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IN THIS ISSUE

3 TAKING CARE OF OURSELVES
   Editor's Message by Grace H. Yang

4 AMY GOES TO THE WHITE HOUSE!
   HCBA President's Message
   by Amy S. Parrior

6 CORNHOLE FOR A CAUSE AND FOR SOME FUN, TOO!
   YLD President's Message
   by Jaime R. Girgenti

8 PROTECTING OUR ANIMALS
   State Attorney’s Message
   by Mark A. Ober

10 THE FLORIDA LEGISLATURE: CENTER STAGE
    From the Clerk of the Circuit Court, by Pat Frank

22 LEADERS: JUDGE JAMES S. MOODY, JR.
      by Raymond T. (Tom) Elligett, Jr.

26 HCBA JANUARY MEMBERSHIP LUNCHEON

28 CELEBRATING JOHN ADAMS’ LEGACY: LAW WEEK 2011
   by Kelly A. Zarzycki

30 HAWL’S CLE PROJECT: LEGAL EDUCATION FOR RELATIVE CAREGIVER ADVOCATES
   by M. Elizabeth Lanier

34 AMENDMENTS TO RULE 26 IMPOSE NEW EXPERT DISCOVERY REQUIREMENTS
   by Brad Kimbro and Paul McDermott

38 AN ALTERNATE APPROACH TO COMMERCIAL LOAN MODIFICATIONS
   by Lafe R. Purcell

42 ANOTHER SUCCESSFUL HAWL SHADOW DAY AT THE COURTHOUSE!
   by Vivian Arenas-Battles

44 HEARING FOOTSTEPS?

28 HEARING FOOTSTEPS? 5K RACE TO THE COURTHOUSE APRIL 9, 2011
   Judge Claudia Isom and Judge Marva Crenshaw

about us
Enya, of the cat species referred to as Florida Panther, Cougar, Puma, or Mountain Lion depending on what region of the world they are found, calls Big Cat Rescue, an educational sanctuary in Tampa, home. Big Cat Rescue is the world’s largest non-profit accredited sanctuary dedicated exclusively to abused and abandoned exotic cats. The sanctuary’s mission is to provide the best permanent home for the animals in its care and to reduce the number of cats that suffer the fate of abuse, abandonment or extinction. This mission is accomplished by teaching the public about the plight of the cats, both in the wild and in captivity, and how they can help through their behavior and support of better laws to protect the cats. The sanctuary houses the most diverse population of exotic cats in the world, with 14 of the 35 species of wild cat represented among more than 100 residents including tigers, lions, leopards, cougars, bobcats, lynx, ocelots, servals, caracals and others. Big Cat Rescue offers guided tours on 55 naturally landscaped acres in the Citrus Park area and is truly one of Tampa’s hidden jewels. Please view the website www.BigCatRescue.org for more information, and visit the sanctuary at 12802 Easy Street, Tampa, FL 33625.
How well do you take care of yourself? Many of us are so busy taking care of other people like family members and clients that there may not be enough time to tend to ourselves. February is American Heart Month. Consider giving yourself—heart and all—some extra attention and tender loving care.

The legal profession, while rewarding in many ways, is not very conducive to encouraging good health. Our profession is pretty sedentary. Spending many hours in a day sitting in chairs means that many less hours that we have to exercise. Sitting in front of a computer for hours a day could lead to back and neck pain if we are not careful about our posture. Too much typing could cause hand cramps or worse, carpal tunnel syndrome.

Eating well could be a challenge. We sometimes skip meals because we are so busy. We sometimes each too much junk food. We may not drink enough water. We may drink too many caffeinated beverages or sugary drinks.

HCBA President Amy Farrior wrote in her November 2010 Lawyer column about how enjoyable it is to have lunch. Eating a well-balanced meal not only provides important nutrition for your body, but the break from work also helps rest the mind and nurture those personal networks that make us happy, social beings. So, take some time to eat well!

Heavy workloads and our focus on legal problems tend to create worry and stress in our lives. Pressures to meet deadlines sometimes mean we have to work late. Our eyes get tired from all the reading we do. Our bodies get tired because we may not get enough sleep. We delay or cancel vacations because cases or projects conflict with busy schedules. We sacrifice relaxation for responsibilities.

Please do not misunderstand me—responsibilities are certainly important. Our careers and our clients depend on our abilities to handle multiple tasks and deadlines under pressure. However, none of us can function optimally if we are not feeling well. Therefore, consider steps to take better care of yourself if you are not already.

For those of you who want to get motivated for a very good cause, I offer you an idea. The Hillsborough County Bar Association’s Judicial Pig Roast and 5K Race to the Courthouse will be on April 9, 2011. Please see the related article on page 44. The event supports pro bono legal services in Hillsborough County. The race starts at 5:30 p.m. from the Chester H. Ferguson Law Center, 1610 North Tampa Street, Tampa, Florida. Run or walk, get some fresh air, and get some exercise for this great Hillsborough County Bar Association event!
Yes, that’s THE White House. I know it’s hard to believe, but in my capacity as president of this august organization, I attended a meeting at the White House on November 19, 2010, with Vice President Joseph Biden, Attorney General Eric Holder, Harvard law professor and constitutional law guru Laurence Tribe, the secretary of labor, the president-elect of the American Bar Association . . . you know, the usual crowd. The purpose of the meeting was to promote the Obama Administration’s Access to Justice Initiative.

Vice President Biden spoke first. He told the audience it is not enough to say that everyone has the same legal rights; there must be meaningful access to justice, particularly civil justice. He quoted one judge as saying, “Justice is open to everyone in the same way as the Ritz Hotel.”

In the end, what did I get out of my trip to the White House besides a beautiful new suit . . . and shoes . . . and purse? I got a once-in-a-lifetime opportunity to have a different perspective on how our government works. That’s important.

Amy Goes to the White House!

Continued on page 5
The Access to Justice Initiative seeks to address this problem by taking 3 concrete steps aimed at: (1) protecting workers’ rights by helping workers obtain legal counsel to pursue their minimum wage, overtime and family leave claims; (2) helping veterans to obtain the legal assistance they need to pursue their disability claims; and (3) finding alternatives to mortgage foreclosure.

American Bar Association President-Elect Bill Robinson voiced the ABA’s enthusiastic support for this program. The ABA, through the lawyer referral services of local bar associations such as ours, has agreed to work with the Department of Labor to help employees find local attorneys to pursue wage and family leave claims. The leaders of nine local bar associations were in attendance, but with the exception of the HCBA president, they were all from our nation’s largest cities.

Before anyone is either too impressed or too distressed by the idea of yours truly at the White House, I should hasten to add that 50 other people joined me in the meeting. Also, if the truth be known, I never actually got to meet the vice president or any of the other dignitaries, and none of them wanted my opinion on any topic. All I did was clap. White House security prohibited attendees from bringing cell phones or cameras, and no “official” photograph was taken, so I don’t even have a photograph of the event. In fact, they didn’t give out so much as a bottle of water during the 3-hour meeting … probably a good idea, in retrospect, because they didn’t take any bathroom breaks either.

Nevertheless, that a representative from the HCBA was asked to attend this event is testament to the incredible work that has been done over the years by prior leaders of our association and by Connie Pruitt, our executive director, who is a veritable rock star in the organized bar world! I am merely the lucky beneficiary of all their hard work!

The best part for me is that I will again represent the HCBA in Washington, D.C. at the United States Supreme Court Swearing In Ceremony on May 16, 2011. I understand this is an unforgettable event, so make your plans now to join me in D.C.

In the end, what did I really get out of my trip to the White House besides a beautiful new suit … and shoes … and purse? I got a once-in-a-lifetime opportunity to have a different perspective on how our government works. That’s important. I also had a wonderful time! Would I go again in the unlikely event the White House wants me to attend another meeting? You’d better believe it, but I’ll bring my own water.

---

1 One woman I told about my trip thought I was referring to the White House, Black Market clothing store. Natural mistake!
2 Okay, two suits … couldn’t resist. But don’t worry, the HCBA didn’t pay for the outfits or any other part of the trip!
Do you have a competitive spirit and enjoy playing mindless, easy, FUN games? Do you like competitions? How about a competition with free beer, Tampa Bay Lightning tickets, and a chance to win cash prizes? Oh, and all of it to benefit a great local organization? Enticed? If so, the Young Lawyers Division “CORNHOLE FOR A CAUSE” competition is for you!

Mark your calendars on March 5, 2011, because the Young Lawyers Division will be hosting its Second Annual “Cornhole for a Cause” tournament to raise money for Big Brothers Big Sisters of Tampa Bay (BBBS). So, what is a cornhole? Glad you asked!

This year’s tournament is going to be an event you do not want to miss, as the YLD strives to make this year’s event even better than the last.

It has been called many things: Corn Toss, Bean Bag, Bean Toss, Soft Horseshoes, and Indiana Horseshoes. The true history of the game is mostly unknown, though stories abound. One story claims that the game...
was first played during the 14th century in Germany and then rediscovered in Kentucky within the last century. Despite debate about whether the game was actually created in the Kentucky farmland, Champaign, IL, or the West Side of Cincinnati, some sources credit the invention to western Cincinnati, but by whom or when is unknown. Popularity of the game began to increase in the late 1990s in Cincinnati area universities, particularly Miami University where cornhole became a mainstay at parties and as a casual drinking game. Despite its origin, cornhole is becoming more and more popular nationwide.

Cornhole or Corn Toss is similar to horseshoes except you use wooden boxes called cornhole platforms and corn bags instead of horseshoes and metal stakes. Contestants take turns pitching their corn bags at the cornhole platform until a contestant reaches the score of 21 points. A corn bag in the hole scores 3 points, while one on the platform scores 1 point. Scoring can be swift, and the lead may change hands several times in a match before the winner is decided. The game is generally played tournament style with an individual or team being named the champion at the end of the tournament.

So, why play in the YLD Cornhole Tournament? Because it is easy and FUN, and you will be playing for a great organization!

