YES!

We are still accepting referrals in the area of medical malpractice after yet another session of legislatively created barriers to patients' access to our courts.

Gunn Law Group, P.A. remains committed to ACCOUNTABILITY IN MEDICINE

The social cost of medical mistakes should not be borne by patients whose lives are crippled, while insurers, hospitals and clinics continue to grow and economically prosper.
ABOUT THE COVER

This photo may look like the elaborate detail on a holiday ornament, but it’s actually the delicate hand-beading at the bottom of an Indian wedding dress. The dress was one of many ornate garments featured in October at Tampa’s India Fest, which celebrated the rich culture of the local Indian community.
16 ARE FINANCIAL AFFIDAVITS MANDATORY IN COLLABORATIVE CASES?
Collaborative Law Section by Joryn Jenkins

20 REMNANTS OF TIARA: A BUILDING IS STILL A PRODUCT
Construction Law Section by Hugh D. Higgins and Jared E. Smith

22 IMPLIED WARRANTIES EXTENDED TO “ESSENTIAL SERVICES”
Construction Law Section by Katherine L. Heckert

26 DELAWARE CHANCERY COURT UPHOLDS FORUM SELECTION PROVISIONS IN BYLAWS
Corporate Counsel Section by Jody P. Keeling

38 U.S. SUPREME COURT TO DECIDE IMPORTANT TRAFFIC STOP CASE
Criminal Law Section by Mark Rankin

42 CITIZEN TESTIMONY IN QUASI-JUDICIAL HEARINGS
Environmental & Land Use Law Section by Pamela Jo Hatley

46 GREETINGS FROM NEW CO-CHAIRS
Health Care Law Section by T.J. Ferrante and Sara Younger

48 FLORIDA’S STATUTE OF FRAUDS FOR IDEAS
Intellectual Property Section by Woodrow Pollack

52 HARMFUL COLLATERALS IN FAMILY LAW CASES
Marital & Family Law Section by Joryn Jenkins and Lori Skipper

54 WORKERS’ COMPENSATION 2013
Workers’ Compensation Section by Irene Rodriguez and Anthony V. Cortese

42 COMMITTEES

12 CELEBRATING PRO BONO WEEK 2013
Pro Bono Committee Message by Allison W. Singer

18 WE DID IT! WE MADE A DIFFERENCE IN THE LIVES OF VETERANS
Community Services Committee by Lisa A. Esposito

IN EVERY ISSUE

27 100 CLUB
45 HCBA BENEFIT PROVIDERS
58 AROUND THE ASSOCIATION
52 SAVE THE DATES
63 JURY TRIAL INFORMATION
63 CLASSIFIED ADVERTISING
63 ADVERTISING INDEX

THE HILLSBOROUGH COUNTY BAR ASSOCIATION

LAWER

Chester H. Ferguson Law Center
1610 N. Tampa Street, Tampa, FL 33602
Telephone (813) 221-7777
FAX (813) 221-7779
www.hillsbar.com

Editor
Rena Upshaw-Frazier
Executive Director
John F. Kynes

ADVERTISING
PR/Communications Coordinator
Corrie Benfield
corrie@hillsbar.com
(813) 221-7779

OFFICERS
President: Susan E. Johnson-Velez
President-Elect: Benjamin H. Hill IV; Immediate Past President: Robert J. Nader
Secretary: Anthony J. Fantauzzi III; Treasurer: Robert J. Scanlan
EX-OFFICIO
Chief Judge Manuel Menendez, Jr.; Robert V. Williams; Judge Mark R. Wolfe

DIRECTORS
J. Carter Andersen
Deborah C. Blews
Paige A. Greenlee
S. Gordon Hill
Kevin M. McLaughlin
Kristin A. Norse
John A. Schifino
Jacqueline A. Simms-Petredis
Grace H. Yang
The holidays and new year usher in exciting times in the legal profession. They offer an occasion to reflect on the year that has passed, time to enjoy our present moments, and the opportunity to look forward to new beginnings with the new year. They offer a much needed respite from the sometimes hectic whirlwind of being immersed in the legal profession. And although any time is a good time to make positive resolutions and implement changes in our lives, there is something about the uptick of a new year that compels us to want to be better versions of ourselves.

In reflection, I hope that the improved economy and real estate market of 2013 brought positive changes and growth opportunities for your legal practice. It has thus far been a superb time for the Hillsborough County Bar Association. The organization has continued to exemplify and relish its mission of providing professional networking events and luncheons, continuing legal education classes, and opportunities to have genuine fun for local legal professionals. We at the Lawyer magazine have enjoyed capturing, contributing to, and sharing those moments and the mission. We look forward to celebrating with you as we move into 2014.

We hope that you embrace the current holiday season and the endless opportunities to participate in pro bono activities and charitable events. Although we are all encouraged and would do well to give back to the community year-round, the holidays and new year bring with them a certain humanitarian spirit. And the community’s festivities and celebrations sometimes serve to emphasize the circumstances of those in need or less fortunate. Legal professionals possess unique skills and abilities that can serve to alleviate some of those circumstances. Please find time to brighten someone else’s holiday, as it will inevitably brighten yours as well.

Of course, legal practices and careers do not stop merely because the holidays and a new year are upon us! In fact, depending on the legal practice, some may be busier than ever during this season. Thank you to all of the HCBA section chairs for gratuitously taking time out of their holiday schedules to continue to provide up-to-date information on new laws and nuances in the legal profession and for contributing to, or finding contributors for, the educational articles included in this season’s publication. We hope that they expand your knowledge and enhance your career going into the new year.

Hopefully, your holiday season is not all work and no play. There are no shortage of celebrations and festivities, such as the HCBA’s Holiday Open House, and they provide a great opportunity to get to know your colleagues and fellow HCBA members. Take the time to celebrate all of your hard work over the past year. In the words of Lee Ann Womack, “When you get the choice to sit it out or dance, I hope you dance.”

Here’s to happy and restful holidays, a wonderful new year, and inspired new year’s resolutions. See you on the other side.
Good Grief! Why Can’t the Inspiration Last Longer than the Promotions?

What if something in the season could provide a behavioral roadmap for the entire year?

On a recent evening over dinner, my son, Julian, and I were discussing how Christmas continues to “bogart” the end-of-year holiday season — and with ever-increasing bravado. With each passing year, Christmas seems to seize an unfair share of the attention — red and green decorations can be seen well before the tricking and treating have even begun. The veritable onslaught of all things Christmas sometimes makes Thanksgiving seem like a mere bump on the holiday highway as we speed toward the end of December. At this point, you may be getting the very wrong impression that I do not like Christmas. But that could not be further from the truth. I actually love Christmas — it’s my favorite holiday. People are filled with feelings of warmth toward fellow man, hope, peace, and joy. We often lament the fact that sometimes these feelings and the kind acts they engender can seem as seasonal as the decorations. What if something in the season could provide a behavioral roadmap for the entire year?

I think the source of this roadmap might be found in some of the Christmas cartoon specials of my childhood. A few of my

Continued on page 5
favorites come to mind that could do the trick. For those of you who don’t remember the plots or who don’t continue to watch them every year as I do, here’s a brief summary:

**HOW THE GRINCH STOLE CHRISTMAS** – Bitter and hateful because his heart is two sizes too small, the Grinch is irritated at the thought that the Who’s in Whoville will enjoy Christmas. He thinks the enjoyment comes from all of the toys, decorations, and feasts. With himself dressed as Santa Claus, and his dog made to look like a reindeer, the Grinch tries to keep Christmas from coming. He raids Whoville and steals everything he thinks makes Christmas, Christmas — the presents, the lights and decorations, and even the roast beast. Instead he learns that Christmas does not come from a store … it means a little bit more.

**RUDOLPH THE RED-NOSED REINDEER** – A red-nosed reindeer who has been ostracized by all of the other reindeer (they used to laugh and call him names) teams up with an elf who wants to be a dentist and a prospector. Together they tame the Abominable Snowman and find an island of misfit toys. Rudolph leads Santa back to the island on that fateful, foggy Christmas Eve, and they pick up Charley-In-The-Box, the Cowboy-Who-Rides-An-Ostrich, the Spotted Elephant, and all the other misfit toys. This Christmas, their individuality is going to be an asset.

**CHARLIE BROWN CHRISTMAS** – Charlie Brown sees nothing but overwhelming materialism surrounding the season — even his dog, Snoopy, is not immune. He struggles to find the real meaning of Christmas but is frustrated just about everywhere he looks, from the school Christmas play to the aluminum tree lot. Finally, a little boy with his head wrapped in a blue blanket helps Charlie Brown discover the true meaning of Christmas.

So what course can these relics chart for us throughout the coming year? First and foremost — it’s not about “the stuff.” It’s about pretty much everything else but “the stuff,” and that’s what we should focus on. Second — being unique can be a good thing; we should seek out and embrace the individuality in everyone. And, finally — the very fact that we watch these cartoons reminds us of the value in being childlike (i.e., simple, trusting, and uncomplicated), at least on occasion. I wish you safe and joyous travels as we embark on our journey toward the end of this year and the beginning of next.
Successful Bench Bar Conference Punctuated by Human Trafficking Survivor’s Harrowing Account of Abuse

The theme for the Hillsborough County Bar Association’s 17th Annual Bench Bar Conference held in November at the Hilton in downtown Tampa was “Stand Up For Justice.” No one did a better job communicating that message than the courageous guest speaker at the event’s membership luncheon.

The speaker, a woman who did not provide her name because of personal safety concerns, shared her harrowing story of abuse as a survivor of human trafficking, and she encouraged the more than 450 HCBA members in attendance to become victim advocates.

Speaking publicly about her terrible ordeal for the first time, the woman described growing up in the Tampa Bay area in a “stable, loving family.” She said she enjoyed ballet, attended the University of South Florida for a time, and eventually became a single mother to a premature baby.

Trying to make ends meet, she worked nights as a bartender and at area nightclubs. Targeted by a local human trafficker, she was lured away from a nightclub under false pretenses and with the promise of making more money. She said she was then taken and held against her will in a local warehouse where she was repeatedly beaten and raped. “I thought I was dead when I heard my trafficker and other men talk about what to do with my body,” she said.

After that, all her belongings were taken, and she was regularly “sold” to men for sex. “I was the product,” she said.

Any time she resisted instructions, she was “punched and strangled,” she said. Her trafficker also used psychological manipulation to control her, which she said was often more powerful than physical violence.

Eventually, she was able to escape and is now trying to make a better life for herself. Incredibly, she is now attending law school and is encouraging others to assist trafficking victims. “We need every single attorney and judge to be trained on the [trafficking] issue,” she told the crowd, which gave her an extended standing ovation after she completed her remarks.

Jenay Iurato, a volunteer attorney with the West Florida Center for Trafficking Advocacy, provided some grim statistics...
The local trafficking survivor spoke publicly about her ordeal for the first time at the membership luncheon, urging attorneys to become victim advocates.

Continued from page 6

about human trafficking before she introduced the trafficking survivor. Florida ranks third in the country in the incidence of human trafficking, and overall the crime is estimated to be a $32 billion dollar industry, Iurato said. Further, trafficking is the second-most common criminal act behind drug trafficking, she added.

“Human trafficking is alive and flourishing in the Tampa Bay area,” Iurato said. “It’s modern-day slavery.”

Iurato encouraged those in attendance to get involved and help educate their colleagues and the public about the trafficking issue. Iurato also highlighted a new statewide initiative championed by Florida Attorney General Pam Bondi, “From Instant Message to Instant Nightmare,” to help parents protect children from sex trafficking.

However, she conceded there is much work to be done to help combat the problem. “We need attorneys who are willing to invest in the restoration of survivors through time, relationships, and pro bono legal services,” Iurato said.

* * *

On another note, Tampa Mayor Bob Buckhorn attended the membership luncheon and made a special presentation to U.S. District Judge Elizabeth A. Kovachevich. Buckhorn presented the judge with a door with her name inscribed on it that came from her former courtroom in the historic federal courthouse. The door was salvaged from the 108-year-old courthouse, which has been closed for 15 years and is being transformed into a boutique hotel.

* * *

Circuit Judges Caroline J. Tesche and Samantha L. Ward were this year’s Bench Bar Conference co-chairs. Both judges worked for months with other dedicated committee members, HCBA CLE Director Amanda Uliano, and other staff planning the conference.

“We firmly believe that our jurisdiction is unique; our Bench and Bar truly exemplify the best in the practice of law, and our annual conference grows in prominence and tradition each year,” Tesche said.

There were eight CLE breakout sessions in the morning that focused on a wide range of topics, as well as a morning plenary session that focused on key technology issues. In the afternoon, there were four more CLE breakout sessions, each with a “View Toward the Bench,” focusing on issues important to litigants. Plus, there were two afternoon plenary sessions, including a panel discussion focusing on pro bono work that was moderated by Pulitzer prize-winning columnist Daniel Ruth.

At the end of the day, more than 400 HCBA members enjoyed the camaraderie provided at the annual Judicial Reception.

Special thanks to the many generous sponsors that helped make this year’s Bench Bar Conference possible, and especially the Diamond Sponsor, Steve Yerrid and The Yerrid Law Firm.

See you around the Chet.
Don’t Text and Drive

Too many people are dying on our streets.

In 2011, Florida had 2,398 traffic fatalities. Hillsborough County was third in the state for the number of traffic fatalities, with 151 reported deaths that year. Statewide, more than 700 of the fatalities were related to alcohol-impaired driving. An even larger number of the fatalities were not caused by alcohol impairment. Many of these tragic deaths were easily avoidable.

