing of a lawsuit and the joining of a party defendant is the commencement of a judicial proceeding against that party as delineated in *Alamo*. Indeed, as the Fourth District cogently explained in *Fischer*, "[a]n action for malicious prosecution – which is based as a matter of law on causing the commencement or continuation of an original judicial proceeding – could never occur outside the context of litigation." 169 So. 3d at 1209. Therefore, "malicious prosecution could never be established if causing the commencement or continuation of an original proceeding against the plaintiff were afforded absolute immunity under the litigation privilege."

The Supreme Court thus held that the litigation privilege did not bar the filing of a claim for malicious prosecution that was based on adding a party defendant to a civil lawsuit. The Supreme Court approved the Fourth District's decision in *Fischer v. Debrincat* and disapproved the Third District's decision in *Wolfe v. Foreman* thus retaining the cause of action for malicious prosecution in Florida.

Bar Building Update

The mitigation company has completed 85-90% of their work. Request for Proposals have been forwarded to several reputable construction companies. The bids are due by to the Bar Association in mid-July for review by the PBCBA Board of Directors. The Bar will continue to keep members updated. Thanks for your support.



The PBCBA has partnered with LawPay to offer Law Firm Merchant Accounts for our members to allow your firm to handle credit card transactions. Trust your transactions to the only payment solution recommended by over 60 bar associations. Correctly safeguard and separate client funds into trust and operating accounts. The ability to accept credit cards attracts clients, improves cash flow and reduces collections.

Plus, members save up to 25% off their credit card processing fees.

Call 866-376-0950 so you can get started today!

*** Ad Rates ***

CLASSIFIED ADVERTISING RATES:
TO PLACE AN AD: 1) Please E-mail all ads to: mjohnson@palmbeachbar.org 2) Upon receipt you will be notified of cost. 3) Send payment by the 25th of the month. 4) Cost: 50 words or less \$50, 50-75 words \$65, up to 75 words with a box \$75. 5) Members receive 1 free classified ad per year (excluding professional announcements). Ads will only be re-run by e-mailing: mjohnson@palmbeachbar.org. Web-site advertising is also available for a cost of \$75 for a three week run. Payment must be received prior to publication and renewable only upon receipt of next payment.

The Palm Beach County Bar Association, its officers, directors, and staff do not endorse any product or service advertised.

The PBCBA is committed to equal employment opportunity and does not accept employment ads which imply a preference based on race, color, sex, religion, national origin, disability, familial status, sexual orientation, age, marital status and gender identity or expression.

PROFESSIONAL ANNOUNCEMENTS:

The following announce their availability for referral, assistance and consultation.

GREGORY TENDRICH, Esq.:

“AV Preeminent” rated, FINRA Arbitrator and Mediator, Certified County Court Mediator and former Series 7 licensed VP & Asst. General Counsel to national and regional stock brokerage firms. All securities & investment related matters involving the recovery of losses due to stock broker fraud, misrepresentation, churning and unsuitable recommendations, in addition to representation of advisors in SEC, FINRA, regulatory enforcement, contract and employment matters. (561) 417-8777 or visit www.yourstocklawyer.com

GREY TESH: “Law is not black or white, it’s Grey.” Passionate, caring, truthful, prepared. Soul (sic) practitioner. Criminal Defense (Board Certified in Criminal Trial) and Personal Injury. Over 100 jury & non-jury trials to verdict. Federal & State | 515 N. Flagler Drive | greytesh.com (561) 686-6886

MISCELLANEOUS

MARCHMAN ACT: Attorney well experienced in Marchman Act cases including litigating many cases under this law; understands treatment and addiction recovery; available for referral or consult. Frequent lecturer and author on the Marchman Act. Joe Considine; Telephone: 561-655-8081; Joe@Joeconsidinelaw.com

OFFICE SPACE

Office space available on 1st floor of 2 story, High Visibility, High Traffic office building on Atlantic Avenue in Delray Beach. Approximately 1500 square feet which includes 2 offices (utility room could be made into 3rd office), kitchen, bathroom and lobby. Second floor occupied by 4 law firms – potential for referrals. Please call David at 561-266-9191.