The Second Annual “Cornhole for a Cause” Tournament will take place on Saturday, March 5, 2011 on the grounds of the St. Pete Times Forum. Custom Corn Toss, a Clearwater organization which runs cornhole tournaments and leagues all around the Tampa Bay area, will run the tournament. The entry fee for the tournament is $50.00 in advance and $60.00 on the day of the event. The entry fee includes admission for a team of two players, free beer to enjoy during the tournament, and two tickets to watch the Tampa Bay Lightning take on the Montreal Canadiens at the 7 p.m. evening game.

If you don’t think the cornhole tournament is for you, you can still come out and join the fun by purchasing a spectator ticket for $15.00, which includes unlimited free beer and one ticket to the Lightning game.

This year’s tournament is going to be an event you do not want to miss as the YLD strives to make this year’s event even better than the last. Find your teammate, warm up that arm, and join the YLD as we raise money for BBBS of Tampa Bay and play a little cornhole! Hope to see you at the tournament!


Congratulations to Amanda Sansone, American Bar Association YLD National Outstanding Young Lawyer Award finalist and past president of the HCBA YLD.
Protecting Our Animals

“The greatness of a nation and its moral progress can be judged by the way its animals are treated.”

—Mahatma Ghandi

Often there is a correlation between violence against animals and violence against people. According to a 1997 study, 85% of women and 63% of children entering a domestic violence shelter reported that pet abuse had taken place in the home (Ascione, 1997). This disturbing connection is addressed in Florida law, which allows animal abuse to serve as a basis for injunctive protection in domestic violence cases. Fla. Stat. Sec 741.30 (3)(H). Petitioners may assert their reasonable belief of being in danger of becoming a victim of domestic abuse based upon a family pet being intentionally injured or killed.

The state of Florida has strict laws for the protection of animals. Florida has laws that make animal fighting illegal, and prosecution is not limited to those who instigate, promote, and stage the fights. Individuals who are spectators and...
Continued from page 8

those possessing animal fighting equipment also can be prosecuted. These violations are felony offenses. Fla. Stat. Sec 828.122.

Animal cruelty is also a crime under Florida law. Animal cruelty occurs when there is an intentional act to any animal which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering. Fla. Stat. Sec 828.12

Criminal neglect occurs when an animal has been deprived of necessary sustenance; that is food, water, shelter and necessary medical care. Although the recession is hard on everyone, it does not justify or excuse the neglect of pets. There are resources available for pet owners who struggle to provide for their animals. The following local resources are available to provide the necessary help to needy pet owners:

- Humane Society of Tampa Bay
  (813) 876-7138
  Pet Surrender
  Food Assistance
- Hillsborough County Animal Services
  (813) 744-5660
  Pet Surrender
  Spay and Neuter Voucher Program

Of course, these same groups are always in need of donations and volunteers in order to provide services to our area. Together, we can keep our community safe for our families and our pets.

Even though I am writing this column in mid-December, in the midst of the holiday season, I find my spirit plummets when I see headlines forecasting a $3.5 billion budget hole in the upcoming state budget. I don’t know what that portends for the Clerks of Court throughout Florida, but I have been hoping that the Florida Legislature will give the Clerks a belated “present” when it convenes on March 1.

I put the word “present” in quotes because our request is actually quite simple and not even a gift. What I refer to is an eight percent administrative surcharge for the Department of Revenue being imposed on our office by the state. This eight percent is grossly unfair—it was imposed on us after our budgets were approved.

We did not anticipate that cut. We cannot afford it. Also, we know that it does not cost eight percent to collect and disburse court fines and fees. We presently have that duty, and it costs our office less than one percent! We regard this not as a service charge—but as a tax.

We all recognize that times are tough, and they have been for a number of years. The Clerk’s Office in Hillsborough County, like our counterparts throughout the state of Florida, have responded by cutting our payroll, closing facilities, instituting a Reduction in Force and imposing furlough days—days where employees do not work and do not get paid.

To put this in perspective, at the peak of the economy, in 2007, the Clerk’s Office had a total of 961 positions. Today, we are reduced to 821 positions, a 15 percent reduction. Meanwhile, our workload has only intensified, further complicated by the fact that we are forced to operate two electronic systems in order to do business, one to test our new court-wide maintenance system, which we are in the process of implementing, and our current system, through which we conduct business every day.

I recognize that members of the Hillsborough County Bar are far more aware than most of the services provided by the Clerk’s Office. These services—to the public, the judges, attorneys and pro se litigants—are labor intensive. My deputy clerks not only work with the judges in the courtrooms, but we also filed over 7.8 million court records last year, routinely provided information, answered questions, administered the jury system, and collected the fees which run the court system.

The good news for the Clerk’s Office is that our Governor-elect Rick Scott does not believe in taxes. In the spirit of bipartisanship, I applaud him. Furthermore, I agree with him. I don’t believe in taxes either!

Thus, I am hoping that the Florida Legislature grants our request to continue our budget at its current level, which is still a challenge, but to spare the Clerks of Court this eight percent “tax.” Any support from the Hillsborough County Bar Association would be most appreciated. After all, we truly are in this together.
The Hillsborough County Bar Foundation

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Not long ago, I received a brief that criticized me for “misstating facts” in my brief based on a “conception of a record that does not exist.” Call me naive, but I was expecting to read why the law or the facts did not support my client’s position—not that I had “violated my duties as a lawyer” by taking liberties with the record. Then I thought, this is how my friend Pat must have felt when she opened a brief I had written, over a decade ago, which suggested she had misstated the record. I still remember the day I received her call challenging my comment.

The good news: Pat and I spoke again after we both reviewed the brief a second time, we agreed the comment was not as strong as she had initially thought, and best of all, we developed a mutual respect for one another as appellate practitioners and became friends. I remember the day Pat took me to lunch after I passed the Appellate Board Certification exam a few years later. I also remember

Continued on page 13

Are you interested in becoming an HCBA Officer or Director, or YLD Board Member?
Be part of the leadership of the HCBA.

Regular and Honorary members of the HCBA may file written nominations to become a candidate for President-Elect, or for the Board of Directors of the Hillsborough County Bar Association.

Deadline for submitting nominations is April 15, 2011 at 5 pm. Please send statement of intent to: HCBA Secretary, 1610 N. Tampa St., Tampa, FL 33602.

If you have any questions, please call Connie Pruitt, HCBA Executive Director at 813.221-7777.
Continued from page 12

the day when Pat asked me to write a letter to Governor Jeb Bush recommending her for appointment to the Second District Court of Appeal. Yes, my opponent in that appeal was Judge Patricia J. Kelly, who was appointed to the Court in 2001.

The moral of this story is not to treat your opponent with respect because you never know whether he or she may one day sit as the judge on your case—although this would not be bad advice. The moral is that attacking the credibility of your opponent does nothing, in the end, to further the administration of justice, your client’s case, the public perception of our legal system, or a respectful environment among members of our Bar.

The Preamble to the Florida Rules of Professional Conduct states: “A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers, and public officials.” Admittedly, the lines of effective advocacy can become blurred when we, as lawyers, strive zealously to advance our client’s case. But before filing briefs, pleadings, motions, memoranda or any other paper with the court, perhaps we should read the document through the lens of a judge, and then ask, “Have I really presented the facts and the law in a clear and forthright matter, free of hyperbole, so the court can decide the issues clearly, and expeditiously?” In the end, isn’t that how we “demonstrate respect for the legal system and for those who serve it,” including judges and other lawyers?

I, for one, have no desire ever again to irritate Judge Kelly, any other member of the judiciary, or, for that matter, my opponent. I will continue to try, going forward, to stick to the law and the facts. In the process, I hope to treat my opponent, the court and the legal system with just a little more respect.

Author:
Marie A. Borland,
Hill Ward Henderson

Ask-A-Lawyer

Volunteers

■ Jesus Elizarraras
■ David Thorpe
■ Denny Morgenstern
■ Tom Hyde
■ James Ragano
■ Keith Hoffman
■ Larry Samaha
■ Rinky Parwani
■ James Quinlan

■ Shelia Norman
■ Joseph Towne
■ Dale Appell
■ Lesly C. Longo
■ A.J. Musial
■ William Schwartz
■ Mike Fluke
■ Natalia Grisales
■ William Schwartz

Library Volunteers

Brandon Library
■ Brent Rose

Bloomingdale Library
■ Linda Faingold

If you would like to volunteer for these programs, please contact Pat at 221-7783 or email pat@hillsbar.com
Each year, Make a Difference Day is celebrated across the United States on the 4th Saturday in October. It is the largest national day of helping others and is sponsored annually by USA Weekend magazine and its 700 carrier newspapers. On October 23, 2010, the HCBA Community Services Committee participated in the Adopt a Veteran Project in conjunction with Make a Difference Day.

2010 marked James A. Haley Veterans’ Hospital’s fifth sponsorship of “Homeward Bound for Those Who Served.” Deborah Gottardi, Chief of the Voluntary Service, began the project in Tampa in 2005. It is a “medical foster home program that provides an alternative to nursing home placement for approximately 50 non-service connected veterans who are dependent, chronically or terminally ill with limited family support and finances.” While the government pays caregivers a per diem to care for veterans, there is limited funding for the little extras after monthly expenses. The Foster Home staff and caregivers obtain “Wish Lists” from each of the veterans in the program.

Ronika Anderson, Veteran Affairs Voluntary Services, coordinated efforts with HCBA and provided 20 Wish Lists. The call went out to volunteers to ensure that each veteran was “adopted” and his/her Wish List was filled. Wish Lists included personal hygiene items as well as requests for games, books, and shoes. The event provides the community with the opportunity to remind our veterans how special they are and that they are not forgotten. We touch their lives, and they touch ours.

Jillian Estes and I had the opportunity to visit with Charles, Bob and Edward. Charles served in the Army in Korea. Bob had been in the Marine Corps in the war in Vietnam and Edward was a World War II veteran who served in the Army in Europe. Edward may have been old in years, but he was quite spirited. When asked, “Are you cold?” Edward replied, “No, I’m Edward.” He smiled a lot, and he sang the same war song to us—many times. Jillian and Charles danced.