Research into the causes of traffic fatalities has identified the dangers of distracted driving. Distracted driving occurs whenever a driver engages in an activity that distracts the driver from driving safely; this can include texting while driving. Nationally, more than 3,300 people were killed in crashes involving distracted driving during 2011. Educational campaigns to raise driver awareness about the dangers of texting and driving have been launched by numerous organizations, including the U.S. Department of Transportation and AT&T.

At the state level, some legislatures have passed laws to prevent texting while driving. On October 1, the Florida Ban on Texting While Driving Law went into effect. Florida Statute § 316.305 is intended to improve safety and help reduce the deaths and damage caused by texting while driving. This law prohibits a person from driving while “manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data in such a device for the purpose of nonvoice interpersonal communication, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging.” Violation of this statute is punishable as a noncriminal traffic infraction.

Continued on page 9
Although my office does not prosecute traffic infractions, a noncriminal traffic infraction may become part of a vehicular homicide prosecution. In order to prove the charge of vehicular homicide, the state must show that the death of the victim was caused by the operation of a motor vehicle “in a reckless manner likely to cause the death of, or great bodily harm to another.”

Evidence regarding the driver’s behavior at the time of the crash is relevant to proving this offense. This behavior could include texting while driving.

Too many people are dying on our streets. My office can only become involved once a crime has already occurred. Every one of us can become involved in saving lives when we get behind the wheel of a car and make good decisions. Help keep yourselves and the other citizens of Hillsborough County safe. Don’t text and drive.

8 See § 316.305(3)(a), Fla. Stat.
10 See § 782.071, Fla. Stat.
Betting on the Future

Before eFiling, it took two to three days before pleadings were available in the Clerk’s system. Now, 95 percent of pleadings are accepted and can be viewed the same day that they are eFiled.

With mail functions, sorting, and filing almost nonexistent, circuit civil is working with four fewer employees. County civil has reduced its staff by two, as has family law. Since attorneys eFile, customer service has now shifted from over the counter to phone and email customer service, so we are seeing reductions on that front, too. Circuit civil has reduced its front-counter employees from five to two, and family law now has four employees instead of seven.

The most positive result of all is that we are far more responsive to our customers. Before eFiling, it took two to three days before pleadings were available in the clerk’s system. Now, 95 percent of pleadings are accepted and can be viewed the same day that they are eFiled. Also, customers receive confirmation emails each time a document that has been eFiled is accepted.

In family law, 50 percent of new cases are eFiled. Therefore, cashiering has been reduced by 50 percent there. In circuit civil, staff performed an average of 300 transactions daily. With eFiling, that number is now 130. This is efficiency in both operations and accounting.

In the past, space — or lack of it — has been an issue in the clerk’s office, but with eFiling in effect, the reduction in paper, files, and staff has made more space available.

I don’t know if we’ve hit the jackpot yet with eFiling, but from all indications, it is a winner for all of us.
We bring our studio to you!

HCBA Members receive a 10% discount on all services!

Clients include:

Fowler, White Boggs
Raymond James
Sparkman & Sparkman PA
Older & Lundy
Raymond James
Bank of America
Florida Hospital
University of Tampa
Baycare Health System
Barker, Rodems & Cook

Over 20 years of in Tampa Bay!

Call Today!!
813.994.2000

THOMPSON Studios
Visit: ThompsonStudiosTampa.com

Preferred Vendors of the HCBA
In 2009, the American Bar Association’s Standing Committee on Pro Bono and Public Service announced plans to launch the first National Celebration of Pro Bono. Four years later, the celebration continues. Each October, bar associations across the country join together to celebrate Pro Bono Week — a week of events designed to highlight the efforts of attorneys doing pro bono work in their communities, as well as to recruit additional pro bono attorneys to increase services to low-income individuals. The Thirteenth Judicial Circuit has actively participated in the event since its inception and continued its support this year — from October 20 to 26.

Continued on page 13
The Pro Bono Committee encouraged its members — which include the sections of the Hillsborough County Bar Association, as well as other voluntary bar associations — to host an event during or around the time of Pro Bono Week. Leading by example on this front was the George Edgecomb Bar Association (GEBA), which hosted its annual Learn Your Legal Rights Community Workshop on September 28 at the New Hope Missionary Baptist Church.

The workshop, which was intended to educate community members about their legal rights, attracted approximately 100 attendees. For several years, GEBA has sponsored this event, at which its members present substantive courses on topics that disproportionately impact minority and low-income citizens, including employment discrimination, family law, personal injury, criminal law, and foreclosure. Henry G. Gyden, the workshop co-chair and GEBA’s immediate past president, explained that this year GEBA added to its already impressive list of courses a presentation on the Affordable Care Act, as well as a screening of “Before the Law Was Equal,” the documentary co-produced by the HCBA’s Young Lawyers Division and Diversity Committee.

GEBA President Cory J. Person emphasized how seriously his organization takes its pro bono obligation, noting that it is part of GEBA’s by-laws and mission. He praised his members for their efforts in creating an annual event that fulfills that mission by sharing with the community the breadth and diversity of members’ expertise. He was especially grateful for the efforts of co-chairs Henry G. Gyden and Kamilah Perry, as well as Charles M. Holloman II and Clinton Paris. The fall workshop was so successful that GEBA is planning a similar event for the spring of 2014.

This is what it means to incorporate pro bono into our legal DNA. Thank you, GEBA, for continuing to set the pace for pro bono in our community.

Author: Allison W. Singer, City Attorney’s Office, City of Tampa
The Hillsborough County Bar Foundation
Wishes to thank these sponsors of

The Law Liberty Dinner

Marquee Sponsor

THE CENTERS

Premier Sponsors
The Bank of Tampa
The Yerrid Law Firm

Silver Sponsors
Arinstein & Lehr, LLP
Barnett Bolt Kirkwood Long & McBride
Burr & Forman LLP, formerly Williams Schifino
Carlton Fields Jorden Burt
Holland & Knight LLP
Schifino Lee Advertising + Branding
Shumaker, Loop & Kendrick, LLP
Stichter, Riedel, Blain & Prosser, P.A.
TECO Energy
Wagner, Vaughan & McLaughlin, P.A.

Bronze Sponsors
Allen Dell, P.A.
Bajo | Cuva | Cohen | Turkel
Bush Ross, P.A.
Carey, O'Malley, Whitaker & Mueller, P.A. /
Kynes, Markman & Felman, P.A.
Constangy, Brooks & Smith, LLP
Edward H. Farrior, M.D.
Free Press
George & Titus, P.A.
Greenberg Traurig, P.A.
Hill Ward Henderson P.A.
Johnson Pope Bokor Ruppel & Burns, LLP
Mason Black & Caballero
Merlin Law Group, P.A.
Phelps Dunbar LLP
Prida-Guida & Co. PA
Smoak & Chistolini
Stetson University College of Law
Thompson Studios
Trenam Kemker
Trial Consulting Services, LLC

The Hillsborough County Bar Foundation's Outreach Project provides grants to non-profit charitable organizations that provide legal-related services to the poor, disabled, or disadvantaged. If you know of an organization that could benefit from this program, contact HCBF executive director Darlene Kelly at 813-221-7774 for additional information and a grant application.
Ben Stein offers laughter, insight and tears as he explores society’s most quirky conundrums. Armed with a curmudgeonly persona and offbeat style, he dissects the economy and helps audiences balance life’s priorities, even as he offers an eye-opening tour of its greatest absurdities. An exceptionally gifted economist whose market analysis is sought by companies and organizations across the country, Stein is author of Yes, You Can Supercharge Your Portfolio!; Yes, You Can get a Financial Life; and How to Ruin the United States of America, among others. The nation’s self-styled “hope for the new millennium” Stein’s career achievements range from Economist and Longtime Columnist for The Wall Street Journal, Barrons and The New York Times; Commentator for CBS News, Fox News and CNN and Award-winning Commentator on Finance; to speech writer and aid for Presidents Nixon and Ford; and even the pop icon who starred as Ferris Bueller’s teacher. He is, above all, an expert on bringing meaning to both life and work.

The son of an economist and writer, Stein was born in Washington, D.C. and attended school in Maryland. He graduated from Columbia University in 1966 with honors in economics and from Yale Law School in 1970 as valedictorian of his class by election of his classmates. He has worked as an economist at The Department of Commerce, a poverty lawyer in New Haven and Washington, D.C., a trial lawyer in the field of trade regulation at the Federal Trade Commission in Washington, D.C., a university adjunct at American University in Washington, D.C., at the University of California at Santa Cruz and at Pepperdine University in Malibu, CA. He has taught about the political and social content of mass culture, political and civil rights under the Constitution, libel law, securities law, and ethical issues since 1986.

In 1973 and 1974, he was a speech writer and lawyer for Richard Nixon at The White House and then for Gerald Ford. (He did NOT write the line, ‘I am not a crook.’) He has been a columnist and editorial writer for The Wall Street Journal, a frequent contributor to Barrons, a regular columnist for Los Angeles Magazine, New York Magazine, E! Online, and has written a lengthy diary for twenty years for The American Spectator. He currently writes a column for The New York Times Sunday Business Section, has a column about personal finance for Yahoo!, and is a commentator for CBS Sunday Morning and Fox News. He has written, co-written and published thirty books, including seven novels. His most recent books are the best-selling humor self-help series, How To Ruin Your Life.

Admission by sponsorship or reservation only.
For more information call (813) 221-7774.
ARE FINANCIAL AFFIDAVITS MANDATORY IN COLLABORATIVE CASES?
Collaborative Law Section
Chair: Caroline Sikorske - Mason Black & Caballero, P.A.

Collaborative professionals have long labored under the assumption that Florida law requires financial affidavits in every divorce case, even the collaborative ones. However, in Salczman v. Joquiel, Florida’s Third District announced that financial affidavits are not necessarily compulsory! In that case, there were no children, and neither party had requested any form of permanent relief from the other.

In many ways, Salczman resembled a typical collaborative case without children. Both parties were financially secure when they married and, in anticipation thereof, with benefit of counsel and full disclosure, had executed an antenuptial agreement. The agreement provided that, in the event of divorce, each would retain any premarital property; they would divide jointly titled property equally, and neither would be entitled to spousal support.

After just three years, the wife petitioned for divorce, averring that their antenuptial agreement should be fully enforced. She sought no financial relief. The husband admitted the wife’s allegations and requested that their only two jointly titled assets be divided equally, pursuant to their agreement. The parties then amicably disposed of those assets.

Later, the trial court entered a final judgment granting the dissolution and incorporating the antenuptial agreement, finding it fair and reasonable on its face and executed after full disclosure between the parties. Further, the court found that the parties had distributed all of their assets and liabilities in accordance with their agreement and that no financial issues remained to be decided.

Continued on page 17
ARE FINANCIAL AFFIDAVITS MANDATORY IN COLLABORATIVE CASES?
Collaborative Law Section

Continued from page 16

However, over their objections and simultaneously with entry of its final judgment, the court ordered both parties to submit financial affidavits. The Salczman parties both appealed, arguing that because there were no financial issues to be determined, applying the financial affidavit requirement violated their constitutional right to privacy. The Third District never reached that issue, however, concluding that the rule itself rendered its terms inapplicable.

Rule 12.285(d)(1) provides:

A party shall serve ... in any proceeding for an initial or supplemental request for permanent financial relief ... [a] financial affidavit in substantial conformity with Family Law Form 12.901(d) ..., which requirement cannot be waived by the parties.

Said the Salczman court:

It stands to reason then, that if a court in a dissolution proceeding under this rule is not being called upon to award any permanent financial relief to a party, financial affidavits are not required and are indeed wholly irrelevant to the proceeding.

Because neither party requested permanent financial relief, because the parties resolved equitable distribution prior to final hearing, and because their agreement was unassailable, there was absolutely no issue as to financial relief.

Thus, filing financial affidavits served no purpose and the rule did not so mandate.2

1 776 So. 2d 986 (Fla. 3d DCA 2001).
2 In Kelner v. Kelner, 970 So. 2d 933 (Fla. 4th DCA 2008), the Fourth District, on similar facts, but involving simplified dissolution, cited Salczman, ruling “parties to a simplified dissolution may waive the filing of financial affidavits under the circumstances presented here notwithstanding the language in rule 12.105.”

Author:
Joryn Jenkins,
Joryn Jenkins & Associates

Thank You!

Thanks to those who attended the Collaborative Law Section luncheon on October 3.
Make a Difference Day - Adopt a Veteran was a huge success, thanks to you! The Community Services Committee (CSC) did it. We adopted every veteran on the James A. Haley Veterans’ Hospital’s hardship list, but we couldn’t have done it without the generosity and commitment of you, our members, and your friends, family, and co-workers.

On October 26, 2013, CSC members visited with our nation’s most revered treasure, our aging veterans in need, to thank them for their service and deliver gifts of gratitude. If you donated, thank you. If you helped deliver or spread the word, again, thank you! The hours we spent meeting these soldiers surely left its mark on us.

In fact, I would like to share one of my experiences meeting an extraordinary veteran whom I will call Bob. Bob is 96, still feisty, and quick with a laugh. He spoke of his time in the Navy during World War II. He smiled when he talked about being a butcher, a baker, and a traveling salesman. No, he wasn’t

Continued on page 19
a candlestick maker, but he did try lots of professions in his lifetime. He told me about making doughnuts while a baker, doughnuts better than Dunkin' Donuts, according to Bob, and in talking with him I would have expected no less.

Although Bob outlived his family, he still tries to find things to make him laugh every day. This day, it was the colorful shirt he received from a member. Bob laughed, saying he would smile when he wore the shirt as the colors reminded him of his youth! Wow, powerful stuff! Talking with this extraordinary man made me appreciate my life, my freedom that he helped secure, and my family. Thanks, Bob.