1200 sq ft Law Office For Sale; \$325k in North Palm Beach on US HWY1, Financing available. Stop paying rent!. This office can be sold fully furnished or vacant. Suited for Lawyer. 4 office’s, 2 baths, Reception area, Storage room, Full kitchen. Call or Email: Info@russottigroup.com , 561-202-4480

On-demand or full time office space, Palm Beach Gardens – PGA Blvd. location. Need a Palm Beach Gardens satellite address or full time office? Intelligent Office provides full time or on-demand offices and conference rooms PLUS complete receptionist services, Mediation and Deposition Rooms, Private locked mailboxes, notary and witnessing, Prestigious business address, Copy, Scan, fax, Internet. Call 561-472-8400

Class A Jupiter office space available:

Two large private partner offices with secretarial and plenty of file space. Two beautiful furnished conference rooms, use of reception area, kitchen, storage, and copy rooms. Referral opportunities available. Conveniently located with access to I-95 and Turnpike. Building offers ample free parking. For inquires, email: Alicia@Trialcounselor.com or call 561-743-2002.

EMPLOYMENT

Paralegal position in West Palm Beach.

Requires 3-5 years Family Law experience; familiar with the Florida/Federal Rules of Civil Procedures and Florida Statutes; experience in trial preparation, drafting legal documents, discovery, scheduling, e-filing, e-service and preparation for court proceedings. Professional disposition and proficient communication skills are necessary. Excellent benefits. Salary commensurate with experience. Email: Anna@jmwpa.com

Associate Attorney Klett, Mesches & Johnson, P.L.,

a business litigation law firm in Palm Beach Gardens, seeks associate attorney with minimum 2-5 years experience in business, commercial, or general litigation. E-mail Resumes to Linda Philbrick at lphilbrick@kmjlawgroup.com. No phone calls please.

Busy office seeks experienced individual for litigation support.

Requirements: maintain attorney’s calendar, scheduling, transcription, assist paralegals, draft correspondence, pleadings, e-file in Florida Court’s E-Filing Portal. Applicants must effectively communicate with clients, be detailed and organized to work with a team in a fast paced environment. Excellent benefits. Email resume: Anna@JMWPA.com

Part Time Associate needed for AV rated Appellate Law Firm

located in Palm Beach Gardens. Must have outstanding research and writing skills; part time to start. Please send resume and writing sample to bkpr@lojscarroll.com

Paralegal/Legal Assistant (F/T):

Busy NPB Estate Planning/Probate/Probate Litigation Firm seeking experienced Paralegal who is a team player and self-starter. Must be detail oriented and possess excellent communication skills; have the ability to compose correspondence, prepare/e-file pleadings, maintain files and calendar, and coordinate hearings/depositions. WordPerfect experience preferred. Salary commensurate with experience. Fax letter and resume: 561-848-9961.

STOP REFERRING PERSONAL INJURY CASES ON A HANDSHAKE

Lawyers all over Florida are glad they refer us cases because:

1. They receive a written agreement to sign (as required by the Florida Bar), confirming their 25% referral fee
2. They receive regular notifications of how the case is going, including a copy of our demand letter
3. They get to review and sign our settlement statement, proving how much the case settled for

Do you currently receive this level of service? You should.

If you would like to establish a professional referral relationship with our firm, contact Tom Copeland at 561-697-4440, or email him at TCopeland@800GOLDLAW.com.



LAW OFFICES OF
CRAIG GOLDENFARB, P.A.

PERSONAL INJURY · WRONGFUL DEATH · NURSING HOME ABUSE

SERVING ALL OF FLORIDA

Main Office in West Palm Beach

1-800-GOLD-LAW

800GOLDLAW.COM

Bulletin Board

Probate, Guardianship, & Trust, P.A. is an entrepreneurial law firm practicing in the areas of probate, guardianship, estate planning, and administration. The position available is for a self-managing attorney team member with 3+ years of experience and is: Confident, intelligent, and focused Flexible Proactive Detail-oriented Personable and fun. Flexible hours - perfect for young parent. Send resume to info@ProbateGT.com

Growing Law Firm seeks attorneys in the areas of Estate Planning & Probate, Real Estate, Business/Corporate, and Civil Litigation. A lucrative compensation package awaits those with an existing book of business. Please submit your résumé and availability.

HEARSAY



Jones, Foster, Johnston & Stubbs, P.A. announces that associate attorney **Kelly A. Gardner** has graduated Leadership West Palm Beach, Class of 2017.



Palm Beach County family law attorney **Martin L. Haines III** is joining the full-service South Florida Law firm Brinkley Morgan, effective July 1, 2017.

Haines's Lake Park office becomes Brinkley Morgan's new Palm Beach location. It is the firm's third office location in South Florida.