Susan Kent was unable to join us at the home due to a previous commitment. She had purchased a harmonica for Edward as one of his gifts. While Edward was not interested in the harmonica (he liked the towels), Bob, who had been very quiet, expressed an interest in it. Edward told us it was okay to give Bob the harmonica. Bob’s eyes lit up, and Jillian helped him take the harmonica out of the cellophane wrapped box. Bob turned the harmonica around several times and put it to his lips. We all looked at each other almost afraid of what sounds might come out of the harmonica. To our utter amazement, Bob PLAYED the harmonica. He played well, and he played it again and again. Hilda Casusky, the home caregiver, did not know that Bob had ever played a harmonica before. Everyone clapped. Charles began singing God Bless America, and everyone joined in. I admit it. I wiped a few tears from my eyes.

I may have brought the gifts that our firm collected to the home where Charles, Bob and Edward reside, but I received the best present. I left a richer person for having met them.

Thank you to all of the volunteers and their firms who shared in the experience.

If you are interested in learning more about Make A Difference Day, Homeward Bound to Those Who Served, and/or the Medical Foster Home program, please see the links below:

- http://www.usaweekend.com/section/MDDAY
- http://ww1.va.gov/GERIATRICS/Medical_Foster_Home.asp

Author: Jan Brown, James, Hoyer, Newcomer, Smiljanich & Yanchunis, P.A.
The Community Services Committee would like to give special thanks to the following volunteers:

- Karol Williams
- Christina Taylor
- Lela Morris-Perez
- Erin Reynolds
- Jeff Reynolds
- Jan Brown
- Kim Christmas
- Gabrielle Osborne
- Mary Snyder
- Susan Kent
- Frances Perrone
- Joanna Finks
- Lisa Esposito
- Laurie Rideout
- Mercedes Hale
- Ricky Martinez
- Jan Mclean
- Monelle Beal
- Kim Christmas
- Jennie Hayes
- Stacy Yates
- Mindi Lasley

Thank You! Thank You!
The Chinese drywall plague is continuing to take its toll in the state of Florida. As litigation against builders, suppliers, distributors, importers, and manufacturers progresses, courts are facing a host of new issues. One such issue is the apportionment of damages under Florida’s comparative fault statute, Fla. Stat. §768.81. The issue was recently addressed in Seifart v. Knauf Gips KG, et. al, Case No. 2009-38887-CA, pending in the Eleventh Judicial Circuit in and for Miami-Dade County.

In Seifart, homeowners with defective Chinese drywall brought claims against drywall supplier Banner Supply Co., Chinese manufacturer Knauf Plasterboard Tianjin, exporter Rothchilt International, and importer La Suprema. The claims against the manufacturer, exporter, and importer were severed from the case against the supplier. The case went to trial in June 2010. The jury returned a verdict in favor of the homeowners on theories of strict liability, negligence, violation of Florida’s Deceptive & Unfair Trade Practices Act, and private nuisance. The manufacturer, exporter, and importer were included on the verdict form as Fabre defendants pursuant to Fla. Stat. §768.81.

The jury awarded damages in the amount of $2,465,359 and allocated fault as follows: supplier defendant Banner Supply Co., 55% liable; manufacturer, 35% liable; drywall importer, 5% liable; drywall exporter, 5% liable. The homeowners filed a post-trial motion seeking to preclude apportionment of damages between the supplier and the manufacturer. The homeowners argued comparative fault principals did not apply to products liability cases because all defendants in the distribution chain of the defective product are found liable, even if they are only vicariously or derivatively liable. The homeowners maintained that because liability for defective products is determined irrespective of percentage of actual fault, apportionment of damages should reflect the same principal. Under the homeowners’ theory, the supplier would be responsible for paying 100% of the $2,465,359 awarded to the homeowners. The homeowners posited that the supplier could then seek indemnification for the amounts it paid over and above its 55% apportionment from the other Fabre defendants. The supplier disagreed and argued that Fla. Stat. §768.81 mandates apportionment of damages pursuant to each party’s percentage of fault in all negligence cases, including products liability.

The Court denied the homeowners’ motion to preclude apportionment. The Court held pursuant to the express language of Fla. Stat. §768.81 it was required to “enter judgment against each party liable on the basis of such party’s percentage of fault and not on the basis of joint and several liability.” The Court rejected the homeowners’ attempt to carve out an exception to the comparative fault statute for products liability cases. The Court noted that Fla. Stat. §768.81 specifically applies to “negligence cases,” and “negligence cases” is defined to include “civil actions for damages based upon theories of ... strict liability [and] products liability.” The Court stated that the legislature appears to have made the determination that liability in a products liability case is determined using one set of policy considerations, but apportionment of damages is based on different policy considerations and must be made in accordance with Fla. Stat. §768.81.

Author: Jacqueline Taylor, Esq., Sivyer, Barlow & Watson, P.A.
Ask a Colleague to Join Today!

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Encourage an associate to visit www.hillsbar.com now!
In our current landscape of sweeping legislation, it is often overwhelming for businesses to keep up with and implement so many changes in the law. Many businesses are faced with the challenge of meeting new and changing legal requirements while staying within their respective budgets. For most businesses, though, overcoming these legal challenges is feasible. The key to managing it all is to make sure that there are effective systems in place to process all pertinent changes.

Have a Compliance Program in Place. A compliance program is essential to ensuring compliance with applicable federal and state laws. The first step is to designate a Compliance Officer to oversee, direct and implement the compliance program. An effective compliance program will also have written policies and procedures. Employees should receive education and training on applicable policies upon hire, annually, and as legal requirements change. The most effective compliance programs ensure open lines of communication between the employees and management and have clearly defined disciplinary guidelines for non-compliance with policies and procedures. Finally, the compliance program should have a system for monitoring and auditing business processes so that any detected problems may be identified and corrected as soon as possible.

Utilize Available Resources. Businesses should tap into free resources to remain current on legislative changes that will affect them. Many organizations and private law firms monitor pending and enacted legislation and publish articles that are helpful to their members or clients. Management and compliance officers should sign up for and review newsletters and email alerts on issues related to their businesses. Some lawyers will even provide continuing education seminars or programs at no charge for their clients or potential clients, if asked. There are a multitude of free resources available, but in order for these resources to be effective, they must be reviewed regularly and circulated to those who need the information.

Advanced Planning. Most (although not all) of the time, businesses will have advance notice of any new or changing legislative requirements. For those in the health care industry, the health care reform changes provided in the Patient Protection and Affordable Care Act (PPACA) alone can seem extremely overwhelming and burdensome. However, the PPACA provides a timeline for changes to be implemented anytime from 2010 until 2018. As a whole, PPACA seems cumbersome, but this legislation is much easier to digest when broken down into a series of annual deadlines. Likewise, any new or updated laws should be simplified into items that require immediate action versus those items to be addressed at a later time. Ultimately, the businesses that are going to have the easiest time complying with new and changing legal requirements are those that are highly organized and have effective systems in place. Ultimately, the businesses that are going to have the easiest time complying with new and changing legal requirements are those that are highly organized and have effective systems in place.

Author: Yvette F. Rhodes, Fowler White Boggs P.A.
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FOR YOUR FIRM TO BE LISTED HERE, CONTACT DAWN McCONNELL, DAWN@HILLSBAR.COM
Years ago a wise senior counsel at Carlton Fields remarked to me about how the morning brought a beautiful Florida sunrise and how, the night before, the sun had set on yet another statute of limitations. Little did I know that these casual remarks would have so much meaning 20 years later, but they did. In U.S. v. Kang, 715 F.Supp.2d 657 (D.S.C. 2010), the district court dismissed a single conspiracy charge against our client (John Kang) following a seven year Department of Justice investigation and a two month trial. The case involved an incredibly complex fact pattern, wherein the government alleged accounting fraud in connection with over 40 merger-and-acquisition transactions. The indictment charged a conspiracy, which is often characterized as an "amorphous" offense seemingly without an ending point. However, in Kang, the Court held that under the federal statute of limitations, the government would have to show the commission of an overt act in furtherance of the conspiracy within five years prior to the filing date of the indictment. Because it failed to prove the existence of such an act, the government missed the filing deadline, and the Court dismissed the case under Fed. R. Crim. P. 29. The Court relied on a trilogy of iconic U.S. Supreme Court cases dating back to the 1940's - Krulewitch v. U.S., 336 U.S. 440 (1949); U.S. v. Lutwak, 344 U.S. 604 (1953); and Grunewald v. U.S., 353 U.S. 391 (1957). In our case, the Court determined that, based on the language in the indictment, there was insufficient proof of any overt act committed within five years of the filing of the case. The Court therefore entered a judgment of acquittal. Thus, a new day brought yet another wonderful sunrise and the end of a criminal case.

Author:
John F. Lauro,
Lauro Law Firm
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Judge Moody carries on a family tradition of service to the citizens of Florida in our court systems. Born in Plant City, Florida, Judge Moody earned his accounting degree, the equivalent of a business masters to qualify for the CPA exam, and J.D. degrees from the University of Florida. His accomplishments were recognized by his selection to the University Hall of Fame and Florida Blue Key.

After law school, Judge Moody obtained a Certified Public Accounting certificate, but he chose to practice law instead of accounting. Returning to Plant City, he practiced with the Trinkle, Redman, Moody, Swanson and Byrd law firm.

Judge Moody served as President of the HCBA in 1987-88. Judge Charles Wilson, now on the Eleventh Circuit, was president of the HCBA Young Lawyers Section that year while he served as a county

Continued on page 23
court judge in Plant City. Judge Moody recalls Judge Wilson joking that, between them they were running the HCBA out of Plant City.

Judge Moody served as a circuit judge from 1995 until his appointment to the federal district court bench in 2000. While in circuit court, he presided over family law and general civil divisions. Judge Moody has been a frequent legal author and speaker and has gone beyond his official judicial duties to serve several times as a mock trial judge in law school competitions.

Judge Moody’s contributions to the bar and particularly as a mentor and model for young lawyers were recognized when he received the HCBA Robert Patton Outstanding Jurist Award in 2003 and The Florida Bar Young Lawyer’s Division Outstanding Jurist Award in 2007.

During his term as Association President, Judge Moody succeeded in involving more women in HCBA leadership, including appointing Emmy Acton, then Hillsborough Association for Women Lawyers President, an ex-facto member of the HCBA Board of Directors. He also appointed Dallas Albritton to chair a long-range planning committee to explore constructing a building to house the bar association. Twenty years later, that vision came to fruition as the HCBA and HCBF moved into the Chester H. Ferguson Law Building.