My story is just one of many that occurred throughout Hillsborough County on Make a Difference Day. I hope that all who came out will share stories with your neighbors and family. The soldiers we visited that day delighted in having someone with whom to reminisce about their lives, and we got to learn about their memorable experiences. We thought we were giving to them, but we walked away realizing we had received so much more.

If you couldn’t participate in Adopt A Veteran, no worries. In December, CSC will work with another nonprofit group, Aging Solutions, participating in Elves for the Elderly Holiday Gift Drive. Our members will become Santa’s elves, adopting needy elderly state wards who can no longer take care of themselves and have no family support. They need our help with basic necessities such as shoes, socks, maybe a stuffed animal to hug when times get tough! Help us put some presents under their trees/menorahs. Without elves like us, they would have no gifts this season! Interested in adopting an elder or donning some antlers and visiting some special people this season? For more information, contact Lisa Esposito (lisa@lesposito.com) or Lara LaVoie (llavoie@garrisonyount.com).

Author: Lisa A. Esposito, Law Offices of Lisa Esposito, P.A.
REMNANTS OF TIARA: A BUILDING IS STILL A PRODUCT
Construction Law Section
Chairs: Jeff Paskert - Mills Paskert Divers, P.A.; and Mark Smith - Carlton Fields, P.A.

When Tiara Condo. Ass’n, Inc. v. Marsh & McLennan Companies, Inc., 110 So. 3d 399 (Fla. 2013), was decided, many construction practitioners were concerned with the additional tort exposure implications. Tiara dealt with whether the economic loss rule (ELR) would bar certain tort claims against an insurance broker where the parties were in contractual privity. A divided Florida Supreme Court, however, passed over this narrow question and instead wiped out the contract ELR entirely.

Though uncertainty abounds in the wake of Tiara, two things remain unchanged: The ELR still applies to products, and a building is still a product. The product ELR prevents a plaintiff from recovering in tort when a product damages only itself and does not cause personal injury or damage to other property.

Twenty years prior to Tiara, the landmark case of Casa Clara Condo. Ass’n, Inc. v. Charley Toppino & Sons, Inc., 620 So. 2d 1244 (Fla. 1993), was decided. In Casa Clara, homeowners filed suit against a concrete supplier because a faulty mix corroded the concrete.

Continued on page 21
REMNANTS OF TiARA: A BUILDING IS STILL A PRODUCT
Construction Law Section

Continued from page 20

rebar, resulting in concrete falling off of the buildings. The homeowners attempted to skirt application of the ELR by asserting a “home was different,” and the defective concrete caused damage to “other products” (namely the buildings themselves). The court held that the tort claims were barred by the ELR because the “homeowners bought finished products — dwellings — not the individual components of those dwellings.” Id. at 1247.

Curiously, a red flag now appears on the Casa Clara decision, which denotes “no longer good for at least one point of law,” referencing Tiara, and the Westlaw summary states “the Supreme Court receded from Casa Clara.” Yet, the admonitions of law school professors demand that we not blindly rely on case summaries or the color of case flags.

The Tiara court only receded from prior rulings “to the extent that they have applied the economic loss rule to cases other than product liability.” Tiara, 110 So. 3d at 407. Tiara generously cites and never expressly recedes from Casa Clara. In fact, the court cites Casa Clara’s holding in its discussion of the product liability ELR. Id. at 405 (“In Casa Clara, we held that the [ELR] barred a cause of action in tort for providing defective concrete where there was no personal injury or damage to property other than to the product itself.”)

A recent Ninth Circuit Court opinion has upheld application of Casa Clara in the construction setting: “Nothing in Tiara appears to alter the precedent set in cases examining the ELR in products liability action. ... [T]he finished product is the entire structure, not the individual units.” Sienna at Celebration Master Ass’n v. Winter Park Constr. Co., Case No. 2009 CA 006474 CN (Fla. Cir. Ct. Sept. 4, 2013). For now, Casa Clara’s broad definition of the term “product” appears to remain intact and should provide contractors and subcontractors a defense to basic tort claims involving construction of buildings.

Authors: Hugh D. Higgins and Jared E. Smith, Rumberger, Kirk & Caldwell

Are you getting the HCBA weekly e-newsletter?
If not, we may not have your email address.
Call (813) 221-7777 to update us!
IMPLIED WARRANTIES EXTENDED TO “ESSENTIAL SERVICES”
Construction Law Section
Chairs: Jeff Paskert - Mills Paskert Divers, P.A.; and Mark Smith - Carlton Fields, P.A.

For 40-plus years, Florida law implied warranties to new home purchasers but restricted these protections to structures that “immediately support” a residence. In Maronda Homes, Inc. of Florida v. Lakeview Reserve Homeowners Association, Inc., — So.3d —, 2013 WL 3466814 (Fla. July 11, 2013), the Florida Supreme Court altered this established standard and extended implied warranties of fitness and merchantability to “essential services” to the habitability of a residence.

Maronda arose from drainage problems (flooded lawns, driveways, collapsed storm drains, stagnant water) in a newly built residential subdivision. Specifically, the claimant homeowners’ association alleged the flooding resulted in soil erosion, buckling and splitting of pavement, retention ponds overflowing, and standing water, creating safety hazards and mosquito infestation.

Seeking redress, Lakeview Reserve brought suit alleging breach of the implied warranties of fitness and merchantability and that developer Maronda “defectively designed and constructed the subdivision’s infrastructure, roadways, retention ponds, underground pipes, and drainage systems.”

At the circuit court, Maronda obtained summary judgment on the basis that the implied warranties did not apply because the defective conditions did not “immediately support” the residences. The Fifth District Court of Appeals extended the implied warranties of fitness for a particular purpose, habitability, and merchantability to improvements to real property that provide “essential services” for the home. The court defined “essential services” as items necessary for living accommodations such as roads, drainage systems, retention ponds, underground pipes, and drainage systems.

Continued on page 23
TITLE: IMPLIED WARRANTIES EXTENDED TO “ESSENTIAL SERVICES”
Construction Law Section

Continued from page 22

ponds, and underground pipes, but excluded landscaping, sprinkler systems, recreational facilities, security systems, and other items that are “mere convenience or aesthetic beauty.” The Fifth District concluded that “implied warranties of fitness for a particular purpose, habitability, and merchantability apply to structures in common areas of a subdivision that immediately support the residence in the form of essential services.”

The Florida Supreme Court adopted the Fifth District’s “essential services” analysis and held “the law of implied warranties of fitness and merchantability apply to improvements that provide essential services to the habitability of a residence.” Applying this test to Lakeview Reserve’s flooding problems, the court concluded that the improvements involved, though not physically attached to the homes, provided essential services for habitability and “immediately supported” the residences.

The full impact of Maronda is unclear; however, it is a significant development favoring consumers and adopting a new “essential services” test as the guideline for application of implied warranties.

It should be noted that Maronda also addressed Florida Statute Section 553.835, which was enacted during Maronda’s pendency and rejected the Fifth District’s implied warranties expansion. The court concluded that the statute could not be retroactively applied to Lakeview Reserve’s vested cause of action and therefore was inapplicable. The court noted in dicta that the statute “violates the right of access to courts because it attempts to abolish the common law cause of action for breach of implied warranties for certain injuries,” in “clear violation of separation of powers.” Accordingly, Section 553.835 appears squarely in the sights of the Florida Supreme Court and may be struck down if it comes before the court again.

Author: Katherine L. Heckert, Carlton Fields, P.A.
YOUR DREAM HOME DESERVES A DREAM MORTGAGE.

SUSAN L. BLACKBURN | Regional Executive, Tampa Bay | 813-307-6191 | www.sabadellmortgage.com

FOR MODERN TIMES, A CLASSIC BANK™

Sabadell™ is a service mark of Banco de Sabadell, S.A. used by Sabadell United Bank, N.A., member FDIC.
© 2012 Sabadell United Bank, N.A., a subsidiary of Banco de Sabadell, S.A. All rights reserved.
SABADELL UNITED BANK™ is a trademark and service mark of Banco Sabadell, S.A.
BANCOSABADELL® is a registered trademark and service mark of Banco de Sabadell, S.A.
RECOVERY OF INVESTORS' LOSSES
Representing individuals who have suffered losses as a result of the negligence, fraud or other wrongdoing of their stock broker, investment advisor, or other financial professional.

SCOTT C. ILGENFRITZ
Board Certified Business Litigation Attorney
SCOTT@JFFIRM.COM
WWW.FLORIDASECURITYSFRAUDLAWYER.COM

JOHNSON POPE
BOKOR RUPPEL & BURNS, LLP
COUNSELORS AT LAW
403 E. MADISON ST., TAMPA, FL 33602
(813) 225-2500

Member of the Public Investors Arbitration Bar Association (PIABA) since 1997. President of PIABA, November 2012-October 2013. Elected member of PIABA’s Board of Directors.

Robert H. Bonanno, Esquire
Mediator/Arbitrator
Telephone No. (813)769-3701
www.TampaMediation.com

> Downtown Tampa Facilities Available
> Convenient Online Calendar
> Over 37 years legal experience
> Certified Florida Circuit Civil & Federal Mediator
> Member Florida Circuit-Civil Mediator Society
> Resume’ and rates available on website
> Available to serve as Special Master
In a recent decision, *Boilermakers Local 154 Retirement Fund, et al. v. Chevron Corp., et al.*, C.A. No. 7220-CS (Del. Ch. June 25, 2013), Chancellor Leo E. Strine, Jr., of the Delaware Court of Chancery upheld the statutory and contractual validity of bylaws adopted by a corporation’s board of directors that specifically designate an exclusive forum for litigating disputes regarding the internal affairs of the corporation. Generally speaking, a forum selection bylaw is a provision in a corporation’s bylaws that designates a forum as the exclusive venue for certain stockholder suits against the corporation, either as an actual or nominal defendant, as well as its directors and employees. The plaintiffs in this particular lawsuit claimed that the forum selection bylaws were statutorily invalid because they were beyond the scope of the board’s authority under the Delaware General Corporation Law and that the bylaws were contractually invalid because they were unilaterally adopted by the board without shareholder approval.¹

First, the court held that the forum selection bylaws are statutorily valid exercises of board authority under 8 Del. C. §109(b). Section 109(b) provides that the bylaws of a corporation “may contain any provision, not inconsistent with law or with the certificate of incorporation, relating to the business of the corporation, the conduct of its affairs, and its rights or powers or the rights or powers of its stockholders, directors, officers or employees.” The court found that the bylaws “plainly relate to the business of the corporation[s], the conduct of [their] affairs, and regulate the rights or powers of [their] stockholders.”² Therefore, the court found that such forum selection bylaws were not invalid as a matter of statutory law.

Second, the court held that board-adopted forum selection bylaws are contractually valid if the corporation’s articles of incorporation allow for unilateral adoption or amendment of the bylaws. The court concluded that the board-adopted bylaws were binding on the stockholders because, consistent with 8 Del. C. §109(a), the certificate of incorporation gave the board the power to adopt and amend bylaws unilaterally and that 8 Del. C. §109(b) allows bylaws to regulate the business of the corporation, the conduct of its affairs, and the rights or powers of its stockholders. Therefore, by purchasing stock in the corporation, the stockholders agreed to be bound by the articles of incorporation, which included the provisions that allowed for the unilateral adoption of the bylaws. In addition, the court noted that there are several ways that stockholders have the ability to check the board’s authority. For example, stockholders can repeal the bylaws by majority vote or withhold votes from certain directors at annual elections.³

The court’s opinion now clears a path for directors of Delaware corporations, when authorized by the certificate of incorporation, to adopt forum selection bylaws to limit a company’s exposure to duplicative shareholder class actions and derivative actions across multiple forums. However, this decision is still subject to review by the Delaware Supreme Court, and it is likely that it will be appealed.

¹ *Boilermakers Local 154 v. Chevron*, at 1.
² Id. at 4.
³ Id. at 30-35.