EISENBERG & FOUTS, P.A., announces that **James L. Eisenberg** received the 2017 Judge Barry M. Cohen "Champion of Justice"

Award given by the Palm Beach Association of Criminal Defense Lawyers. The award was given to Mr. Eisenberg for a career dedicated to courage and integrity in seeking justice and fairness in criminal law for the criminally accused.



West Palm Beach criminal defense attorney **Nellie L. King**, featured with keynote speaker, NASA astronaut Captain Mark Kelly, after receiving the Women in

Leadership Award, Private Sector, from the Executive Women of the Palm Beaches on May 11, 2017.



Gunster, is pleased to announce that corporate law attorney **Joe Chase**, a shareholder at the firm, has been honored as Young Professional of the Year by

the Palm Beach Chamber of Commerce.



Cohen Milstein partner **Leslie M. Kroeger**, has been elected to serve as Treasurer for the Florida Justice Association (FJA.) Ms. Kroeger currently serves as Secretary and is past

Chair of the Women's Caucus.

The Law Offices of Craig Goldenfarb, P.A. has been ranked as #3 out of 25 on the Top Workplaces of 2017 list published by the Sun-Sentinel.



Jones, Foster, Johnston & Stubbs, P.A. announces that firm Shareholder, **Grasford W. Smith**, has been appointed to the Palm Beach County School Board Independent

Sales Surtax Oversight Committee.



Jones, Foster, Johnston & Stubbs, P.A. announces that firm Shareholder **William G. Smith** has graduated from the Florida Fellows Institute.



The National Board of Trial Advocacy (NBTA) is pleased to announce that **Elisha D. Roy** of the law firm, Elisha D. Roy, P.A. has successfully achieved Board Certification

as a family trial advocate.

COURTHOUSE COMMONS

MOVE-IN READY SUITES AVAILABLE



444 West Railroad Avenue
West Palm Beach, Florida 33401

PROPERTY HIGHLIGHTS

- Gorgeous move-in ready suites with beautiful contemporary finishes
- Efficient floor plans to accommodate legal professionals
- Covered walkway connects you directly to the Palm Beach County Courthouse
- 24/7 security
- Downtown convenience
- Common area improvements recently completed
- Lobby & entrance upgrades and renovations from the new responsive and motivated institutional ownership
- On-site property management and day porter

5

FLOORS

92,585 SF

CONNECTED DIRECTLY TO COURTHOUSE



WALKABILITY TO
SHOPPING &
RESTAURANTS

5.0/1,000
SQUARE FEET
COVERED AVAILABLE
\$70/SPACE/MONTH



2 BLOCKS
FROM THE NEW
ALL ABOARD FLORIDA
TRAIN STATION

For more information, please contact:

TARA ENGLAND

561 227 2017

tara.england@cushwake.com

MICHAEL OSIECKI

561 227 2060

michael.osiecki@cushwake.com



**CUSHMAN &
WAKEFIELD**

Cushman & Wakefield of Florida, Inc.
303 Banyan Blvd., Suite 301, West Palm Beach, FL 33401

cushwakesouthfl.com



PALM BEACH COUNTY BAR ASSOCIATION

BULLETIN

1507 Belvedere Road, West Palm Beach, FL 33406

PRESORT STD
US POSTAGE
PAID
WEST PALM BCH FL
PERMIT NO. 66

PAST PRESIDENTS...

M.D. CARMICHAEL*
RICHARD P. ROBBINS*
L.R. BAKER*
HARRY A. JOHNSTON*
GEORGE W. COLEMAN*
H.C. FISHER****
MARSHALL B. WOOD*
E. HARRIS DREW***
B.F. PATY*
JOSEPH S. WHITE*
HENRY P. LILIENTHAL*
MANLEY P. CALDWELL*
WILBUR E. COOK*
W. MURRAY HAMNER*
RICHARD PRESOTT*
RUSSELL MORROW*
CULVER SMITH*
RAYMOND ALLEY*
C.Y. BYRD*
WILLARD UTLEY*
C.H. ERNEST*
PAUL W. POTTER*

WAREING T. MILLER*
CHARLES B. FULTON*****
J. LEO CHAPMAN*
ELWYN L. MIDDLETON*
H. ELMO ROBINSON*
J. STOCKTON BRYAN, JR.
HAROLD G. MAASS*
ROBERT F. CROMWELL*
CHARLES H. WARWICK III*
PHILLIP D. ANDERSON*
FREDERICK C. PRIOR
JAMES C. DOWNEY*
WILLIAM A. FOSTER
ALAN F. BRACKETT*
ROBERT D. TYLANDER*
ROBERT MCK FOSTER*
JOHN M. FARRELL*
H. LAURENCE COOPER, JR.*
JOHN R. DAY*
JOHN L. BURNS*
HARRY JOHNSTON II
GAVIN LETTS*
JAMES S. ROBINSON*