Judge Moody has been active in the community, serving on several boards over many years. His hobbies include golf and hiking. James S. Moody, Sr., Judge Moody’s father, was a highly respected circuit judge. Judge Ashley Moody, Judge Moody’s daughter, continues the...
Continued from page 23

family’s judicial service as a Hillsborough County Circuit Judge. His son practices law in Tampa and Plant City, and another daughter is in her medical residency.

Kelley Howard and Lara Tibbals were Judge Moody’s first federal law clerks. They recall clerking for the Judge and the 8:15 starting time to present what each had been working on to the Judge. They note he had been at work long before that each morning. In nominating him for the Florida Bar award that he won, Lara observed Judge Moody was known for his unique approach to status conferences and motion hearings. Instead of sitting on the bench in his black robe, he routinely pulled up a chair at counsel table wearing a suit and tie. Regardless of the issue before him, he also is known for being fair and basing his decisions on a well-reasoned analysis of the applicable law.

Judge Wilson recalls: “During the time I spent in the Plant City Division, Jim, who was still in private practice then, made appearances from time to time in the County Court, and there was no finer lawyer than Jim Moody. As a lawyer, he was universally respected by the bench and the bar, and of course his reputation to this community is unparalleled. As a judge, he enjoys the respect and admiration of his peers in both the state and federal judiciary, and it is impressive to watch the way he imparts certain values to his children and his law clerks—service to the community and to the bar.”

Judge Wilson sums up by observing: “Jim is decisive. He rules, he rules with confidence, and then he moves on to the next decision, which is precisely what lawyers want and expect. You would be hard-pressed to find another family of lawyers and judges like the Moodys who have contributed so significantly for almost three quarters of a century to the life of this community, this bar association, and the law.”

Chief Judge Manuel Menendez relates: “Ask anyone who knows or practices in front of Judge Moody, and they will tell you they just wish they had some idea of what he’s thinking (especially those whose objections have been sustained before it occurred to them to make them). Certainly, he is a man of few words. As a lawyer and now a judge, Jim Moody holds steadfast to the principles he learned from his father, the late James S. Moody, Sr., a former Chief Judge of the Thirteenth Judicial Circuit. He is honest, hardworking, and thoughtful, giving each grievance due consideration but ensuring conflicts are resolved expediently—not only for the sake of docket management but for the well-being of the parties. With a well reasoned but measured approach, Judge Moody is a stalwart within our legal community meting out astute decisions with fair-handed justice.”

Federal District Court Judge James Whittemore comments on playing golf with Judge Moody, and earlier times when Judge Moody appeared before Judge Whittemore while the later sat as a circuit judge: “Based on more than a few rounds of golf with Jim, I can attest that on the golf course he was always a gentleman, gracious in victory and defeat. In the courtroom, he was the same. He appeared before me in contested domestic matters, contested estate matters, and even tried a personal injury jury trial over which I presided. I recall he asked the jury for a very specific dollar amount, which at the time I thought odd. Although he could have asked for more, he asked for what he believed the evidence supported and got it to the penny from the jury. He obviously earned their trust through credible argument, sound logic and reasoned analysis of the evidence, and that’s Jim Moody: reasoned, logical and a man of good character.”

Hillsborough County Circuit Judge William Levens has known Judge Moody since their UF Law days. They have taken numerous golf trips and family vacations together. Judge Levens remarks on Judge Moody’s commitment to parenting, and recounts a memorable story: “Jim was invited to play golf at the prestigious Augusta National Golf Club, home of the Masters Tournament. He made plans to drive up and was set to go when his youngest daughter announced that there was a Daddy-Daughter Dance that directly conflicted with his trip to the hallowed grounds of Augusta National. Without a second thought, he graciously rescinded his acceptance to a once-in-a-lifetime golf experience and proudly accompanied his daughter to ‘their’ dance. He’s been that kind of father. In his personal life, like his professional life, Judge Moody walks the walk.”

The HCBA has benefitted from Judge Moody’s leadership in our association, and we continue to benefit from his service to our community.

Author: Raymond T. (Tom) Elligett, Jr., Buell & Elligett, P.A.
3,000 hours
$150,000 costs
5-year recovery horizon

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* Referal fees paid in accordance with Rule 4-1.5 of the Florida Bar Rules of Professional Conduct.
Attendees at the HCBA January Membership Luncheon experienced a part of Tampa’s history through the eyes of The Honorable E.J. Salcines, Delano Stewart, Esq. and Wm. Reece Smith, Esq., as Mayor Pam Iorio moderated a discussion of “Tampa and the HCBA During the Period of Desegregation.” The program, coordinated by HCBA Program Chair Julie Sneed and Diversity Committee Co-Chairs Deborah Blews and Cynthia Oster, offered reflections and lessons from our communities’ past.
Celebrating John Adams’ Legacy: Law Week 2011

As members of the legal community, we have the knowledge and skill to preserve and promote Adams’ legacy by participating in Law Week activities.

Our nation’s second president, John Adams, is regarded by many as one of the most influential Founding Fathers of the United States. Prior to becoming our first lawyer-president in 1797, John Adams played a leading role in persuading Congress to declare independence, assisted Thomas Jefferson in drafting the Declaration of Independence, and served as defense counsel to the soldiers involved in the controversial Boston Massacre.

Adams’ legacy of liberty and defense of the rights of the accused has been apparent in both the past and today, beginning with Adams’ representation in the Boston Massacre trial, to Sigmund Ziesler’s and William Perkins Black’s 1886 representation of the “Haymarket 8” accused of killing a Chicago police officer, to Samuel Leibowitz’s 1930s defense of nine African American “Scottsboro Boys” accused of rape, to the representation by Michael Tigar and Brian Hermanson of Terry Nichols in the 1995 Oklahoma City bombing case, and contemporary

Continued on page 29
Continued from page 28

efforts by lawyers to represent Guantanamo detainees in the global war on terrorism.

In celebration of John Adams, this year’s Law Week theme is “The Legacy of John Adams: From Boston to Guantanamo.” This theme provides us with the opportunity to explore the historical and contemporary roles of lawyers and to renew our understanding of and appreciation for the fundamental principle of the rule of law.

As members of the legal community, we have the knowledge and skill to preserve and promote Adams’ legacy by participating in Law Week activities. Law Week is a exciting week long event that sends legal professionals to classrooms across Hillsborough County to speak to children about the law and conduct mock trials. Law Week also provides the opportunity for legal professionals to lead school children on informative courthouse tours.

Law Week 2011 will be held from May 2nd to May 6th. Please mark your calendars accordingly so that you can volunteer to participate in one of the various Law Week activities to educate and inspire our youth. Join your colleagues in promoting and furthering John Adams’ legacy while teaching our future leaders about the roles of lawyers and the fundamental principles of the law.

For more information about Law Week or to volunteer as a speaker, tour guide or participant in a mock trial, please contact your HCBA Law Week Committee Co-Chairs: Kelly Zarzycki at kzarzycki@slk-law.com or Brad Barrios at brad.barrios@akerman.com.

I encourage everyone to volunteer for Law Week 2011. The enthusiasm and smiles of the children you come in contact with will likely be one of the more rewarding experiences in your legal career, and the possibilities of the extent of your impact on these children are endless.

Author: Kelly A. Zarzycki,
HCBA Law Week Committee Co-Chair,
Shumaker, Loop & Kendrick, LLP
Over 350,000 of Florida’s children are being raised by relatives other than their parents. Perhaps their parents are too ill, have addiction problems, are incarcerated or are dead—the common thread among these children is that their biological parents cannot care for them. Relative or kinship caregivers keep these children out of the foster care system by providing a home for them.

Most kinship caregivers are at or near the poverty line. Many are elderly or disabled, and many are overwhelmed with raising children who are often reeling from the loss of their parents. Kinship caregivers usually do not receive the same monetary benefits that are available to foster parents, and taking in the children almost always imposes financial hardships on them.

Some of the challenges that kinship caregivers confront include obtaining financial and legal assistance, accessing mental health services and finding affordable housing. Additionally, many caregivers face difficulties in enrolling the children in school or in obtaining medical services for them.

The Florida Kinship Center (“FKC”) was established at the University of South Florida to respond to the needs and issues facing kinship care families. FKC serves such families throughout the state of Florida and provides innovative programs, services and partnerships to help support kinship caregivers and children. For the past several years,

Continued on page 31
Continued from page 30

the Hillsborough Association for Women Lawyers ("HAWL") has worked closely with the Florida Kinship Center ("FKC") to provide pro bono assistance to FKC’s clients.

The Kinship Care Assistance Project is designed to provide pro bono legal services to kinship caregivers. There is always a need for Relative Caregivers Advocates, both in the Tampa Bay area and statewide. Recognizing the need to educate those attorneys wishing to volunteer but lacking the knowledge base in this practice area, Hon. Emily Peacock authored a grant application to The Florida Bar Foundation for HAWL in 2009 to seek funding for a CLE program for Relative Caregiver Advocates.

HAWL received a grant and implemented the nuts-and-bolts program designed by Judge Peacock and her colleagues. A truly stellar faculty developed course materials and presented them at HAWL's half-day CLE program on April 23, 2010. Faculty members were Hillsborough Judges Katherine Essrig, Claudia Isom, and Emily Peacock; Attorneys Laura Ankenbruck, Shelly Mirpuri, David Silverstein, Heather Tager and Jeanne Tate; FKC Director Anne Strozier and FKC staff LaSandra McGrew and Sybil Goings; and Joy Munn of the Department of Children and Families.

CLE participants had the option of paying tuition or agreeing to volunteer pro bono time to Kinship Care clients. The program was attended by attorneys from around the Tampa Bay area, most of whom agreed to volunteer time.

HAWL hopes to present its CLE program again in the spring of 2011. You do not have to be a HAWL member to volunteer for this important project or to attend the CLE course. All attorneys from all practice areas are welcome.