Author:
Jody P. Keeling, Holland & Knight, LLP
# Hillsborough County Bar Association 100 Club

Law firms with 100% membership in the HCBA

<table>
<thead>
<tr>
<th>12th Judicial Circuit</th>
</tr>
</thead>
<tbody>
<tr>
<td>13th Judicial Circuit</td>
</tr>
<tr>
<td>13th Judicial Circuit</td>
</tr>
<tr>
<td>Court Plant City</td>
</tr>
<tr>
<td>2nd District Court of</td>
</tr>
<tr>
<td>Appeal Lakeland</td>
</tr>
<tr>
<td>Addision &amp; Howard, P.A.</td>
</tr>
<tr>
<td>Allen Dell, P.A.</td>
</tr>
<tr>
<td>Alley Clark Grewe</td>
</tr>
<tr>
<td>Almerico &amp; Moneyey</td>
</tr>
<tr>
<td>Alvarez Garcia</td>
</tr>
<tr>
<td>Ansaa Assuncac, P.A.</td>
</tr>
<tr>
<td>Anthony &amp; Partners, LLC</td>
</tr>
<tr>
<td>Anthony J. LaSpada, P.A.</td>
</tr>
<tr>
<td>Austin, Roe &amp; Patsko, P.A.</td>
</tr>
<tr>
<td>Baccarella &amp; Sacareilla, P.A.</td>
</tr>
<tr>
<td>Baird Law Group</td>
</tr>
<tr>
<td>Bajo</td>
</tr>
<tr>
<td>Banker Lopez Gassler, P.A.</td>
</tr>
<tr>
<td>Barbas, Nunez, Sanders, Butler &amp; Hovsepian, P.A.</td>
</tr>
<tr>
<td>Barker, Rodemer &amp; Cook, P.A.</td>
</tr>
<tr>
<td>Barnett, Bol, Kirkwood, Long and McBride, P.A.</td>
</tr>
<tr>
<td>Bavo Judge, P.A.</td>
</tr>
<tr>
<td>Bay Area Legal Services Plant City</td>
</tr>
<tr>
<td>Bay Area Legal Services Wimauma</td>
</tr>
<tr>
<td>Bell &amp; Ruth</td>
</tr>
<tr>
<td>Bivins &amp; Hemenway, P.A.</td>
</tr>
<tr>
<td>Boire &amp; DePippo, P.L.</td>
</tr>
<tr>
<td>Bradford &amp; Bradford</td>
</tr>
<tr>
<td>Brannock &amp; Humphries, P.A.</td>
</tr>
<tr>
<td>Brennan, Holden &amp; Kavouklis, P.A. Attorneys at Law</td>
</tr>
<tr>
<td>Broad &amp; Cassell</td>
</tr>
<tr>
<td>Buell &amp; Elliott, P.A.</td>
</tr>
<tr>
<td>Buru &amp; Forman, LLP, formerly Williams Schifino</td>
</tr>
<tr>
<td>Busciglio &amp; Sheridan Law Group PA</td>
</tr>
<tr>
<td>Bush Ross</td>
</tr>
<tr>
<td>Butler Pappas Weihmuller Katz Craig, LLP</td>
</tr>
<tr>
<td>Caglianone, Miller &amp; Anthony, P.A.</td>
</tr>
<tr>
<td>Carey, O'Malley, Whitaker &amp; Mueller, P.A.</td>
</tr>
<tr>
<td>Carlton Fields, P.A.</td>
</tr>
<tr>
<td>Carman &amp; Corn, P.A.</td>
</tr>
<tr>
<td>Caveda Law Firm, P.A.</td>
</tr>
<tr>
<td>Cedola and Vincent P.L.</td>
</tr>
<tr>
<td>Cheeseeman &amp; Phillips, P.A.</td>
</tr>
<tr>
<td>Christopher N. Ligori, P.A.</td>
</tr>
<tr>
<td>City of Tampa</td>
</tr>
<tr>
<td>Clark &amp; Martino, P.A.</td>
</tr>
<tr>
<td>Clerk of the Circuit Court's Office</td>
</tr>
<tr>
<td>Cody O'Malley Davis Trial Attorneys, P.A.</td>
</tr>
<tr>
<td>Cole, Scott &amp; Kissane, P.A.</td>
</tr>
<tr>
<td>Cordell &amp; Cordell, P.C.</td>
</tr>
<tr>
<td>County Attorney's Office</td>
</tr>
<tr>
<td>Cristal Law Group</td>
</tr>
<tr>
<td>Cruzer Mitchell Nicholas &amp; Bell, LLP</td>
</tr>
<tr>
<td>Cruz-Garcia Law, P.A.</td>
</tr>
<tr>
<td>Danary &amp; Murray, P.A.</td>
</tr>
<tr>
<td>Davidson McWhiter, P.A.</td>
</tr>
<tr>
<td>de la Parte &amp; Gilbert, P.A.</td>
</tr>
<tr>
<td>Dennen, Ragan, PPLC</td>
</tr>
<tr>
<td>Dennis LeVine &amp; Associates, P.A.</td>
</tr>
<tr>
<td>District Court of Appeal</td>
</tr>
<tr>
<td>Donica Law Firm, P.A.</td>
</tr>
<tr>
<td>Dorman &amp; Gutman, P.L.</td>
</tr>
<tr>
<td>Escobar, Ramirez and Associates</td>
</tr>
<tr>
<td>Fernandez &amp; Hernandez, LLC</td>
</tr>
<tr>
<td>Fiol &amp; Gomez, P.A.</td>
</tr>
<tr>
<td>Fisher and Frommer</td>
</tr>
<tr>
<td>Fisher Law Group</td>
</tr>
<tr>
<td>Florida Default Law Group, P.L.</td>
</tr>
<tr>
<td>Fowler White Boggs P.A.</td>
</tr>
<tr>
<td>Fuentes &amp; Kreischer, P.A.</td>
</tr>
<tr>
<td>Fulgencio Law</td>
</tr>
<tr>
<td>Fuller Holsteinback &amp; Malloy, P.A.</td>
</tr>
<tr>
<td>Gallagher Keenan, P.A.</td>
</tr>
<tr>
<td>Gardner Brewer Martinez Monfort, P.A.</td>
</tr>
<tr>
<td>Garrison, Yoont, Forte, Mulcahy &amp; Lehner, LLC</td>
</tr>
<tr>
<td>Gattlin &amp; Birch, P.A.</td>
</tr>
<tr>
<td>Gaylord Merlin Ludovic &amp; Diaz</td>
</tr>
<tr>
<td>Genders-Alvarez-Diedicue, P.A.</td>
</tr>
<tr>
<td>George &amp; Titus, P.A.</td>
</tr>
<tr>
<td>Gibbons, Tucker, Miller, Whatley, &amp; Stein, P.A.</td>
</tr>
<tr>
<td>Gibbs and Parnell, P.A.</td>
</tr>
<tr>
<td>Givens Law Group</td>
</tr>
<tr>
<td>Glenn Rasmussen, P.A.</td>
</tr>
<tr>
<td>GrayRobinson, P.A.</td>
</tr>
<tr>
<td>Griffin &amp; Associates, P.A.</td>
</tr>
<tr>
<td>Guenmer &amp; Ritt</td>
</tr>
<tr>
<td>Gunn Law Group</td>
</tr>
<tr>
<td>Hancock &amp; Hancock, P.A.</td>
</tr>
<tr>
<td>Harmon, Woods, Parker, Hendricks &amp; Aburuzo, P.A.</td>
</tr>
<tr>
<td>Harris and Hunt, P.A.</td>
</tr>
<tr>
<td>Hillsborough County Sheriff’s Office</td>
</tr>
<tr>
<td>Hill Ward Henderson</td>
</tr>
<tr>
<td>Himes &amp; Hearn, P.A.</td>
</tr>
<tr>
<td>Hines Norman Hines, P.L.</td>
</tr>
<tr>
<td>Holcomb &amp; Mayts, P.L.</td>
</tr>
<tr>
<td>Hunter Law Group</td>
</tr>
<tr>
<td>James, Hoyer, Newcomer &amp; Smiljanich, P.A.</td>
</tr>
<tr>
<td>Jayne M. Lambert P.A.</td>
</tr>
<tr>
<td>Jayson, Farthing, Skaffidas &amp; Wright, P.A.</td>
</tr>
<tr>
<td>Janette T. Tate, P.A.</td>
</tr>
<tr>
<td>Joe M. Gonzalez, P.A.</td>
</tr>
<tr>
<td>John H. Raines III, P.A.</td>
</tr>
<tr>
<td>Johnson, Pope, Bokor, Ruppel &amp; Burns, LLP</td>
</tr>
<tr>
<td>Jorgensen &amp; Ozyowski, P.A.</td>
</tr>
<tr>
<td>Joryn Jenkins &amp; Associates</td>
</tr>
<tr>
<td>Joyce &amp; Reyes Law Firm</td>
</tr>
<tr>
<td>Jung &amp; Sisco, P.A.</td>
</tr>
<tr>
<td>Kadyk Delesie &amp; Espat C.A. P. Cap Trust</td>
</tr>
<tr>
<td>Keys &amp; Coakley, P.L.</td>
</tr>
<tr>
<td>Knopik Deskine Law Group</td>
</tr>
<tr>
<td>Kubiczki Draper</td>
</tr>
<tr>
<td>Kunzler, Miller &amp; Hament, P.A.</td>
</tr>
<tr>
<td>Kynes, Markman &amp; Felmam, P.A.</td>
</tr>
<tr>
<td>Lauro Law Firm</td>
</tr>
<tr>
<td>Law Office of Donald P. Decort, P.A.</td>
</tr>
<tr>
<td>Law Office of Jason D. Montes, P.A.</td>
</tr>
<tr>
<td>Law Office of Kevin M. Gilhool</td>
</tr>
<tr>
<td>Law Office of Patricia Gomez, P.A.</td>
</tr>
<tr>
<td>Law Office of Robert M. Geller</td>
</tr>
<tr>
<td>Law Office of Butler &amp; Boyd, P.A.</td>
</tr>
<tr>
<td>Law Office of Darrin T. Mix, P.A.</td>
</tr>
<tr>
<td>Law Offices of Emma Hamness, P.A.</td>
</tr>
<tr>
<td>Law Offices of Jacob I. Reiber</td>
</tr>
<tr>
<td>Law Offices of Matthew J. Jowanna, P.A.</td>
</tr>
<tr>
<td>Leon &amp; Berg, P.A.</td>
</tr>
<tr>
<td>Leslie Rein Stein, P.L.</td>
</tr>
<tr>
<td>Levine, Hirsch, Segall, Mackenzie &amp; Friedsam, P.A.</td>
</tr>
<tr>
<td>Ligori &amp; Cappy, P.A.</td>
</tr>
<tr>
<td>Lopez, Kelly &amp; Bible, P.A.</td>
</tr>
<tr>
<td>Luks, Santaniello, Perez, Pettillo &amp; Gold</td>
</tr>
<tr>
<td>Lynette Silon-Laguna, P.A.</td>
</tr>
<tr>
<td>Mac A. Greco, Jr., P.A.</td>
</tr>
<tr>
<td>Mandellbaum, Trichler Law Center, P.A.</td>
</tr>
<tr>
<td>Manson Law Group</td>
</tr>
<tr>
<td>Mark Bentley, P.A.</td>
</tr>
<tr>
<td>Marlowe McNabb, P.A.</td>
</tr>
<tr>
<td>Martinez, Odom Law Group</td>
</tr>
<tr>
<td>Mary Beth Conn, P.A.</td>
</tr>
<tr>
<td>Mason Black &amp; Caballero, P.A.</td>
</tr>
<tr>
<td>Matassini Law Firm, P.A.</td>
</tr>
<tr>
<td>McCumber, Daniels, Bunz, Hartig &amp; Puig, P.A.</td>
</tr>
<tr>
<td>Mechanik Nuccio Hearme &amp; Wester, P.A.</td>
</tr>
<tr>
<td>Melkus, Fleming &amp; Gutierrez, P.L.</td>
</tr>
<tr>
<td>Michael P. Maddux, P.A.</td>
</tr>
<tr>
<td>Mike Murburg, P.A.</td>
</tr>
<tr>
<td>Mills Paskert Divers</td>
</tr>
<tr>
<td>Morgengem &amp; Her, P.A.</td>
</tr>
<tr>
<td>Older, Lundy &amp; Weissman, Attorneys at Law</td>
</tr>
<tr>
<td>Phillip A. Baumann, P.A.</td>
</tr>
<tr>
<td>Pitts, Dowell, Markowitz &amp; Murphy</td>
</tr>
<tr>
<td>ReliaQuest Legal Services</td>
</tr>
<tr>
<td>Resnick &amp; Serrano, P.A.</td>
</tr>
<tr>
<td>Richard W. Driscoll, P.A.</td>
</tr>
<tr>
<td>Rieth &amp; Ritchie, P.A.</td>
</tr>
<tr>
<td>Robert E. Morris, P.A.</td>
</tr>
<tr>
<td>Rumberger, Kirk &amp; Caldwell, P.A.</td>
</tr>
<tr>
<td>Saady &amp; Saxe, P.A.</td>
</tr>
<tr>
<td>Sammis Law Firm, P.A.</td>
</tr>
<tr>
<td>Saxon, Gilmore, Carraway &amp; Gibbons, LLP</td>
</tr>
<tr>
<td>Scarratt Law Group, P.A.</td>
</tr>
<tr>
<td>Schiff Law Group</td>
</tr>
<tr>
<td>Schropp Law Firm</td>
</tr>
<tr>
<td>Sessions Fishman Nathan &amp; Israel, LLP</td>
</tr>
<tr>
<td>Seth R. Nelson, P.A.</td>
</tr>
<tr>
<td>Shock, Hardy &amp; Bacon, LLP</td>
</tr>
<tr>
<td>Sirco Law Firm</td>
</tr>
<tr>
<td>Sparkman &amp; Sparkman, P.A.</td>
</tr>
<tr>
<td>Spector Gadoni &amp; Rosen</td>
</tr>
<tr>
<td>Stanton Cronin Law Group, P.L.</td>
</tr>
<tr>
<td>Stetson University College of Law</td>
</tr>
<tr>
<td>Stichter, Riedel, Blain &amp; Prosser, P.A.</td>
</tr>
<tr>
<td>Stone &amp; Waider, P.L.</td>
</tr>
<tr>
<td>Straley &amp; Robin</td>
</tr>
<tr>
<td>Sykes Enterprises, Inc.</td>
</tr>
<tr>
<td>Tampa Law Advocates, P.A.</td>
</tr>
<tr>
<td>Terrana Perez &amp; Salgado, P.A.</td>
</tr>
<tr>
<td>The Bowes Law Group</td>
</tr>
<tr>
<td>The Criminal Defense Group, P.A.</td>
</tr>
<tr>
<td>The Davis Law Group, P.A.</td>
</tr>
<tr>
<td>The Diedicue Law Firm, P.A.</td>
</tr>
<tr>
<td>The Fernandez Firm</td>
</tr>
<tr>
<td>The Foster Law Group, P.A.</td>
</tr>
<tr>
<td>The Law Firm of Beverly J. White, P.A.</td>
</tr>
<tr>
<td>The Plante Law Group, P.L.</td>
</tr>
<tr>
<td>The Thorpe Law Firm, P.A.</td>
</tr>
<tr>
<td>The Yerid Law Firm</td>
</tr>
<tr>
<td>Thomas &amp; LoCicero</td>
</tr>
<tr>
<td>Thompson &amp; Brooks</td>
</tr>
<tr>
<td>Thompson Legal Center, LLC</td>
</tr>
<tr>
<td>Thompson, Szemere, Gonzalez &amp; Hearing, P.A.</td>
</tr>
<tr>
<td>Thorn Whittington, LLP</td>
</tr>
<tr>
<td>Thorn</td>
</tr>
<tr>
<td>Timothy G. Anderson, P.A.</td>
</tr>
<tr>
<td>Tison Law Group</td>
</tr>
<tr>
<td>Trentalange &amp; Kelley, P.A.</td>
</tr>
<tr>
<td>Trombley &amp; Hanes, P.A.</td>
</tr>
<tr>
<td>U.S. District Court</td>
</tr>
<tr>
<td>United States Bankruptcy Court</td>
</tr>
<tr>
<td>Wagner, Vaughan &amp; MLAughlin</td>
</tr>
<tr>
<td>Walters Levine Klingensmith &amp; Thomson, P.A.</td>
</tr>
<tr>
<td>Walton Lantaff Schroeder &amp; Carson LLP</td>
</tr>
<tr>
<td>Weekley</td>
</tr>
<tr>
<td>Wenzel, Fenton, Cabassa, P.A.</td>
</tr>
<tr>
<td>Whitney Bardi Mediation Group, Inc.</td>
</tr>
<tr>
<td>Wilson Law Group, P.A.</td>
</tr>
</tbody>
</table>

For your firm to be listed here, contact Corrie Benfield, Corrie@Hillsbar.com
YLD GOLF TOURNAMENT

The weather was perfect and the competition was up to par at the Hillsborough County Bar Association’s Young Lawyers Division Golf Tournament on November 1 at Heritage Harbor Golf & Country Club. Thanks to all those who played, and a special thanks to our generous sponsors!