CHARLES H. DAMSEL, JR.
EDWARD LEWIS*
RAYMOND ROYCE
PETER VAN ANDEL
LARRY KLEIN
THEODORE BABBITT
JOHN FLANIGAN
SIDNEY A. STUBBS, JR.
JOSEPH J. REITER**
JOHN B. MCCrackEN*
DAVID L. ROTH
D. CULVER SMITH III
TIMOTHY W. GASKILL
ARTHUR G. WROBLE
GUY C. HILL
PATRICK J. CASEY
JAMES G. PRESSLY, JR.
PATRICK C. MASSA
STEVEN A. STINSON
CARL M. MATHISON, JR.*
ROBERT V. ROMANI*
MICHAEL P. WALSH
JULIEANN RICO

MICHAEL A. VISCOMI
CAROL McLEAN BREWER
JERALD S. BEER
JOHN G. WHITE III**
MICHAEL T. KRANZ
EDWARD DOWNEY
SCOTT G. HAWKINS**
AMY L. SMITH
GREGORY W. COLEMAN**
LISA S. SMALL
STANLEY D. KLETT, JR.
THEODORE J. LEOPOLD
MANUEL FARACH
MEENU T. SASSER
RICHARD D. SCHULER
MICHELLE SUSKAUER
MICHAEL J. NAPOLEONE
JOHN M. HOWE
ADAM T. RABIN
JILL G. WEISS
THEODORE S. KYPREOS
J. GRIER PRESSLY III
JOHN R. WHITTLES

* DECEASED
** FLORIDA BAR PRESIDENT
*** DECEASED, FLORIDA BAR PRESIDENT, SUPREME COURT JUSTICE
**** DECEASED, FLORIDA BAR PRESIDENT
***** DECEASED, FLORIDA BAR PRESIDENT, FEDERAL COURT JUDGE

CALENDAR July/August 2017

JULY

Thursday, July 6
11:00am – 01:00pm
Judicial Lunch
North End Cafeteria

Tuesday, July 11
11:30am – 1:00pm
NCS Board Meeting
Duffy's

Tuesday, July 11
12:00pm- 1:00pm
YLS Board Meeting
515 N Flagler Drive
Conference Room

Thursday-Saturday
July 13-15
**The Florida Bar Voluntary
Bar Leaders Conference**
Disney's Boardwalk Inn
Lake Buena Vista, FL

Friday, July 14
9:00am – 1:30pm
YLS Golf Tournament
Mayacoo Lakes Country Club

Tuesday, July 18
7:45am – 8:30am
UMC Coffee
North End Cafeteria

Tuesday, July 18
5:30pm – 7:00pm
Pass The Gavel
515 N Flagler Drive,
1st Floor Lobby

Thursday, July 20
5:30pm – 7:00pm
**YLS Summer Intern
Happy Hour**
E.R. Bradley's

Wednesday, July 26
5:00pm -6:00pm
Bar Board Meeting
Searcy Denney
2139 Palm Beach Lakes Blvd

Thursday, July 27
5:30pm – 7:00pm
CDI Diversity Internship
Program Wrap-Up Reception
Shutts & Bowen

AUGUST

Tuesday, August 8
7:45am – 8:15am
UMC Coffee
North End Cafeteria

Tuesday, August 8
11:30am – 1:00pm
Committee Chair Meeting
515 N Flagler Drive,
Conference Room

Wednesday, August 9
12:00pm – 1:00pm
YLS Board Meeting
515 N Flagler Drive,
Conference Room

Friday-Sunday, August 11-15
Board Retreat
Hammock Beach
Palm Beach Coast, Florida

Tuesday, August 15
11:30am – 1:00pm
NCS Board Meeting
Duffy's

Tuesday, August 15
12:00pm – 1:00pm
CDI Meeting
TBA

Tuesday, August 22
5:30pm – 7:00pm
Legal Aid Board Meeting
Legal Aid Offices

Wednesday, August 23,
11:45am – 1:15pm
Judicial Lunch
North End Cafeteria

Thursday-Sunday, August 24-27
FL Bar YLD BOG Meeting
Omni Amelia Island