If you are interested in becoming a volunteer and/or attend the next CLE presentation, please contact Sybil Goings, Kinship Services Coordinator, Florida Kinship Center, USF School of Social Work at 813-974-9843 or by e-mail at sgoings@cas.usf.edu. For more information on FKC, please visit www.flkin.org, and for more information on HAWL, please visit www.hawl.org.

Author: M. Elizabeth Lanier, Esq., Chair, HAWL Pro Bono Committee, Helms & Greene, LLC

Author: M. Elizabeth Lanier, Esq., Chair, HAWL Pro Bono Committee, Helms & Greene, LLC
Cases in other states?

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Amendments to Rule 26 Impose New Expert Discovery Requirements

These amendments are primarily designed to change the conventional thinking that lawyers must attack cooperative communication between the opposing party’s lawyer and expert.

The latest amendments to Rule 26 of the Federal Rules of Civil Procedure went into effect on December 1, 2010. The amendments are designed to reduce traditional expert discovery. Under the former version of the rule, parties could discover draft expert reports and communications between the lawyer and expert. As noted by the Advisory Committee, litigators have traditionally devoted significant time and effort trying to pick apart the collaboration between the opposing lawyer and expert—necessarily increasing costs to the parties—but often got little in return for their efforts. In many cases, lawyers would retain both a consulting expert and a testifying expert to avoid having to disclose the lawyer’s own assessment of the case.

The amended rule aims to resolve this tension. New Rule 26(b)(4)(B) makes the drafts of any reports or disclosures required of an expert witness under Rules 26(a)(2)(B) or 26(a)(2)(C) off limits to discovery by the opposing party. Rule 26(b)(4)(C) also now protects, with three exceptions, communications between a party’s attorney and an expert required to provide a written report under Rule 26(a)(2)(B). Now, parties may only discover attorney-expert communications that (i) relate to the expert’s compensation, (ii) identify facts or data that the attorney provided and that the expert considered in forming opinions, and (iii) identify assumptions

Continued on page 35
that the attorney provided and that the expert relied on in forming his or her opinions. Thus, the new rule shields an attorney’s work product, while still permitting discovery of the underlying facts.

These protections are also reflected in the new Rule 26(a)(2)(B), which governs the contents of the expert’s written report. The new rule prescribes that the report must contain “the facts or data” considered by the expert in forming expert opinions, instead of the more inclusive “data or other information” under the former rule. By narrowing the content of the report, the Committee intends to preclude discovery of counsel’s theories or mental impressions. All facts considered by the expert—not just those relied on by the expert—remain discoverable.

Amended Rule 26 also adds a new disclosure requirement for expert witnesses who are not required to provide a written report, such as treating physicians or a party’s employee who does not regularly provide expert testimony. Under Rule 26(a)(2)(C), those witnesses must disclose the subject matter on which they are expected to present evidence and a summary of the facts and opinions as to which they are expected to testify.

These amendments are primarily designed to change the conventional thinking that lawyers must attack cooperative communication between the opposing party’s lawyer and expert. By protecting the expert’s draft reports and communications with counsel, the Advisory Committee hopes to encourage less collateral attacks and promote focus on more substantive challenges to the expert’s proffered opinion. As a result, lawyers should enjoy a more open and efficient flow of written communication with their experts and waste less time on ultimately meaningless discovery tasks.

Authors: Brad Kimbro and Paul McDermott, Holland & Knight LLP

First Annual Heart of Hope Award

In recognition for transforming her life through courage, determination and dedication to helping others. Yolanda achieved a personal victory over difficult circumstances, enabled herself and her family to break the cycle of domestic violence, and empowered others to take action. The winner of our first annual Heart of Hope Award is Yolanda Lee.

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An Alternate Approach to Commercial Loan Modifications

As a result of the ongoing crisis in the real estate market, commercial mortgages have increasingly come under pressure as a result of both falling property values and an increase in the number of property owners willing to give rent concessions as a means for sustaining rental income. In 2011 alone, approximately $1 trillion in commercial loans will mature—bringing with them the need to refinance or find entirely new financing. As such, the need to help these investors is greater than ever before.

Continued on page 39

“...any modification proposal needs to incorporate a property’s financials ... as well as be in compliance with lender reporting requirements...”

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Besides helping property owners who are already in default, the changing market opens up new opportunities for the practitioner in obtaining clients but also requires new knowledge to be acquired.

In order to maximize the chances of success on a commercial loan modification, any proposal should include recognition that the lenders themselves are required to report to regulating agencies even while being involved in modification negotiations. As such, any modification proposal needs to incorporate a property’s financials—including Net Present Value (NPV) and Debt Service Coverage Ratio (DSCR) as well as be in compliance with lender reporting requirements as they relate to the various regulating agencies.

1. Financial Statements

A property’s financial statements not only include the balance sheet and profit and loss statement but also the DSCR and the NPV expectations. The DSCR determines how a property can service its debt by the income generated (among other contributing factors) and needs to be 1.0x or higher for a property to be profitable. In the past, general underwriting guidelines required a ratio of 1.2x or greater to be able to get financing.

NPV is looking at the net present value of future income streams. This takes into consideration whether any concessions are made by the lender and if the property can operate at a profit either with the concessions being made or if the market appears likely to recuperate in the foreseeable future.

2. Reporting Guidelines

Regulatory reporting guidelines and accounting considerations require commercial lenders to classify loans on their books in one of five ways: (1) as an asset; (2) a substandard asset; (3) a doubtful asset (4) a loss asset, or (5) a special mention asset.

The accrual method of accounting allows only performing assets to be reported as such on balance sheets, and income can only be recognized under the accrual method if it is likely to be collected. This is a major component of a modification proposal since successful work-out solutions permit a lender the option of either reporting an asset and its income streams or, alternately, allowing them to remove it from a “sub-standard” or “special mention” asset to regular reporting after making concessions (i.e. below market interest rates or principal forgiveness/forbearance).

There are other compensating factors in granting a commercial loan modification besides those mentioned above and the successful practitioner is advised to either educate him or herself as regards these factors—or at the very least to outsource the financial workouts to professionals with the requisite knowledge and certification—while maintaining focus on legal issues and the handling of ongoing negotiations.

Author: Lafe R. Purcell, L. Rainer Purcell, P.A.
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Chester H. Ferguson Law Center is the perfect place for your mediation, business meeting, wedding and reception, or holiday party. The 17,000 sq. ft. building is extremely versatile and available for rental.
Another Successful HAWL Shadow Day at the Courthouse!

On November 3, 2010, the Hillsborough Association for Women Lawyers’ (HAWL) Mentoring Program hosted its Second Annual Shadow Day at the George E. Edgecomb Courthouse. Thanks to the efforts of HAWL Co-Chairs Victoria McCloskey and Rachel Greenstein, as well as assistance from Judge Claudia Isom, Judge Emily Peacock and the judges of the Thirteenth Judicial Circuit, the event was a huge success. This year, over thirty-five mentors and mentees attended the event.

Shadow Day began with a breakfast mixer in Chief Judge Manuel Menendez, Jr.’s conference room followed by a presentation on Courtroom Ethics by Attorney Anthony Fantauzzi, III. Mentors and mentees then got a firsthand look at the judicial system as they visited various courtrooms and observed Hillsborough County’s judges presiding over hearings. In addition, the mentors and mentees received a tour of the courthouse, including the Family Law Clerk’s Office, Children’s Justice Center, and Digital Court Reporting’s offices. The Shadow Day events concluded with a luncheon at the courthouse and an open discussion.

HAWL’s Mentoring Program received great feedback from the mentors, mentees and judges who attended Shadow Day 2010. HAWL looks forward to next year’s event.

Author: Vivian Arenas-Battles, de la Parte & Gilbert, P.A.
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The 5K Race to the Courthouse, begun in March 2009 by Thirteenth Judicial Circuit Judge Ashley Moody as a means to raise support for pro bono services in Hillsborough County, continued and grew in 2010. The March 20, 2010 Second Annual Race, chaired by Bay Area Legal Services Attorney Colette Black, hosted almost 200 runners. Nearly 850 pro bono hours were raised as a result of race efforts, continuing to provide a substantial benefit to our county’s population. Each race participant was asked to donate a minimum of 10 hours of pro bono work.

Colette is married to Second District Court of Appeal Judge Anthony Black, and the pair shares a passion for running. Tony, a veteran of 18 marathons and multiple road races of other distances, has been running almost daily for nearly seven years and has inspired Colette to complete 2 marathons. Tony’s racing achievements include the New York Marathon, the Chicago Marathon, the Big Sur Marathon, and the last 6 consecutive Boston Marathons. Tony & Colette look forward to celebrating the success of the 2011 Third Annual Race. Thirteenth Judicial Circuit Judge Claudia Isom and Second District Court of Appeal Judge Marva Crenshaw, Chair and Co-Chair

HCBA Leadership Institute

Presenting the HCBA Leadership Institute participants at the Chester H. Ferguson Law Center! The Institute seeks to identify and develop young attorneys of diverse backgrounds who have the potential to be future leaders of the HCBA.
The HCBA Judicial Pig Roast & 5K Race to the Courthouse supports pro bono legal services in Hillsborough County, and is open to all individuals who work within the legal system and their families (participants must be over 21 years of age). Lawyers are asked to obtain pro bono pledges from colleagues or pledge pro bono hours themselves. In addition to time awards, an award will be given to the individual race participant and the team that raises the most pro bono hours.

Name: ____________________________________________________________
Address: _________________________________________________________
City: ______ St: ______ Zip: ______
Email: ____________________________________________________________
Home Phone: ______ Work Phone: ______

☐ Male ☐ Female Actual Age on Race Day __________

T-shirt Size**: ☐ Small ☐ Medium ☐ Large ☐ X-Large
(t-shirt size guaranteed if paid registration is received by March 10, 2011)

Please choose one box below:
☐ Individual
☐ Team (must have 3 or more runners and each runner must register separately)

Team Name: ______________________________________________________

RACE FEES
5K w/ dry wicking t-shirt*
☐ $35

Race fee includes entrance to the Annual Judicial Pig Roast
*Dry wicking t-shirts available to first 200 to register.
**T-shirt size guaranteed to those who pay and register by March 10.

Total Pro Bono Hours Being Pledged: __________

Complete pledge form on back of registration form with information of all attorneys pledging pro bono hours on your behalf.