PLATINUM SPONSOR:

C1 Bank

GOLD SPONSOR:

The Bank of Tampa

SILVER SPONSORS:

- Akerman Senterfitt
- The Centers
- Dex Canon
- Ricoh Legal
- Shumaker, Loop & Kendrick, LLP
- Thunder Bay Builders Inc.
- Trial Consulting Services
- U.S. Legal Support

BEVERAGE CART SPONSOR:

- Esquire Deposition Solutions

CLOSEST-TO-THE-PIN SPONSOR:

- Metcalf Law

HOLE-IN-ONE SPONSOR:

- Chris Craft Tampa Bay

HOLE SPONSORS:

- Florida Lawyers Mutual Insurance Company
- Kevin Caldwell, Financial Advisor, Raymond James & Associates
- Robert Bauman for Circuit Court Judge
- Trombley & Hanes

IN-KIND SPONSORS:

- Ciros/Boca/Copperfish
- GrillSmith
- Square 1
- Datz Dough

WINNERS:

- 1st Place Team: Brent Bigger, Hutch Pinder, Eric Roslanky, Jason Whittemore
- 2nd Place Team: Jeff Hindman, Ken Ronecker, Jimmy Shaffer, Mark Stroud
- 3rd Place Team: Logan Murphy, Michael McGuire, Danny Perez, Judge James Whittemore
- Women’s Closest to the Pin: Linda Thorpe
- Men’s Closest to the Pin: Logan Murphy
- Women’s Longest Drive: Pam Santamaria
- Men’s Longest Drive: Ted Eastmore
Helping You Get to Yes
Reach out to Woody Isom when you need a mediator, arbitrator or special magistrate/master. Certified Circuit Civil and Federal Mediator since 1993, Board Certified Civil Trial Lawyer with both insurance defense and plaintiff experience.

isommediation@gmail.com
www.isomMediation.com
(813) 629-6388
P.O. Box 320461,
Tampa, FL 33679-2461

YOUR PRIVATE RIDE
To or from the airport.
Private charters and VIP transfers.
Visit ExecuCar.com
or call 1-800-410-4444

Need a ride? Get the app.
Enter promo code: TAMPALEGAL
for $25 credit.

FOWLER WHITE BOiggs
Reason #50
CREATIVE.
Artfully crafting our tactics.

Celebrating our 70th anniversary with 70 reasons to choose Fowler White Boggs.
For years you have been trusting us with your clients, families, friends and colleagues. We are always here when you need us.

WWW.OLDERLUNDYLAW.COM

813.254.8998
3014 West Palmira Avenue, Suite 202 Tampa, Florida 33629
17th Annual Bench Bar Conference, Membership Luncheon & Judicial Reception

The HCBA appreciates the generous support of those who sponsored this great event, particularly our Diamond Sponsor:

We appreciate your generous support!
Many thanks to our Platinum Sponsors

Bajo | Cuva | Cohen | Turkel
The Bank of Tampa
Burr & Forman LLP, formerly Williams Schifino
Florida Lawyers Mutual Insurance Company
HCBA Trial & Litigation Section
Holland & Knight LLP
Trial Consulting Services, LLC
Wagner, Vaughan & McLaughlin, P.A.

HCBA Wishes to thank our Gold, Silver and Bronze Bench Bar Sponsors

Gold
Butler Pappas Weihmuller Katz Craig LLP
Cole, Scott & Kissane, P.A.
CourtCall
Givens Givens Sparks
Greenberg Traurig
Hill Ward Henderson
Mason Black & Caballero PA
Millers Paskert Divers P.A.
Ogden & Sullivan, P.A.
Shutts & Bowen, LLP
Stetson University College of Law
Thomas M. Cooley Law School
Trenam Kemker

Silver
Brammock & Humphries
Bush Ross, P.A.
Carlton Fields
Curry Law Group
de la Parte & Gilbert, P.A.
Gray Robinson, P.A.
Gunn Law Group, P.A.
Harris & Hunt, P.A.
Law Offices of Ed Suarez, P.A.
LexisNexis
Nader Mediation Services
(Bo Nader, Mediator)
Older & Lundy, Attorneys at Law
Sparkman & Sparkman, PA.
The Tampa Hispanic Bar Association
Thompson, Sizemore, Gonzalez & Hearing
Trombley & Hanes
Wiand Guerra King P.L.

Bronze
Alberto Romero, P.A.
Kynes, Markman & Felman, P.A.
Law Offices of Philip S. Wartenberg, P.A.
Marlowe McNabb PA
Michael A. Tonelli
Roche Monitoring Services, LLC
Rumberger, Kirk & Caldwell, P.A.
Suncoast Chapter Association of Legal Administrators
Thomas & LoCicero PL
Walter Aye Law Firm
BUELL & ELLIGETT, P.A.

Plaintiffs’ Personal Injury Wrongful Death

Tried by Board Certified Trial and Appellate Lawyers

For more information on our experience, see www.belawtampa.com
Referral fees paid per Florida Bar rules.

3003 W. Azeele Street, Suite 100 Tampa, FL 33609  (813)874-2600

---

Treasury services that put your working capital to work.

At C1 Bank, our Treasury Management Services team offers a dynamic suite of working capital management solutions including:

- Remote Deposit Capture
- Automated Clearing House (ACH)
- Zero Balance Accounts (ZBA)
- eCorp Business Online Banking
- Wires/Online Wires (Domestic and International)
- Positive Pay
- Sweep to Line of Credit
- Merchant Bankcard Services
- Account Reconciliation
- Controlled Disbursement
- Business Advantage MasterCard or Visa Cards

Contact us for a consultation today.
C1Bank.com/treasury • (877) 266-2265

checking • savings • money markets • mortgages
business loans • SBA loans • association and
treasury services • and a host of other sophisticated banking products you might not expect

---

C1 Bank
Clients 1st. Community 1st.
The United States Supreme Court will soon hear the case of *Navarette v. California*. The court’s decision could have a huge impact on traffic stop cases in state and federal courts.

According to the legal briefs filed with the U.S. Supreme Court, in 2008, Lorenzo and Jose Navarette were traveling a California highway in a pickup truck with four large bags of marijuana in the bed. Unbeknownst to the brothers, an anonymous caller had alerted the California Highway Patrol (CHP) to a “reckless driver,” identifying the make and color of the pickup truck and providing license plate information. A CHP officer spotted the Navarette’s vehicle. The officer did not observe reckless driving or any other illegal activity while following the vehicle. Based solely upon the anonymous tip, the officer conducted a traffic stop. The Navarette brothers were charged with transportation of marijuana. After losing a motion to suppress, they pleaded guilty and were sentenced to probation and 90 days in jail. The California appellate courts affirmed, and the United States Supreme Court will consider the case this term.

The main question presented by *Navarette* is: Does the Fourth Amendment require an officer who receives an anonymous tip regarding a drunken or reckless driver to corroborate dangerous driving before stopping the vehicle?

In *Florida v. J.L.*, 529 U.S. 266 (2000), the Supreme Court reaffirmed that law enforcement may conduct a stop only where an anonymous tip has a “moderate indicia of reliability” and a “tendency to identify a determinate person.” The court in *J.L.* also rejected the state’s request to adopt a “firearms exception” to this rule, based upon the dangerousness of an armed suspect. The court noted that such an exception would subject citizens to intrusive police searches based upon a mere “bare-boned tip about guns.”

The facts of *Navarette* provide another opportunity for the court to decide this issue — this time examining whether there should be some exception for dangerous or drunk drivers.

Florida courts frequently find that an anonymous tip that is only corroborated by observing the physical characteristics of a driver or the make, model, and color of the vehicle do not justify a stop. In *Wands v. Dep’t of Highway Safety*, 13 Fla. L. Weekly Supp. 305 (Fla. 7th Cir. Ct. Jan. 27, 2006), the court examined facts similar to *Navarette*. The officer in *Wands* had received an anonymous tip of a reckless driver but personally observed nothing illegal before conducting a stop. The court found there was not reasonable suspicion for the stop. In the DUI context, another Florida court made clear that an officer investigating a tip must observe “independent suspicious activity before they make a valid stop.” *State v. Goepfert*, 15 Fla. L. Weekly Supp. 305 (Fla. 6th Cir. Ct. Jan. 10, 2008).

The court’s decision in *Navarette* will have some bearing on any criminal case involving a stop based upon an uncorroborated anonymous tip. However, DUI cases may be most affected by the court’s opinion. Defense counsel should closely follow this case and preserve any arguments that could be supported by a reversal in *Navarette*.

Author: Mark Rankin, Shutts & Bowen, LLP
Fulfill Your Professional Responsibility
Donate to Bay Area Legal Services

Did you know that by making a contribution to Bay Area Legal Services you can fulfill your pro bono public service responsibility? An annual donation of $350 or more to Bay Area can satisfy your professional responsibility (Rule 4-6.1) and make a valuable contribution to our community at the same time. Law firms that contribute the equivalent of $350 for each attorney can join the many attorneys and firms who have supported Bay Area by becoming a Sustaining Law Firm. Fulfill your professional responsibility today – make a donation to Bay Area and ensure access to justice for the poor in our community.

THANK YOU TO OUR 2013 SUSTAINING LAW FIRMS FOR THEIR LOYALTY AND SUPPORT:

Gail Martin Abercrombie, P.A.
Richard S. Agster, P.A.
Akerman Senterfitt
Alley, Clark & Greiwe
Arnstein & Lehr, LLP
Ashley Allen Law, P.A.
Banker Lopez Gassler, P.A.
Betts Mediations
Buell & Elligett, P.A.
Burr & Forman, LLP
Ronald K. Cacciature, P.A.
Norman S. Cannella, Jr. P.A.
Law Offices of J. Kevin Carey, P.A.
Carey, O’Malley, Whitaker & Mueller, P.A.
The Law Office of Julia Best Chase, P.A.
Cheeeman & Phillips
Clark & Martino, P.A.
Preston O. Cockey, Jr., P.A.
Thomas E. Cone, Jr., P.A.
Danahy & Murray, P.A.
de la Parte & Gilbert, P.A.
R. Michael DeLoach, P.A.
The Law Office of Christine Derr
Richard W. Driscoll, P.A.
Greg W. Dworzanski, P.A.
Epperson & Rich, P.A.
Gerald A. Figurski, P.A.
Forcon International Corp.
Buddy D. Ford, P.A.
Michael Foster, P.A.
Fowler White Boggs, P.A.
George & Titus, P.A.
Bruce S. Goldstein, P.A.
Fritz Gray, Attorney at Law
Melvia B. Green, LLP
Gunn Appellate Practice, P.A.
Gunn Law Group, P.A.
The Law Firm of Gunster
William E. Hahn, P.A.
Linda C. Hanna, P.A.
Harmon, Woods, Parker & Abrunzo, P.A.
Harris and Hunt, P.A.
Hill Ward Henderson
Himes & Hearn, P.A.
Ron A. Hobgood, Attorney at Law
Holland & Lamoureux, P.A.
Mark S. Howard, P.A.
The Law Offices of George Hunter, P.A.
A. Woodson Isom, Jr., P.A.
Jennis & Bowen PLLC
Joyce & Reyes Law Firm
Edwin B. Kagan, P.A.
Ann Loughridge Kerr, Attorney at Law
Kynes, Markman & Felman, P.A.
Lauro Law Firm
Leon & Berg, P.A.
Vincent A. Leto, P.A.
Mark A. Linksy, P.A.
James B. Loper, Attorney at Law
Madison Street Properties
Law Office of Ryan Manning
Marlowe McNabb, P.A.
Marshall Thomas Burnett, P.L.
Mason Black & Caballero, P.A.
LeRoy H. Merkle Jr., P.A.
Lawrence E. Miccolis, P.A.
Mark E. Miller, P.A.
H. Lee Moffitt, P.A.
Morgenstern & Herd, P.A.
The Law & Mediation Offices of Robert J. Nader
New Tampa Mediation Services, Inc.
Catherine Novack
Michael J. Palermo, P.A.
Terrence F. Pyle, P.A.
John H. Rains, III, P.A.
Rissman, Barrett, Hurt, Donahue & McLain, P.A.
Daniel Rivero, Jr., P.A.
Rocke, McLean & Sbar, P.A.
Irene M. Rodriguez, P.A.
Craig E. Rothburn, P.A.
Rumberger, Kirk & Caldwell, P.A.
Rywant, Alvarez, Jones, Russo & Guyton, P.A.
Sharp Kemm, P.A.
Mark Shelton, P.A.
Cary R. Singletary, P.A.
Singletary Law Firm, P.A.
Christopher J. Smith, P.A.
Law Office of James H. Smith, P.L.
Malcolm R. Smith, Attorney at Law
Gerald Stead, P.A.
Stichter, Riedel, Blain & Prosser, P.A.
John E. Sullivan, P.A.
TECO Energy, Inc.
Jack L. Townsend, Sr., P.A.
Law Offices of Deborah Rose Tracy, P.A.
Trombley & Hanes, P.A.
Law Office of Amanda M. Uliano, P.A.
Versedus Corp.
John W. Voelpel, P.A.
Rory B. Weiner, P.A.
Wenzel Fenton Cabassa, P.A.
Deborah Larned Werner, P.A.
Charles S. White, P.A.
Wiand Guerra King PLL.
Barbara L. Wilhite, P.A.
Wilkes & McHugh, P.A.
Richard Benjamin Wilkes, P.A.
Law Offices of Thomas L. Young
Zuckerman Spaeder LLP