ASSUMPTION OF RISK AND WAIVER STATEMENT
In consideration for the acceptance of my registration as a participant in the above described event, and with the understanding that my participation in this event is only on condition that I enter into this agreement, for myself, my heirs and assigns, I hereby assume the inherent and extraordinary risks involved in the Judicial Pig Roast Race to the Courthouse and any risks inherent in any other activities connected with this event in which I may voluntarily participate. I expressly assume the risk and accept full responsibility for any and all injuries, including death and accidents which may occur as a result of my participation in this event, and release from liability the Hillsborough County Bar Association ("HCBA") and their officers, directors, and agents, representatives, employees and members, regardless of whether or not caused in whole or in part by the negligence or other fault of the HCBA. I hereby waive any claim I may have hereafter as a result of my participation in the Judicial Pig Roast Race to the Courthouse and in any other activities connected with this event in which I may voluntarily participate and agree to indemnify and/or hold the HCBA harmless from all losses, liabilities, damages, costs or expenses incurred by the HCBA as a result of any claims or suits that I or anyone claiming by, under or through me may bring against the HCBA to recover any losses, liabilities, costs, damages, or expenses which arise during or resulting from my participation in the Judicial Pig Roast Race to the Courthouse.

I have read and understand the foregoing, and attest that I am over the age of 21:

Signature __________________________________________________________________________

Emergency Contact ____________________________ Emergency Contact Phone ____________
# 5K Race to the Courthouse

## Registration Form

**Pro Bono Hours Pledged**

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If you pledged pro bono hours in 2010, please share with us the following:

- Pro Bono Hours Pledged in 2010
- Pledged Pro Bono Hours Completed since March 2010
- Location(s) of Pro Bono work

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**Please complete registration information on reverse side.**

**Pre-Registration and Packet Pick Up:** April 8, 2011 12:00 p.m. - 6:00 p.m.
at HCBA, 1610 N. Tampa Street, Tampa, FL

Please send completed registration form and race fee, payable to:
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For Reservations Call 813-221-7777
The Young Lawyers Division proudly presented William “Bill” A. Gillen Jr. Esq., Chairman of the Tampa Downtown Partnership and a partner with the law firm Shook Hardy & Bacon, LLP, for their holiday luncheon at the Chester H. Ferguson Law Center. Mr. Gillen shared the latest news on the changes facing downtown Tampa and the work of the Tampa Downtown Partnership. Always looking for an opportunity to assist a charitable organization, the YLD provided raffle prizes for attendees who brought unwrapped toys to be donated to Toys for Tots!
While we have witnessed an increase in LGBT inclusive diversity policies at major firms, diversity policies at smaller firms, state agencies, and local bar associations have not necessarily kept pace. LGBT people have been called the invisible minority because many employers are unaware that they have LGBT employees. The lack of LGBT supportive policies can cause LGBT people to fear being open about their lives and relationships because it is legal throughout most of Florida to fire someone for being gay or transgender.

This fear can decrease workplace productivity and discourage LGBT people from contributing to nonprofit associations.

Major employers agree that a diverse workforce makes their companies more competitive. Creating a workplace that is respectful and supportive of minority workers increases productivity. For these same reasons, your organization will benefit by including LGBT people in your diversity policies. Add LGBT to your idea of diversity.

Author:
O. Kim Byrd,
Byrd Legal Counsel, PA
# March 2011

## HCBA Calendar of Events

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<td>12:00 p.m. Immigration Law Luncheon</td>
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<td>12:00 p.m. - 1:30 p.m. Judicial Lunch &amp; CLE with Judge E.J. Salcines</td>
<td>8:00 a.m. - 9:00 a.m. Appellate Breakfast at Stetson Tampa Law Center</td>
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<td>1:00 p.m. - 3:00 p.m. CLE Managing Confidential Information</td>
<td>12:00 p.m. Intellectual Property Luncheon</td>
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<td>1:00 p.m. - 5:00 p.m. Labor &amp; Employment and Corporate Counsel CLE</td>
<td>12:00 p.m. Intellectual Property CLE</td>
<td>12:00 p.m. Construction Law Luncheon</td>
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<td>1:00 p.m. - 5:00 p.m. Forensic Engineering CLE</td>
<td>8:00 a.m. - 9:00 a.m. Coffee at the Courthouse (Edgecomb Courthouse)</td>
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RSVP for events online at www.hillsbar.com, by calling 813-221-7777 or emailing hcbarsvp@hillsbar.com. Walk-in’s are charged an additional $5 fee, and seating is not guaranteed for walk-ins.

** Please note: Events may change from time of print. Call 813-221-7777 for updated event information. All events held at the Chester H. Ferguson Law Center unless otherwise noted.
TIMES ARE TOUGH, AND THE DRIVE TO ATTRACTION AND RETAIN CLIENTS IS KEEN. BUT, DOES A DIFFICULT ECONOMY JUSTIFY DESPERATE MEASURES THAT RUN AFoul OF OUR ETHICAL REQUIREMENTS? THE ANSWER IS A RESOUNDING “NO.”

IN THE FLORIDA BAR V. BARRETT, THE FLORIDA BAR DISBARRED AN ATTORNEY FOR SPARING FEES WITH A MINISTER WHO SOLICITED POTENTIAL CLIENTS ON THE ATTORNEY’S BEHALF WHILE THE PATIENTS WERE RECOVERING.1 COULD THIS HAPPEN IN AN EMINENT DOMAIN CASE? IN ANSWERING THIS QUESTION, EMINENT DOMAIN PRACTITIONERS SHOULD CONSIDER WHETHER OUR PRACTICE AREA LENDS ITSELF TO SITUATIONS OF THIS TYPE.

IN EMINENT DOMAIN CASES, THE CONdemNING AUTHORITY IS REQUIRED TO MAKE THE OWNER OF THE PROPERTY A WRITTEN OFFER WHICH IS SUPPORTED BY AN APPRAISAL OF THE PROPERTY PRIOR TO THE CONDEMNING AUTHORITY FILING AN EMINENT DOMAIN PROCEEDING.2 AT THE TIME OF WRITTEN OFFER, LAND OWNERS OFTEN ARE UNAWARE THAT THEIR PROPERTY IS GOING TO BE TAKEN AND normally DO NOT HAVE LEGAL REPRESENTATION. HOWEVER, THE SCOPE OF PUBLIC PROJECTS IS WELL KNOWN TO THOSE WHO KEEP THEIR FINGERS ON THE PULSE OF LOCAL, COUNTY, AND STATE GOVERNMENT. IN AN ATTEMPT TO PROCEDE A RIGHT TO A STATUTORY ATTORNEY’S FEE, SOME ATTORNEYS MAY SEE THIS AS AN OPPORTUNITY TO PREEMPT THE CONdemNING AUTHORITY’S OFFER BY DIRECTLY CONTACTING LANDOWNERS.3 FLORIDA BAR APPROVED ADVERTISEMENTS MAY BE SENT TO LANDOWNERS. HOWEVER, THE RULES REGULATING THE FLORIDA BAR (“THE RULES”) EXPRESSLY PROHIBIT DIRECT CLIENT SOLICITATION.4

THE RULES ARE CLEAR AND PRECLUDE ATTORNEYS AND/OR THEIR AGENTS FROM CONTACTING POTENTIAL CLIENTS WITHOUT THE PROPER BALANCE BETWEEN INFORMING THE PUBLIC OF THEIR RIGHTS TO FULL COMPENSATION AND THE PROTECTION OF THE PUBLIC FROM DIRECT ATTORNEY SOLICITATION. FURTHER, FAILING TO COMPLY WITH THE RULES IS AN ETHICAL VIOLATION AND LESSIONS OUR PROFESSION.

AUTHORS: VIVIAN ARENAS-BATTLES AND ERIC NOWAK, DE LA PARTE & GILBERT, P.A.
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<td>12:00 p.m. - 1:00 p.m. Criminal Law Lunch &amp; CLE</td>
<td>12:00 p.m. - 1:00 p.m. Health Care Lunch &amp; CLE</td>
<td>7:00 a.m. - 9:00 a.m. Ask A Lawyer Ch. 13</td>
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<td>5:00 p.m. - 8:00 p.m. HCBA Annual Pig Roast &amp; 5K Run to the Courthouse</td>
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<td>12:00 p.m. - 1:00 p.m. Tax Law Luncheon</td>
<td>12:00 p.m. - 1:00 p.m. Eminent Domain Lunch &amp; CLE</td>
<td>12:00 p.m. - 1:00 p.m. RPPTL Luncheon</td>
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<td>12:00 p.m. - 4:00 p.m. Mediation &amp; Arbitration Lunch &amp; CLE</td>
<td>12:00 p.m. - 1:00 p.m. Labor &amp; Employment Lunch</td>
<td>12:00 p.m. - 1:00 p.m. Construction Lunch &amp; CLE</td>
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In Baldwin v. Shands Teaching Hospital and Clinics, Inc., the Florida District Court of Appeals for the First Circuit held that a health care facility may not avoid a request for production of records under Fla. Const. art. X, § 25 (“Amendment 7”) by determining through its own investigation that the records sought do not cover an “adverse medical incident.”

The Baldwin plaintiffs, a married couple, filed a medical malpractice complaint against the University of Florida alleging that UF physicians negligently intubated plaintiff Mr. Baldwin for anesthesia before a procedure at Shands Teaching Hospital, injuring his throat. Shands conceded the injury occurred during the intubation process, but neither anesthesiologist present during the intubation claimed to know exactly when the injury occurred. The plaintiffs moved to compel Shands to produce, under Amendment 7, certain records of adverse medical incidents. However, Shands opposed the request, stating that its own investigation concluded the incident did not involve negligence and was not an “adverse medical incident” requiring disclosure under Amendment 7.

The trial court refused to require production, and the plaintiffs sought certiorari review of the trial court’s order.

Amendment 7 provides patients with a broad “right to have access to any records made or received in the course of business by a health care facility or provider relating to any adverse medical incident.” Further, Amendment 7

“...No legal authority allows a provider to act as the final arbiter in determining whether a medical incident was ‘adverse’ for purposes of complying with or denying an Amendment 7 request for medical records.”

Continued on page 53

“Health Care Reform and Provider Regulation” was the topic for the December Health Care Law section luncheon at the Chester H. Ferguson Law Center.
Continued from page 52

defines “adverse medical incident” as “medical negligence, intentional misconduct, and any other act, neglect, or default of a health care facility or health care provider that caused or could have caused injury to or death of a patient, including, but not limited to...incidents that are reported to or reviewed by any health care facility peer review, risk management, quality assurance, credentials, or similar committee, or any representative of any such committees.”

In finding for the plaintiffs, the court stated that if Amendment 7 were intended to limit the definition of “adverse medical incident” to acts of negligence alone, it would not include the additional language dealing with “intentional misconduct” and “any other act, neglect, or default” that caused or could have caused injury. It added that no legal authority allows a provider to act as the final arbiter in determining whether a medical incident was “adverse” for purposes of complying with or denying an Amendment 7 request for medical records. Rather, the decision is ultimately the court’s, to be made upon consideration of the nature of the records requested and the broad coverage of Amendment 7. The court noted that bolstering the plaintiffs’ argument was the fact that neither anesthesiologist present during the intubation claimed to know exactly when the injury occurred. Thus, the requested documents would provide material, and previously unknown, information relating to the plaintiffs’ medical negligence claim.

In light of Baldwin, medical providers should be wary of Amendment 7’s broad reach and take care not to construe the definition of “adverse medical incident” narrowly. However, for plaintiffs, Baldwin presents Amendment 7 as an increasingly useful discovery tool.


Authors: Ronald A. Christaldi and Amy Rani Nath, Shumaker, Loop & Kendrick, LLP
The explosion of social media into schools, the workplace, and society has created a unique set of legal challenges. Intellectual property may not be the area of law at the forefront when a Facebook or YouTube case hits the news, but attorneys need to be aware that special challenges involving intellectual property exist in the midst of the twittering, tweeting, and blogging.

Currently on appeal to the Court of Appeals for the Second Circuit is a suit brought by a number of entertainment industry entities against YouTube (and owner Google). A major issue is contributory infringement based on uploaded videos of movies, sporting events, and television episodes. YouTube defended its position under the safe harbor provision of the Digital Millennium Copyright Act (“DMCA”). The court granted summary judgment to YouTube in June of 2010 because YouTube had no “actual knowledge” of infringement.¹ The court found no obligation on the part of YouTube to monitor content, though the safe harbor provision requires that there be no awareness of “facts or circumstances from which infringing activity is apparent.”

Meanwhile, another YouTube case in California may have implications for whether a copyright owner must consider the fair use doctrine before demanding a take-down of material. A bouncing baby home video with a song by Prince playing in the background was posted on YouTube. The plaintiff is the mother of the baby who sued the music publishing industry alleging misrepresentation of the DMCA and tortious interference with her YouTube contract when her video was removed.

Continued on page 55

¹ The court found no obligation on the part of YouTube to monitor content, though the safe harbor provision requires that there be no awareness of “facts or circumstances from which infringing activity is apparent.”
SOCIAL MEDIA HAS ITS INTELLECTUAL PROPERTY CHALLENGES

Continued from page 54

removed. The plaintiff survived a motion to dismiss, and discovery is ongoing.¹

For the blogging clients, social media provides yet more occasions for infringement. Copyright trolls purchase rights to news stories found in blogs and then file lawsuits against the bloggers. Over 150 lawsuits against internet bloggers have been filed by the Las Vegas-based group Righthaven.² Not only copyright trolls, but news organizations have also taken on the bloggers for this “web scraping”—the unauthorized posting of news articles and reports. Although fair use is considered to be the standard defense for these suits, a court in the Southern District of New York refused to dismiss the plaintiff’s DMCA claim in a case involving the Florida-based All Headline News Corp., which disseminates news stories written by others to blogs and websites. (A copyright infringement claim also remained.)³ The Associated Press was the plaintiff in this action, which eventually settled out-of-court.

As more businesses and organizations join the social media scene, it is important to alert these clients on copyright law. It is better for a blogger to summarize a report or news article than to quote large blocks of copied text and end up arguing a fair use defense in court. As for YouTube, watch for the Second Circuit’s decision with its assured impact, one way or another, on users and providers of social media.

³ See http://www.righthavenlawsuits.com

Author:
Ruth E. Freeburg,
Moffitt Cancer Center
**WAGE THEFT STATUTES: A GLIMPSE OF THINGS TO COME?**

Labor & Employment Section
Chairs: Tammie L. Rattray, Ford & Harrison LLP, and Steven M. Bernstein, Fisher & Phillips, LLP

In Miami-Dade County, “unscrupulous businesses” who fail to pay any portion of wages totaling $60 or more due to an employee within a certain period of time are wage stealers. Miami-Dade’s new “wage theft” ordinance, which went into effect in March 2010, gives employees yet another avenue to pursue claims for unpaid wages against an employer. The stakes for employers who violate Miami-Dade County’s ordinance also holds employees, such as supervisors, accountable for any alleged wage theft as the term “employer” is defined as “any person who, acting either individually or as an officer, agent, or employee of another person, acts directly or indirectly in the interest of a person or entity employing an employee.” The potential liability is virtually limitless and could, by its very definition, include employees such as billing clerks and payroll processors.

Hillsborough County may be situated on the other side of the state, but this marks a trend that could soon make its way over to the gulf coast—and beyond. Just this past October, the Palm Beach County Board of County Commissioners directed its county attorneys to draft the county’s own wage theft ordinance. Several states, including New York, Washington and New Mexico, have legislation on the books intended to address wage theft issues in their states. With the substantial number of wage and hour claims filed in Florida, which easily led the nation in wage and hour lawsuits filed in 2009, the Sunshine State could be next. Our state is already a hotbed for wage and hour litigation. The enactment of a wage theft ordinance in Miami-Dade County and the anticipated enactment of similar legislation in Palm Beach County could be a glimpse of things to come right here in Hillsborough County or in the state.

Author:
Alva Cross Hughes, Fisher & Phillips LLP

Join the Labor & Employment and Corporate Counsel sections March 22nd CLE “Emerging Legal Issues”
Today, many of our clients are not only facing divorce but also contemplating filing bankruptcy. This article discusses the most common issue clients face when dealing with a dissolution of marriage and bankruptcy: when should they file the bankruptcy in relation to their dissolution of marriage.

Filing before or during a divorce can simplify the family law proceeding by taking care of all or most of the parties’ debts and, in some cases, their assets as well. Any assets the parties have over the exemption amounts become part of the bankruptcy estate and may be sold or otherwise disposed of by the trustee to satisfy creditor claims. If parties file jointly prior to their divorce, they will save on court costs and typically attorney’s fees as well. As long as the parties are married on the date the bankruptcy petition is filed, they can file a joint petition. This means that the two cases can go on at the same time. If the parties make a joint decision to file bankruptcy, they can eliminate any surprises that may arise if one spouse files after the dissolution of marriage and discharge their liability on debts held in joint names.

There are also disadvantages to filing for bankruptcy prior to or during the dissolution of marriage. If the parties file a chapter 13 bankruptcy, then they will be jointly liable for making the chapter 13 plan payments to the bankruptcy trustee. This will tie the parties together for an additional five years and could potentially bring up post judgment issues seeking to enforce the obligation of one party or the other. In a situation where only one party needs to file bankruptcy, they could be put at a disadvantage when looking at the means test, as married parties have to include the spouse’s income even when filing alone. If a debtor has a certain level of income based on household size, they will not be able to file a chapter 7, but will have to file a chapter 13 which requires a repayment plan.

In some cases, it is more advantageous to file for bankruptcy after a dissolution of marriage. A party may qualify for a chapter 7 bankruptcy after his or her divorce based on income, and it may not even be necessary for both parties to file. The parties simply may not be able to cooperate through the bankruptcy process or payment of a chapter 13 plan; in that case filing separately may be the best option. One disadvantage of filing post dissolution is that one party could discharge the liability of a joint debt, leaving the other party responsible. This will bring up post judgment issues with respect to indemnification provisions for the debts discharged.

Bankruptcy can provide financial relief to your clients and give them a fresh start. It is important to evaluate each client’s individual needs to determine the best timing for filing a bankruptcy. However, the above stated factors are crucial in making this determination.

Author:
Laurel A. Tesmer,
Esq., Osenton Law Offices, P.A.

Understanding Bankruptcy Issues in Family Law Cases.
March 17th 1:00 pm - 5:00 pm. Register Now!
The purpose of this article is to highlight some potential changes to the Florida Rules of Civil Procedure Common to Mediation and Arbitration, specifically Fla. R. Civ. P. 1.720 pertaining to Mediation Procedures.

The Supreme Court Committee on Alternative Dispute Resolution Rules and Policy has recommended proposed amendments to the Florida Rules of Court governing mediation.

Fla. R. Civ. P. 1.720(b) as presently written requires, “… unless stipulated by the parties or changed by order of the court” the physical presence at mediation of (1) The party or its representative having full authority to settle without further consultation. (2) The party’s counsel of record, if any. (3) A representative of the insurance carrier for any insured party who is not such carrier’s outside counsel and who has full authority to settle up to the amount of the plaintiff’s last demand or policy limits, whichever is less, without further consultation.

The proposed amendments would require that any such stipulation by the parties be in writing. In addition, a new subsection would describe full authority to settle by a party representative as “[the presence at mediation of] . . . the final decision maker with respect to all issues presented by the case who has the legal capacity to execute a binding settlement agreement on behalf of the party.”

The proposed amendments further provide in a new (e) for Certification of Authority as follows:

Unless otherwise stipulated by the parties, each party, 10 days prior to appearing at a mediation conference, shall file with the court and serve opposing counsel written notice identifying the person or persons who will be attending the mediation conference as a party representative or as an insurance carrier representative, and confirming that those persons have the authority required by subdivision (b).

A further proposed change is an addition to the sanctions provision of the Rule, providing that “… failure to file a confirmation of authority required under subdivision (e) above, or failure of the persons actually identified in the confirmation to appear at the mediation conference, will create a rebuttable presumption of a failure to appear.”