To make a donation or become a 2013 Sustaining Law Firm, contact: Development, Bay Area Legal Services
(813) 232-1222 x 156 or e-mail: jreed@bals.org
**Barnett Bolt is Proud to Welcome Two Additions to Our Team**

**Rachel Albritton Lunsford**
Partner

Rachel specializes in estate planning; probate and trust administration; wills and trusts; and tax planning.

Board Certified in wills, trusts, and estates. Rachel is also AV-Rated by Martindale Hubbell and has been a highly respected attorney in the Tampa community for more than a decade. Recently, she was recognized by Florida Trend magazine as a 2013 Legal Elite, a 2012 Up and Comer, and as a Florida Super Lawyers Rising Star from 2009-2012.

**Chris Dingman**
Associate

Chris Dingman is our newest associate, joining our firm’s tax group, representing both individuals and entities in the areas of federal income, estate, and gift taxation, executive compensation, estate planning, and probate and trust administration.

Chris received his J.L.M. and law degree, cum laude, from the University of Florida Levin College of Law and his B.S. in accounting from the Fisher School of Accounting at the University of Florida.
Land-use entitlement requests often trigger the protests of large numbers of citizens who are rightly concerned about the impact of development on their quality of life and the character of their communities. The testimony of lay citizens in quasi-judicial hearings presents challenges for fact-finders, decision-makers, the applicant, and the citizens. One such challenge is whether the testimony of lay citizens in quasi-judicial hearings constitutes competent substantial evidence to support a decision to approve or deny a land-use entitlement request. This article is a brief survey of cases that have addressed this question.

For a quasi-judicial decision to be sustained on appeal, it must be “reasonably based in the evidence presented.” Substantial evidence has been defined as “such evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred ... such relevant evidence as a reasonable mind would accept as adequate to support a conclusion.” Formal court rules regarding the introduction of evidence are not strictly applicable to administrative processes. However, the evidence relied on to support ultimate findings of fact “should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached.”

It is not the purpose of quasi-judicial hearings to “poll the neighborhood” on the proposal in question. Thus, the cumulative objections of neighbors do not constitute competent and substantial evidence on which to base findings and a decision. Bare objections that are based on conjecture, the unpopularity of the proposed land use, or “laymen’s opinions unsubstantiated by any competent facts,” are insufficient. General expressions of concern about possible traffic, crime, flooding, or noise impacts, without support of studies or empirical data, are not competent substantial evidence.

Nevertheless, citizens are able to offer competent testimony in quasi-judicial hearings without hiring “expert” witnesses. When citizens convey facts that are relevant to the criteria applicable to the proposal in question, and of which they have first-hand knowledge, their testimony is properly considered and constitutes competent substantial evidence to support findings and a decision. Moreover, local citizens with first-hand knowledge of their communities are “as qualified as expert witnesses” to offer factual testimony on the impact of a proposal, where the facts offered are relevant to the applicable criteria.

Thus, citizens should freely participate and voice their concerns at quasi-judicial land-use hearings, but they should prepare thoroughly and carefully constrain their testimony to facts of which they have first-hand knowledge and that are relevant to the applicable criteria. If they do so, local government fact-finders and decision-makers may confidently rely on citizens’ testimony as competent and substantial evidence to support their findings and judgments.

1 Hatley, P., Preserving Place: A Grounded Theory of Citizen Participation in Community-Based Planning (Proquest, LLC, 2013).
2 Lee County v. Sunbelt Equities, II, Ltd. Partnership, 619 So. 2d 996, 1002-03 (Fla. 2d DCA 1993), quoting Town of Indialantic v. Nance, 400 So. 2d 37, 40 (Fla. 5th DCA 1981), approved, 419 So. 2d 1041 (Fla. 1982).
3 DeGroot v. Sheffield, 95 So. 2d 912, 916 (Fla. 1957).
4 Id.
5 City of Apopka v. Orange County.
JUDICIAL LUNCHEON

Judge Mary S. Scriven shared insights on trial advocacy during the judicial luncheon/CLE on October 15 at the Chester H. Ferguson Law Center. More than 60 people came to hear her presentation, titled “Beyond the Side Door - Lessons from Jurors About Effective (and Ineffective) Trial Advocacy.” The HCBA thanks Judge Scriven for her time!

Save the date: The next judicial luncheon is January 21.

CITIZEN TESTIMONY IN QUASI-JUDICIAL HEARINGS

Continued from page 42

299 So. 2d 657, 659-60 (Fla. 4th DCA 1974); Conetta v. City of Sarasota, 400 So. 2d 1051, 1053 (Fla. 2d DCA 1981).

7 Conetta v. City of Sarasota, 400 So. 2d at 1053; BML Inc. v. Casselberry, 476 So. 2d 713, 715 (Fla. 5th DCA 1983); Pollard v. Palm Beach County, 560 So. 2d 1358, 1360 (Fla. 4th DCA 1990).

8 City Comm’n of Miami v. Woodlawn Park Cemetery Co., 553 So. 2d 1227, 1229, 1235-36 (Fla. 3d DCA 1989); Flowers Baking Co. v. Melbourne, 537 So. 2d 1040, 1041 (Fla. 5th DCA 1989); Jesus Fellowship, Inc. v. Miami-Dade County, 752 So. 2d 708, 710-11 (Fla. 3d DCA 2000); Katherine’s Bay, LLC v. Fagan, 52 So. 3d 19, 27 (Fla. 1st DCA 2010).

9 Metropolitan Dade County v. Blumenthal, 675 So. 2d 598, 609 (Fla. 3d DCA 1995) (Cope, J., dissenting); on reh’g en banc, Metropolitan Dade County v. Blumenthal, 675 So. 2d 598, 609 (Fla. 3d DCA 1996).

10 Id.; St. Petersburg v. Cardinal Indus. Dev. Corp., 493 So. 2d 535, 538 (Fla. 2d DCA 1986); Board of County Comm’rs v. Clearwater, 440 So. 2d 497, 499 (Fla. 2d DCA 1983); Metropolitan Dade County v. Sportacres Dev. Group, 698 So. 2d 281, 282 (Fla. 3d DCA 1997); Metropolitan Dade County v. Section II Property Corp., 719 So. 2d 1204, 1205 (Fla. 3d DCA 1998); Miami-Dade County v. Walberg, 739 So. 2d 115, 117 (Fla. 3d DCA 1999); Marion County v. Priest, 786 So. 2d 623, 626-27 (Fla. 5th DCA 2001).

11 Board of County Comm’rs v. Clearwater, 440 So. 2d at 499.

Author: Pamela Jo Hatley, Pamela Jo Hatley, P.A.
Clark & Martino, P.A. has the experience and resources to handle serious brain, neck and spine injury cases related to automobile and truck accidents. When a valued client comes to you for help related to a traumatic brain or spine injury, refer them to us. We will pay you a referral fee of up to 25% of the ultimate settlement or verdict.

If you have a brain or spinal injury case, please talk to our partners about the advantage of allowing Clark & Martino to take the lead. Call anytime, we are always happy to help.

3407 West Kennedy Blvd | Tampa, Florida 33609 | P. 813.879.0700
IT PAYS TO BE A MEMBER!

HCBA members receive exclusive discounts and services through our Benefit Providers. To suggest or become a Benefit Provider, call Corrie Benfield at (813) 221-7779 or email corrie@hillsbar.com.

FREE MINARET DIAMOND RELATIONSHIP ACCOUNT

HCBA members qualify for a free Minaret Diamond account with The Bank of Tampa, with no minimum balance or monthly service fee. Benefits include checking accounts; free checks; leather checkbook covers; no foreign ATM fees; refund of surcharge fees charged by other bank ATMs of up to $25 per month; no surcharge fees at any Publix Presto! ATM; Personal Online Banking and Mobile Banking with free CheckFree® WebPay; and much more.

Contact Jeff Armstrong at (813) 998-2733, or call (813) 872-1200. www.bankoftampa.com

TCS

TRIAL CONSULTING SERVICES, LLC

10 PERCENT DISCOUNT

From exhibit boards to trial graphics and other professional presentations, this expert team provides a wide range of services. HCBA members receive a 10 percent discount on all trial research including mock trials. Visit www.trials.com for a list of services.

THOMPSON Studios

PHOTOGRAPHY

10 PERCENT DISCOUNT

HCBA members get 10 percent off at this world-class photography studio. Thompson Studios will come to your office for firm photos, headshots, holiday parties and other special events. Contact Bob Thompson at (813) 994-2000, or email info@thompsonstudiosstampa.com.

FREE VALUE OR EMERALD CHECKING

C1 Bank

Clients 1st. Community 1st.

For HCBA members, C1 Bank offers its Value checking account package with direct deposit with no charge and no minimum balance. Partners are eligible for C1’s exclusive Emerald checking at no charge as well.

Contact Christina Morris at (727) 456-5692, or email HCBA@C1Bank.com.

WANT MORE DISCOUNTS?

Do you do business with a company that would make a good Benefit Provider? Make the connection!
Contact Corrie Benfield at (813) 221-7779 or corrie@hillsbar.com.

John Boyer, INC.

15 PERCENT DISCOUNT

Comprehensive Wealth Planning

Get your financial house in order with personalized financial services. HCBA members receive a permanent 15 percent reduction in asset management fees and no initial financial planning fee for new clients. Contact Sarina Correa at (813) 254-9500 or Sarina@johnboyerinc.com.
GREETINGS FROM NEW CO-CHAIRS
Health Care Law Section
Chairs: T.J. Ferrante - Carlton Fields, P.A.; and Sara Younger - BayCare Health Systems, Inc.

Dear valued members,

We would like to take this opportunity to officially introduce ourselves as the new co-chairs of the Health Care Law Section. We would also like to thank the outgoing co-chairs, Jessica Sara Cohen and Scott Richards, for their outstanding service to this section. We look forward to serving you in the upcoming years and hope that we can meet the high standards set by the previous chairs.

We would also like to share with you our vision for the section. During our tenure as co-chairs, our mission will be to serve you, our members, and our profession. Our goal is to carry on the section’s tradition of giving you access to a local network of colleagues who are wrestling with the same questions as you and who are ready to render advice, assistance, and support that forges the bonds of mutual respect and lasting friendships. In other words, the Health Care Law Section is ready to help you succeed by offering knowledge, insight, advice, and support that will help you with each facet of your practice at every stage of your career.

We have an ambitious and exciting agenda for the coming year.

Continued on page 47

THE HCBA WELCOMES ITS NEW MEMBERS
OCTOBER 2013

Lindsay M. Alvarez
Martha E. Aristizabal
Razvan Axente
Stuart J. Barks
Sean T Becker
Michael Beltran
Kimberly D. Brimm
Michal A. Brown
Steffanie E. Brown
Amanda G. Chafin
Stephanie A. Cuello
Howard Currie
Lorca Divale
Jaclyn G. Evisizor
Barbra C Fornuto
Cassandra Fredriksen
Lauren N. Frieder
Sasha F. Granai
Adam D. Griffin
Megan McCabe Jarrett
J. Kelly Johnston
Christine A. Laney
Robert C. Matthews
David J. Melvin
Sabrina M. Mentor
William M. Mitchell
Catherine H. Molloy
Elizabeth C. Munro
Jon M. Philipson
Daniel J. Plasencia II
Lauren B. Rehm
Abby Ritchie
Jennifer W. Saltzman
Charles A. Simmons
Lewis C. Snyder
Alexandra Srsic
Stanley P. Stephenson
Edward H. Stickles
James P. Terpening
Jennifer L. Todd
Garrett Tozier
Bethany M. Wagner
Continued from page 46

As we draft this column, we are looking forward to seeing many of our colleagues at our November 13 section luncheon/CLE program. By the time this column is published, however, the November program will be a fond memory of an insightful presentation shared with valued colleagues. However, we will be able to look forward to other opportunities to study and enjoy relationships in the health law profession as we have three additional CLE luncheon programs scheduled for January 15, March 12 and May 6, 2014.