In summary, the proposed amendments to Fla. R. Civ. P. 1.720 attempt to allow parties to the mediation to confirm, by direct representation to the court in advance of the mediation, the existence of the requisite settlement authority and to identify who on behalf of the party and insurance representatives will physically attend the mediation.

The comments section of the proposed amendments reminds us of the overriding concern for self-determination in mediation, which includes “… the parties’ free choice in structuring and organizing their mediation sessions, including those who are to participate. Accordingly, any and all elements of this rule are subject to revision or qualification with the mutual consent of the parties.”

If I read that last provision correctly, it seems as though all of the amendments referenced above will apply, if approved, unless otherwise agreed.

Stay tuned.

Author: Charles N. Castagna, Charles N. Castagna Mediation, Inc.
A s the final minutes of 2010 faded like a setting sun and 2011 came knocking, I made a few personal promises to myself. Aside from my usual lofty goals and exercise commitments, I decided to become more involved in pro bono activities that serve my community. Inspired by a recent meeting with the Honorable Judge Ashley Moody, I came to understand more clearly how I can share my experience and make a difference in a few people’s lives.

As a small firm practitioner, I realize that time is always of the essence and opportunity costs cut deep. I considered my desire to contribute to pro bono service versus the potential strains it may have on my office. Unfortunately, some of us may lack the resources and time commitment necessary to champion a just cause. Luckily, through the leadership of the Thirteenth Judicial Circuit Pro Bono Committee and the Hillsborough County Bar Association, I found that there were several opportunities that worked for me. For example, the “Ask a Lawyer” and “Library Series” programs offer lawyers an opportunity to assist in short, one to two hour spurts of time. Pat Bishop of the HCBA is willing and able to assist in your search for the right pro bono service for you. Her direct line is 813.221.7783.

Although our professional responsibility to provide pro bono legal services is aspirational rather than mandatory, one should not underestimate the satisfaction of assisting a neighbor in need. Make your promise today.

Author: Anthony Garcia, The Trial Lawyers of Alvarez Garcia, Inc.
On December 17, 2010, President Obama signed into law the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the “Act”) which, in essence, extends many of the 2001/2003 Bush era tax cuts for two more years. Notably, the law also includes a 2011 payroll tax reduction and sets a new exemption amount and maximum tax rate for estate taxation. Unless otherwise noted, the provisions summarized below are only in effect for 2011 and 2012.

Income Tax and Rates
The Act extends the current 2010 income tax rates and brackets. Thus, the tax rates for the next two years will be 10%, 15%, 25%, 28%, 33%, and 35%. The tax rate on long term capital gains and dividends will continue to be 0% for taxpayers below the 25% bracket and 15% for taxpayers in the 25% rate and above.

The Act extends the repeals of the phase-out of personal exemptions and the overall limitation on itemized deductions. Also extended is the elimination of the marriage penalty in the standard deduction and the 15% bracket (the subject amounts will continue to be double what an individual filer is entitled to have).

The Act also includes relief from the alternative minimum tax (AMT) for 2010 and 2011 by extending the increased exemption amounts.

Payroll Tax
For 2011 only, the law reduces the employee portion of the payroll tax by 2.0%. This tax reduction will also extend to payroll taxes due for self-employed persons. In 2012, the payroll tax will increase beyond its current level to reflect scheduled increases in the Medicare tax and contribution tax portions of the payroll tax.

Estate and Gift Tax
The Act reinstates the estate and generation skipping transfer brackets. Thus, the tax rates for the next two years will be 10%, 15%, 25%, 28%, 33%, and 35%. The tax rate on long term capital gains and dividends will continue to be 0% for taxpayers below the 25% bracket and 15% for taxpayers in the 25% rate and above.

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Estate and Gift Tax
The Act reinstates the estate and generation skipping transfer
Continued from page 60

taxes and repeals the carryover basis rules. For estates with decedents dying in 2010, the executor may elect to apply the reinstated tax law or the repealed carryover basis rules. For estates of decedents dying in 2010 but before the Act’s enactment, the due date is extended for 9 months for filing the estate tax return, making tax payments, and making certain other disclaimers and elections.

The Act reunifies and increases the amount exempted by the estate and gift tax unified credits. It sets the exemption (also known as the applicable exclusion amount) at $5 million (to increase by $10,000 in 2012) and the maximum estate and gift tax rate at 35%.

The Act also provides that a surviving spouse may use the prior decedent spouses’ unused exclusion amount towards the survivor’s own estate by calculating the unused amount on a timely filed estate tax return for the decedent spouse’s estate. This result is usually accomplished by using a credit shelter trust, but the Act provides for it statutorily.

Other Popular Extenders

Business owners will be happy to know that the Act extends bonus depreciation and the temporary 100% expensing for certain business property and 15 year depreciation for qualified leasehold improvements. The Act also extends the credit for the purchase of qualified energy efficiency improvements, including insulation, exterior windows, skylights and doors. The Act extends the $250 above-the-line deduction for professional expenses incurred by elementary and secondary schoolteachers for 2010 and 2011.

The Act extended and modified a long list of other tax provisions as well, and it was not possible to summarize all of them here. Please consult with your tax advisor before considering any of the advice contained herein.

Author:
James A. Schmidt, Esq., James A. Schmidt, P.A.
Shumaker, Loop & Kendrick, LLP is pleased to announce that Erin Smith Aebel, Partner in the Tampa Office, has been appointed to the Community Leadership Board of the American Diabetes Association (ADA) in Tampa Bay and Southwest Florida.

The law firm of Wiand Guerra King announces that one of its members, Kacy Donlon, has been honored with the George C. Carr Memorial Award by the Tampa Bay Chapter of the Federal Bar Association. This award, named for Chief Judge George Carr (1929-1990), is presented to a lawyer who exemplifies Judge Carr’s characteristics of common sense, integrity and service as well as a lawyer who has made significant contributions to the Federal Bar Association.

The law firm of Shumaker, Loop & Kendrick, LLP is pleased to announce that Timothy C. Garding, associate in the Tampa office, has been elected to serve on the Board of Directors of the Tampa Bay Businesses for Culture and the Arts.

The law firm of Shumaker, Loop & Kendrick, LLP, is pleased to announce that C. Graham Carothers, Jr., partner in the Tampa Office, has been elected to the Board of Directors for 1Voice Foundation. The Foundation unites families that have been affected by childhood cancer.

Amy L. Miles of McCumber, Daniels, Buntz, Hartig and Puig, P.A. is now admitted to practice in the 11th Circuit Court of Appeals. Ms. Miles focuses her practice on appellate law and is heading the firm’s appellate practice group.

The law firm of Shumaker, Loop & Kendrick, LLP is pleased to announce that Mary Li Creasy, partner and co-chair of the Employment and Labor Law practice group, has been elected to the Board of Directors for Brookwood of Florida, Inc.

Shumaker, Loop & Kendrick, LLP is pleased to announce that Christina C. Nethero has joined the Tampa office as an Associate in the Corporate department.

Eliane I. Probasco has formed Probasco Law, P.A. Her practice focuses on marital and family law.

Christopher J. Stephens and Ethen R. Shapiro have been elected as Shareholders at Tampa law firm Hill Ward Henderson. Stephens practices in the firm’s Corporate & Tax Group, and his practice includes Mergers & Acquisitions, Securities & Corporate Governance and Venture Capital & Private Equity. Shapiro serves in the firm’s Litigation Group, and his practice includes Medical Malpractice, Hospital Liability and Professional Liability Healthcare Litigation.

Williams Schifino Mangione & Steady PA (Williams Schifino) is pleased to announce that attorney Blair Chan has joined the firm’s family law department.

Holland & Knight is pleased to announce that Managing Partner Steven Sonberg has elevated Dino Doyle from senior counsel to partner in the firm’s Business Section.

**JURY TRIAL INFORMATION**

**For The Month of:** December 2010.  
**Judge:** Honorable Jose E. Martinez  
**Parties:** Lilya Abovskaya v. Petsmart, Inc.  
**Attorneys:** For Plaintiff: Bruce Botsford; For Defendant: Edward F. Gagain III.  
**Nature of Case:** Slip and fall with allegations defendant negligently maintained its store.

**Verdict:** For the Defense. Motion for fees and cost pending.

**For The Month of:** December 2010.  
**Judge:** Honorable Richard Lazzara.  
**Parties:** Jonathan Mark Ruiz vs. The Town of Indian Shores, Florida. and Officer John P. Wiseman.  
**Attorneys:** For Plaintiff: Matthew Farmer, Esq. & Guillermo Ruiz, Esq.; For Defendant: James Yacavone for Town of Indian Shores; Thomas P. Scarritt, Jr. Esq. for Officer John P. Wiseman.  
**Nature of Case:** Assault, battery, false arrest, deprivation of civil rights pursuant to 42 U.S.C. & 1983.  
**Verdict:** For both Defendant. Plaintiff has satisfied Defendants’ Bill of Cost.
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**ADVERTISER INDEX**

Adams and Reese LLP ..................................................37  
Bank of Tampa (Hicks) ..................................Back Cover  
Buell & Elligett, P.A. ......................................................34  
Central Florida Mediation Group ..................................55  
Charles W. Ross, P.A. ....................................................53  
Clark & Martino ............................................................25  
Dalan & Katz, P.L. ............................................................8  
Didier Law Firm .......................................................Inside Back Cover  
Digital Legal .................................................................31  
Gunn Law Group .......................................................Inside Front Cover  
Guy Spicola ......................................................................5  
Fifth Third Bank .............................................................40  
Free Press ..................................................................38  
John Boyer Inc. .................................................................4  
Louise Fields .................................................................29  
McCumber Daniels ...........................................................23  
Paul Sidney Elliott ...........................................................30  
Perzel & Lara Forensic CPA’s ...........................................22  
Robert H. Bonanno ..........................................................28  
Robert M. Geller & Associates .......................................35  
Trial Consulting Services ..................................................64  
The Centers ..................................................................43  
W.H. Simon & Company, P.A. ............................................9  
Wilkes & McHugh ..........................................................32-33  
Williams Schifino Mangione & Steady P.A. ..................13  
Woody Isom ..................................................................23
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