We also are compiling a list of people who wish to become more involved in the Health Care Law Section and greatly welcome additional volunteers and suggestions for projects in which we can participate. As you read through this column, we hope that you will consider becoming even more active in the section. We are always seeking contributing authors as well as presenters for our CLE luncheon programs and other events. Your active participation in the section further strengthens our efforts to bring important information to our members for use in their health care law practices, whether in private practice, government, or in-house. We will be sending out emails to the entire section soliciting such interest, and we strongly urge you to look for those emails and contact us if you are interested in participating.

It is an honor to serve as your co-chairs this year. If you have any ideas or suggestions to help us better serve you, feel free to contact T.J. Ferrante at TFerrante@carltonfields.com or Sara Younger at Sara.Younger@BayCare.org.

Authors: T.J. Ferrante, Carlton Fields, P.A.; and Sara Younger, BayCare Health Systems, Inc.
Florida Statute § 501.972 is interesting and, to my knowledge, has never before been cited by any court. That has now changed, with BP being awarded summary judgment in defense to an engineer’s claim that BP used his idea without permission.1

Joseph Kaminski, an engineer who worked for Honeywell building technology for NASA, wanted to help BP after the Deepwater explosion. BP set up a system for receiving proposed solutions for stopping the oil leak, and Kaminski submitted a couple of his ideas. Included in one of his submissions was the following:

Please take this under advisement. ... This will work and it is far easier than the 100 ton top hat. ... When My son and I become paid hero’s [sic] for the idea and helping you from here in tampabay [sic] florida. I will say it was BP’s willingness to work and find the right solution from anyone anywhere for this very unique problem. You will also pay me and my son at least 2 million for the idea and my personal help to guarantee [sic] its success [sic].

Kaminski believes BP used at least two of his ideas, so he sued for breach of an implied contract as well as unjust enrichment. BP sought refuge under Florida’s idea protection statute, which reads as follows:

501. 972 Actions based upon use of a creation that is not protected under federal copyright law.

(1) Except as provided in subsection (2), the use of an idea, procedure, process, system, method of operation, concept, principle, discovery, thought, or other creation that is not a work of authorship protected under federal copyright law does not give rise to a claim or cause of action, in law or in equity, unless the parties to the claim or cause of action have executed a writing sufficient to indicate that a contract has been made between them governing such use.

(2) Subsection (1) does not affect or limit:

(a) Any cause of action based in copyright, trademark, patent, or trade secret; or

(b) Any defense raised in connection with a cause of action described in paragraph (2).

Thus, Florida has a statute of frauds for uses of ideas.

The court was convinced by BP’s argument that this statute shielded BP from liability. Recognizing that copyright does not protect ideas but expressions of ideas, the court found Kaminski’s submissions to be ideas governed by this law:

Here, Plaintiff’s ideas are not works of authorship and are expressly excluded from protection under the Copyright Act; Section 501.972 therefore applies to BP’s use of Plaintiff’s idea.

Because there was no writing between the parties executed by BP, Kaminski’s claim failed. Florida’s sleeping statute of frauds for ideas has awoken. Time will tell who else seeks shelter under this requirement for sharing your ideas in Florida.

1 See Kaminski v. BP Exploration & Production, Inc., Case No. 8:12-cv-826 (M.D. Fla. Sept. 24, 2013) (J. Bucklew).

Author: Woodrow Pollack, GrayRobinson, PA.

Get involved with the HCBA. Join a section or committee. Call (813) 221-7777.
THANK YOU TO OUR VOLUNTEERS FOR OCTOBER’S ASK-A-LAWYER ON FOX 13!

To volunteer for the Ask-A-Lawyer programs, please contact HCBA Lawyer Referral & Information Service at (813) 221-7780.
“BEFORE THE LAW WAS EQUAL”

The HCBA Young Lawyers Division and Diversity Committee hosted a special repeat showing of “Before the Law Was Equal,” a documentary chronicling the desegregation of the Hillsborough County legal community, on October 23 at the Chester H. Ferguson Law Center. HCBA Immediate Past President Bob Nader and former Diversity Committee Chair Victoria McCloskey both spoke about the great efforts that went into making the documentary, which made its original debut in April. The documentary proved so popular that the YLD and Diversity Committee decided to host the repeat showing, which attracted an audience of judges, attorneys, law students, and others from the community.

The HCBA greatly appreciates the support of C1 Bank, which sponsored the event.
To see more photos from HCBA events, go to facebook.com/HCBAtampabay
It is common in divorce proceedings that someone close to a party — a parent, a friend, a child, a new romantic interest, or some other person whom the party trusts — influences the outcome of the case. Many people are incapable of making critical decisions during this stressful process without input from loved ones and other advocates. Often, these outside influences are beneficial, but sometimes collaterals have a harmful impact instead. When a third party becomes so embroiled that he or she controls the case, the impact can be toxic.

A collateral who finances the litigation often controls it. He or she may sign your retainer agreement (technically becoming the “client,” despite not being a named party). The person may perform legal research. He or she may meet and correspond with you regularly, with your client’s approval, sometimes outside the client’s presence. The person may go so far as to direct your actions and even prepare documents for you to file and/or execute. Your client may feel unable to make decisions without the person’s approval, despite the fact that it is the client’s life that is impacted by them.

By financing and controlling the litigation, the collateral essentially substitutes himself or herself into the proceedings. Given that the collateral has made himself or herself a party by virtue of involvement — nay, control over

Continued on pag 53
Continued from page 52

the case — the court may implead the person.

A “party” is “any person who participates in litigation regardless of whether or not [the party is] actually named in the pleadings.”¹ That includes “one concerned with, conducting, or taking part in any matter or proceeding, whether ... named or not.”² That includes, “not only those whose names appear upon the record, but all others who participate in the litigation by employing counsel, or by contributing towards the expenses thereof, or who, in any manner, have such control thereof as to be entitled to direct the course of [the] proceedings. ...”³ That includes anyone who “financed and controlled the litigation,” who “approved the filing of the lawsuit; controlled the selection of the plaintiffs’ attorneys; recruited fact and expert witnesses; received, reviewed and approved counsel’s bills; and had the ability to veto any settlement agreements.”⁴

Our courts have recognized when the assets of friends and family should be considered in determining one’s ability to pay.⁵ Because of the compelling interest in discouraging collaterals from becoming so involved in the proceedings that they cause either side to incur extraordinary fees, a suggested remedy may be to require third parties to pay those fees when they do so.

¹ Visoly v. Security Pac. Credit Corp., 768 So. 2d 482, 489 (Fla. 3d DCA 2000).
² Fong Sik Leung v. Dulles, 226 F. 2d 74, 81 (9th Cir. 1955).
³ Theller v. Hershey, 89 F. 575 (C.C.N.D.Cal. 1898).
⁴ Abu-Ghazaleh v. Chaul, 36 So. 3d 691, 693 (Fla. 3d DCA 2009).
⁵ Mendana v. Mendana, 911 So. 2d 130 (Fla. 3d DCA 2005); Sibley v. Sibley, 833 So. 2d 847 (Fla. 3d DCA 2002); Luskin and Luskin v. Luskin, et al., 616 So. 2d 558, 559 (Fla. 4th DCA 1993).

Authors:
Joryn Jenkins
and Lori Skipper,
Joryn Jenkins & Associates
here were three pivotal appellate decisions in workers’ compensation this year. The Hillsborough County Bar Association Workers’ Compensation Section has scheduled a luncheon seminar on December 11 where top local attorneys, including some of those handling these three important cases, will address these decisions and other pending appellate cases. We invite interested attorneys to mark your calendars and join us at additional seminars on February 4, 2014, and April 23, 2014.

In Westphal v. City of St. Petersburg, 1D12-3563 (1DCA, Feb. 28, 2013), (Westphal I) affirmed, on other grounds, en banc, 1D12-3563 (1DCA, Sept. 23, 2013)(Westphal II) the First District Court of Appeals attempted to correct the gap in indemnity benefits that occurs when statutory maximum medical improvement (MMI) occurs before actual MMI. In 1994, temporary benefits were reduced to 104 weeks from 260 weeks. After 104 weeks, an individual could receive additional full indemnity benefits only by proving entitlement to permanent and total disability on the date of actual maximum medical improvement from all work-related conditions. The burden of proof was to prove a speculative medical and vocational condition at a speculative future MMI date, which is practically impossible. Westphal I determined that to rectify this, the 104-week limitation should be unconstitutional and the prior statute, which allowed for 260 weeks of temporary benefits, should be reinstated prospectively.

The ruling that the law was unconstitutional was revisited by the First District by an en banc panel. Westphal II first ruled that the 104-week limitation was constitutional. Westphal II then ruled that if a person is totally disabled at statutory maximum medical improvement, the person is entitled to permanent and total disability benefits. This is a major change in the law.

The other major decision in 2013 is Jacobson v. Southeast Personnel, 1D12-1103 (June 5, 2013). In Jacobson, the question was about the constitutionality of the part of the statute that says that a claimant’s attorney may only receive a fee based on a percentage of benefits obtained on behalf of the claimant. The facts involved a situation where the claimant’s attorney was defending the claimant against a petition by the employer/carrier for costs after litigation. The claimant’s counsel requested a retainer to be approved to allow a reasonable fee to be paid, and the judge of compensation claims refused. The law is that a claimant’s attorney can be paid only a statutory percentage of benefits obtained. In a cost claim against the claimant, the claimant cannot be awarded any benefits, so his or her attorney may not be paid. The court held the act unconstitutional at this time with regard to the defense of a petition for costs.

The changes in Westphal II will have a dramatic impact. The willingness of the First District in Westphal I and Jacobson to consider the unconstitutional of recent legislation may signal more to come in pending cases on appeal.

Authors: Irene Rodriguez, Irene M. Rodriguez, P.A.; and Anthony V. Cortese, Anthony V. Cortese, Attorney at Law
Hold your next meeting at the
CHESTER H. FERGUSON LAW CENTER

The Chester H. Ferguson Law Center is an ideal location with a variety of rooms to meet your needs. Reserve for a day or for a few weeks.

Convenient to downtown Tampa, the Ferguson Law Center has many amenities:
• Six conference rooms of varying sizes
• Complimentary AV equipment and Wi-Fi
• Free, street-level parking

“Wonderful facility! Rave reviews when I survey my participants about the location. Plenty of free parking, beautiful spacious rooms with all amenities…”
— Janelle Walkley, The Settlement Center, CME/CLE Training Provider

CHESTER H. FERGUSON LAW CENTER
1610 N. TAMPA STREET, TAMPA, FL 33602

RESERVE YOUR SPACE TODAY.
CALL (813) 221-7777 OR EMAIL EVENTS@HILLSBAR.COM.
Trenam Kemker

ATTORNEYS

MEDIATORS and ARBITRATORS
when experience matters

Arbitrator
- Member of AAA Commercial and Large Complex Panels

Arbitrator
- Member of AAA Construction Panel

Certified Circuit Civil Mediator
- Real Estate

Arbitrator
- Member of AAA Commercial and Construction Panels

Arbitrator
- Member of AAA Commercial Panel

Michael P. Horan

Certified Circuit Civil Mediator
- Bankruptcy
- Creditors’ Rights
- Commercial Litigation

Certified Circuit Civil Mediator
- Motor Vehicle Accidents
- Civil Litigation
- Medical Malpractice
- Personal Injury

Certified Circuit Civil Mediator
- Civil Litigation
- Construction Litigation
- Eminent Domain and Condemnation
- Governmental Disputes
- Ad Valorem Tax Disputes

Certified Circuit Civil Mediator
- Construction
- Federal Government Contracting
- Commercial

Certified Circuit Civil Mediator
- Commercial Litigation
- Shareholder/Stockholder Disputes
- Real Property Disputes
- Personal Injury

Arbitrator
- Member of AAA Construction and Large Complex Panels

All mediators are Florida Supreme Court Certified. All arbitrators are members in good standing on the panel of neutrals for the American Arbitration Association.

Tampa – 813-223-7474 | St. Petersburg – 727-896-7171 | trenam.com

TribridgeLegal

Cloud Based ERP Solutions for Law Firms

Agility
Cost Savings
Flexibility

Microsoft Applications
Virtual Accounting
Assessments
Technical Support
Cloud Services

www.tribridge.com/legal
877-744-1360
4830 W. Kennedy Blvd. Tampa, FL 33609
HCBA Hosts Visitors from France

A legal delegation from Le Havre, Tampa’s sister city in France, visited the Hillsborough County Bar Association in October as part of a cultural exchange that included a visit to the courthouse, CLEs led by both French and American legal experts, and a warm reception held at the Chester H. Ferguson Law Center. Le Havre hosted a delegation from the HCBA in March 2012, and the visit in October served to strengthen ties between the two cities.
Steven A. Anderson of Steven A. Anderson, P.L., has been elected president of the Friends of the Riverwalk, Inc. Friends is a 501(c)3 nonprofit organization that assists in funding, developing, and activating the new Tampa Riverwalk.

Kathryn M. Ashley has joined Seth R. Nelson, P.A., as an associate. The firm practices marital and family law.

Razvan Axente and Sean Becker have joined Shook, Hardy & Bacon as associates with the firm’s Tampa office.

Keith W. Bricklemyer has been selected by his peers for inclusion in The Best Lawyers in America 2014 in the practice areas of land use and zoning law and real estate law. Bricklemyer is a founding shareholder of Bricklemyer Law Group, P.L. His practice is focused on real estate, land use, and zoning law.

Jason S. Cetel has been honored by the American Society for Pharmacy Law (ASPL) with the 2013 Larry M. Simonsmeier Writing Award for his paper Disease-Branding and Drug-Mongering: Could Pharmaceutical Industry Promotional Practices Result in Tort Liability? This award recognizes an outstanding paper relating to the interests of ASPL, published during the prior two years.

Blair H. Chan, principal with Givens Givens Sparks Law Firm, has been accepted into the Tampa Bay Collaborative Divorce Group. This group is the oldest of its kind in the Tampa Bay area and consists of professionals who are trained in resolving divorce cases in a collaborative manner. Chan specializes in the area of family law and has been practicing for more than 10 years.

Daniel Dietrich, of Burr & Forman LLP, spoke at an ESI Roundtable on September 20 at the Chester H. Ferguson Law Center. Dietrich spoke about proportionality and cost-shifting in e-discovery.

Scott D. Feather and Jon M. Philipson have joined Carlton Fields’ Tampa office as associates. Feather practices in the firm’s real property litigation practice group, and Philipson practices in the firm’s business litigation and trade regulation practice group.

James E. Felman and Stuart C. Markman of Kynes, Markman & Felman, P.A., have been named Tampa Lawyers of the Year by The Best Lawyers in America 2014. Markman was recognized for bet-the-company litigation, and Felman was recognized for appellate practice.

Frank H. Gassler, of Banker Lopez Gassler P.A., has been named Lawyer of the Year (Tampa Legal Malpractice Law - Defendants) by The Best Lawyers in America 2014.

Alexandra Haddad, of Burr & Forman LLP, was recently elected to The Florida Bar Young Lawyers Division Board of Governors for the Thirteenth Judicial Circuit. Alexandra will serve in the elected position for the remainder of the two-year term, through June 31, 2015.

Matthew F. Hall joins Hill Ward Henderson in the firm’s litigation group. His practice primarily focuses on employment law and general commercial litigation.

Lauren L. Haynes has joined Banker Lopez Gassler P.A.’s Tampa office as an associate.

Lisa Griffin Hodgdon and Kelly B. Holbrook, both Of Counsel in the Tampa office of the statewide law firm Broad and Cassel, have earned an AV Preeminent rating from Martindale-Hubbell, achieving the organization’s highest marks for both competency and ethics. Holbrook and Hodgdon are members of the firm’s commercial litigation and labor and employment practice groups.

R. Craig Mayfield, a shareholder at Hill Ward Henderson, was recently appointed vice chair of Defense Research Institute’s (DRI) 21st Century Lawyer Implementation Task Force. The task force is tasked with implementing recently approved initiatives for modernizing DRI educational programming, seminar structures, and public service efforts. DRI is the international membership organization for lawyers involved in the defense of civil litigation. Mayfield’s practice primarily involves the defense of products liability and complex mass tort claims, from trial through appeal.

Richard C. McCrea, Jr., and Robert A. Soriano, of Greenberg Traurig, LLP, have

Continued on page 60
CRIMINAL LAW SECTION CLE

The HCBA Criminal Law Section hosted a CLE/luncheon on the Stand Your Ground Law on October 1. Ben Montgomery, an enterprise reporter from the Tampa Bay Times, came to discuss media coverage of the George Zimmerman trial. Thanks to our sponsor, Roche Monitoring Services!

UPCOMING CLEs

- December 10 - Tax Law
- December 11 - Elder Law
- December 11 - Workers’ Compensation
- December 12 - RPPTL

Save time and expedite your entry to the George E. Edgecomb Courthouse with a Court Access Card!

The Hillsborough County Bar Association is offering Court Access Cards to provide quicker access at the front entrance (800 E. Twiggs St. - Main Courthouse) and at the rear entrance (401 N. Jefferson St. - Criminal Annex a.k.a. Law Enforcement Entrance).

Applications are available at hillsbar.com. If you need a photo taken for your card, please call the HCBA at (813) 221-7777 to schedule an appointment. The cost of the card is $75 for first-time applicants and $50 for renewals.

*Note: No one is prohibited from entering the courthouse without a Court Access Card. The card simply allows more rapid entry into the courthouse.
been named Lawyers of the Year in *The Best Lawyers in America 2014*. McCrea was recognized for labor law (management) and litigation (labor and employment) in Tampa, and Soriano was recognized for bankruptcy and creditor debtor rights/insolvency and reorganization law in Tampa.

**Christy Nash, of Burr & Forman LLP**, was appointed to a three-year term on The Florida Bar’s Thirteenth Circuit Grievance Committee in April 2013.

**Sherilee J. Samuel**, an associate with Hill Ward Henderson’s litigation group, was recently elected to the board of directors for The Spring of Tampa Bay, Inc. The Spring is the Department of Children & Families’ certified Domestic Violence Center for Hillsborough County. Its mission is to prevent domestic violence, protect victims, and promote change in lives, families and communities. Samuel’s practice involves the defense of premises liability, products liability, fair debt collection practices, and nursing home claims.

**Jessica S. Swann** has joined Smolker, Bartlett, Schlosser, Loeb & Hinds, P.A., a Tampa law firm concentrating in real estate and property rights representation, as an associate. Swann concentrates her practice on federal, commercial and property rights litigation, as well as eminent domain.

**Emily B. Weeks** joins Hill Ward Henderson as an associate in the firm’s Trusts & Estates Group. Her practice primarily involves estate planning, tax planning, the administration of trusts and estates, and business succession planning. Prior to joining the firm, Weeks worked at Ernst & Young, LLP, where she advised individuals on income tax, gift tax, and estate tax planning.

**David B. Weinstein**, managing shareholder of the Tampa office and chair of the national environmental and toxic tort practice of international law firm Greenberg Traurig P.A., has been elected to the board of trustees of the David A. Straz, Jr., Center for the Performing Arts. He will serve a three-year term.

**Gwynne A. Young**, a Carlton Fields shareholder and immediate past president of The Florida Bar, has been elected to the Executive Council of the National Conference of Bar Presidents (NCBP). Young will serve a three-year term. NCBP provides high-quality programming to current Bar leaders at two meetings held each year contemporaneously with the annual and midyear meetings of the American Bar Association. The current organizational members of NCBP include state, local, and special focus Bars from 53 states and territories, and members include past Bar leaders from these jurisdictions.

The law firms of Carlton Fields, P.A., and Jorden Burt, LLP, are pleased to announce that on October 7 they entered into a definitive agreement to merge the firms. For a transition period after the merger, the name of the combined firm will be Carlton Fields Jorden Burt. The new firm will include more than 370 lawyers and government consultants in 10 offices. Closing of the merger and full operational integration is expected at the beginning of 2014.

**Kynes, Markman & Felman, P.A.**, was named in *U.S. News - Best Lawyers 2014* edition in “Best Law Firms” rankings. The firm received first-tier recognition in appellate practice, commercial litigation, and criminal defense (non-white-collar and white-collar).

**Shook, Hardy & Bacon** welcomed friends, families, and colleagues to their open house on October 10 to celebrate their new office.

**Shook, Hardy & Bacon** was selected as a recipient of the Thirteenth Judicial Circuit’s 2012 Pro Bono Service Award for outstanding pro bono contributions to the Tampa community. It was one of only two firms in Tampa chosen for the honor.

**Shook, Hardy & Bacon** was recognized for its successes during a recent event in Miami honoring recipients of *The Daily Business Review*’s Litigation Department of the Year awards. The firm was recognized in the product liability and mass torts category.
Get Your Holiday Shopping Done Early!

The HCBA cookbook makes a great gift for colleagues and friends. Call the HCBA at (813) 221-7777 to place your order.

Proceeds benefit Bay Area Legal Services.

Get the legal advertising service you deserve

www.businessobserverfl.com

Publish your legal notice with the Business Observer
- Coverage in 9 Counties: Sarasota, Manatee, Lee, Collier, Hillsborough, Pasco, Pinellas, Charlotte and Orange
- Low, Competitive Flat Rates
- Superior Customer Service
- Online Verification
- Electronic Invoicing and E-filing Capabilities
- Qualified Legal Status

Call 941-906-9386 or email legal@businessobserverfl.com today!

Bar Member SPECIAL Limited-Time Offer:
Complimentary 13-week trial subscription available. Bar members only.
Call 877-231-8834 or email subscriptions@businessobserverfl.com today and mention special code Q013LBA.

MEDIATION
Creating Common Ground

Constance d’Angelis
Mediator • Arbitrator • Attorney

Clark Jordan-Holmes
Mediator • Arbitrator • Attorney

Education & Certification
US Bankruptcy Court
Mortgage Mediator Certification

On Line Course
www.CLEanytime.com

CLE Credits
General 8.5
Ethics 1.0

Certification
Real Estate 8.5
Business Litigation 6.5

Not Only for Mediators
A portion of the proceeds benefits the Institute for Peaceful Solutions

Certified / Approved
- Circuit Court - Business, Personal Injury
- Middle District
- Bankruptcy
- Family Law
- Condominium Disputes
- Pre-suit & Suit Mediations of All Kinds

813-966-2626
www.MediationForFlorida.com

Join Us on Facebook
Clark@MediationForFlorida.com
P.O. Box 17297 • Tampa, FL 33601
Cleveland Avenue Near Downtown • Plenty of Parking
WILLS FOR HEROES

Several attorneys took time out of their weekend to help protect those who strive to keep Tampa safe every day. As part of the Wills for Heroes event on Saturday, October 5, attorneys volunteered to help officers from the Tampa Police Department and their families prepare wills, estate plans, and other necessary documents in case of emergency. The turnout was excellent, with about 30 officers receiving free legal aid.

The next two Wills for Heroes events are scheduled for January 11 and April 5, 2014. To volunteer, contact organizer Katie Everlove-Stone at Katie@everlovelegal.com.

The HCBA Trial & Litigation Section is pleased to sponsor the 17th Annual Bench Bar Conference & Judicial Reception.

PLATINUM SPONSOR OF THE 17TH ANNUAL BENCH BAR CONFERENCE & JUDICIAL RECEPTION

Bajo Cuva Cohen & Turkel
JURY TRIAL INFORMATION

For the month of: October 2013
Judge: Honorable Sam D. Pendino
Parties: Catherine R. Brines v. Kimmins Contracting Corp.
Attorneys: For Plaintiff: Ronald W. Fraley; For Defendant: David W. Adams and Zachary J. Glaser
Nature of Case: Employment discrimination. Plaintiff alleged defendant regarded her as disabled and terminated her employment.
Verdict: Defense verdict

CLASSIFIED ADVERTISING

WE WILL COLLECT your clients’ judgments and delinquent debt. We also represent attorneys in collecting their receivables. 34 years experience. Call Gil Singer 813-288-1881 x247 or gsinger@marcadislaw.com.

BAR LEADERSHIP INSTITUTE CLASS VISITS PORT

Members of the HCBA Bar Leadership Institute got a chance to enjoy the sunny weather during a tour of the port on October 30.

Thanks to the class sponsor this year: The Bank of Tampa

ADVERTISING INDEX

Bajo | Cuva | Cohen | Turkel ......................................................62
Bank of Tampa .................................................................Back Cover
Barnett Bolt ........................................................................9, 41
Bay Area Legal Services .........................................................39
Buell & Eligett .....................................................................37
Burr + Forman .....................................................................19
C1 Bank ................................................................................37
Canterbury Tower .................................................................23
Charles W. Ross ....................................................................30
Chris Craft Tampa Bay ...........................................................25
Clark & Martino .....................................................................44
ExecuCar .................................................................................30
Forceworks ..............................................................................21
Fowler White Boggs, P.A. .......................................................30
Free Press .................................................................................64
Glass Ratner Advisory & Capital Group LLC .........................41
Gunn Law Group .................................................................Inside Front Cover
Harris & Hunt, P.A. .................................................................16
Holland & Knight .................................................................13
Isom Mediation .....................................................................30
Jim Freeman .............................................................................12
Johnson, Pope, Bokor, Ruppel & Burns LLP ...........................25
Mediation FLA, LLC ...............................................................61
Observer Group/Business Observer .........................................61
Older & Lundy .......................................................................31
Paul Sidney Elliott ..................................................................64
Richard A. Tanner ..................................................................64
Robert Bonanno ......................................................................25
Sabadell United Bank .............................................................24
Shook, Hardy & Bacon ...........................................................47
The Centers .................................................................Inside Back Cover
The Fraley Law Firm, P.A ........................................................4
Thompson Studios ...................................................................11
Trenam Kemker .....................................................................56
Trial and Litigation Section .....................................................62
Trial Consulting Services .........................................................40, 47
Tribridge ................................................................................56
University of South Florida HPCC ..........................................13
Vector Commercial Real Estate Services, LLC .........................22
Wagner, Vaughan & McLaughlin, P.A. .....................................19
Waller & Wax Advisors ..........................................................53
Safeguard your clients’ current and future public benefits.

The Centers provides a wide range of services designed to meet the compliance needs of law firms while mitigating their liability.

Our knowledge of public benefits combined with professional administrative services brings peace of mind to Attorneys, Beneficiaries, and their Families.

- Settlement Optimization™
- Lien Resolution
- Medicare Set Aside Services
- Life Care Planning
- Special Needs Trust Administration
- Fiduciary Support Services
- Public Benefits Compliance
- Structured Settlements
- Investigative Services

Learn more about how to fully protect your clients.
www.centersweb.com | (855) 233-1602
Discover Why More Than 450 Law Firms Bank With Us.

We Know Your Business
Our experienced local bankers have vast experience in serving the needs of law firms. From start-ups and spin-offs to office construction … we’ve seen it all. Additionally, our Trust Department offers a variety of services for your clients. Call Senior Trust Officer Mary Mitchell at 998-2720.

Special Offer for HCBA Members
HCBA members are entitled to our premier Minaret Diamond relationship package with no monthly service charges and minimum requirements. Call any of our offices for details.