The Cortes family thanks Tampa General Hospital for agreeing to permit their loss of a loved one to serve as an inspiration to future nurses and transfer coordinators.

Under the terms of a recent settlement, TGH has agreed to maintain this plaque in a nursing training center.

Mrs. Cortes’ family contended that TGH failed to properly coordinate her transfer from LRMC. As a result, Mrs. Cortes’ family asserted that she did not get needed neurosurgical treatment that only high acuity centers like TGH can provide.

A preventable rebleed in her brain occurred six days after transfer was first requested. After nearly four years in a coma, Mrs. Cortes died of complications.

Claims against LRMC were previously settled on confidential terms.
ABOUT THE COVER
The Wat Mongkolratanaram of Florida is a Buddhist temple along the Palm River in Tampa. The temple serves as a place of worship for Buddhists and is well-known for its Sunday market and brunch. The temple was built in 2005 with donations from the Thai community both locally and abroad. It was dedicated on May 20, 2007.
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30 MARCH 2014 | HCBA LAWYER
The members of the Hillsborough County Bar Association Young Lawyers Division recently tackled a topic that seems to be on the minds of many who work in the legal profession. Balance. I am not referring to whether one can teeter on a single toe for an extended amount of time in a yoga session, though I am sure many have listed that as a goal as well. I am referring to the undefined, ever-changing concept of work-life balance.

Lately, it has been the prevalent topic of many discussions. Does it exist? Is it relevant? Is it achievable? How? Is it worth it? Though the topic seems to be of greatest interest to working women with children, its reach is unlimited. It has drawn attention from all genders, generations, professions, and walks of life.

Understandably, there is a particular interest in this discussion among those in the legal field. A demanding career and schedule are fertile grounds for making “balance” important, yet elusive. Discussions center on the attorney’s unique struggle with meeting billable hours, satisfying client needs, developing business, and providing a service to the community, all while spending quality time with family, keeping in touch with friends, and pursuing personal interests. Portable computers, cellphones, and electronic data — which provide 24-hour access to lines of communication and information — have erased the division between work and home. As the proverbial “leaving work at work” diminishes, the question of how to balance it all becomes more pressing.

In response to the significant interest and demand, informative sources have exploded with advice on how to achieve balance. Books and articles have been dedicated to the topic. Sheryl Sandberg famously wrote about “leaning in,” which has led to a great deal of debates and responses, including a noteworthy amount of criticism. Seminars geared toward professionals often offer sessions on achieving balance. As previously mentioned, the attendees at the HCBA YLD’s recent quarterly luncheon discussed how to balance family life with a busy work schedule. The members received words of wisdom and key advice from their speaker, a local attorney. You can read more about the event on page 5 of this issue of the Lawyer magazine.

The interest in and discussion about work-life balance is unlikely to subside any time soon. It is increasing awareness about the needs of those who provide legal services and their engagement and satisfaction within the profession. Although there is a very personal component to work-life balance — it means something different to each person, and it may change at different stages in that person’s life — the advice shared among the legal community is invaluable in assisting and informing fellow colleagues. To progress as a profession, we have to address and tackle issues important to the membership. The HCBA does just that. Enjoy the publication!
Empowering the Electorate

Although the executive and legislative branches of government tend to grab the spotlight when it comes to elections, the judiciary is just as important.

It seems like at most professional events I attend these days, I run into a friend or colleague who is campaigning for a judicial seat. As attorneys, most of us know what qualities we look for in a judge. And as active members of the local legal community, we oftentimes know the people who are running for these seats. So when election season is upon us, our non-attorney friends and neighbors tend to call on us for advice on who should get their vote.

The question is an honest one, and it may be tempting to just recommend the candidate you know the best. However, I

Continued on page 5
encourage you to turn this question into a teaching moment. Although the executive and legislative branches of government tend to grab the spotlight when it comes to elections, the judiciary is just as important. (I know I’m preaching to the choir here.) Yet, voters more often skip over those sections of the ballot or just vote for whatever name they recognize.

We have the opportunity to change that. The Florida Bar has put together a valuable program called Benchmarks: Raising the Bar on Civics Education. The program provides attorneys with educational materials they can easily present to community groups such as PTAs, homeowners associations, and church groups. The topics vary, but all focus on increasing knowledge on the fundamentals of government and the courts. One particular presentation even teaches voters “How to Judge Judicial Candidates.”

The Benchmarks presentations include PowerPoints and activities to help you engage your audience and make the lessons fun. Plus, attorneys can earn 1 CLE ethics credit per presentation, with a maximum of 3 credits per period.

Beyond the judicial elections, the Benchmarks program also offers presentations on who has the right to vote, what the laws actually mean, how to amend the state constitution, and whether average Americans could pass the U.S. citizenship test. (I challenge you to try to answer some of those questions.)

In addition to the resources provided by Benchmarks, the Hillsborough County Bar Association is also making an effort to educate voters this year. Later in the spring, the HCBA will conduct a judicial preference poll of attorneys in Hillsborough County to gather their thoughts on candidates.

The results will be released to the public and the media, with the goal of helping voters make informed decisions at the polls. So feel free to share those results, too, when your neighbor asks for your opinion.

We are so fortunate to live in a country where every vote counts. I hope that this election season, you empower those around you to weigh the facts and render an educated verdict.

YLD QUARTERLY LUNCHEON

Members of the HCBA Young Lawyers Division learned about balancing a busy family life with a demanding work schedule during a quarterly luncheon on February 5. Guest speaker Stephanie M. Martin, an attorney at Adams and Reese LLP, discussed the top five things attorneys can do to strike a good work-life balance. The YLD would like to thank the luncheon sponsor:
Merger Mania Hits Tampa Law Firms, Reflects National Trend

There were 88 law firm mergers and acquisitions announced in the U.S. in 2013, according to a recent report by the legal research firm Altman Weil.

To merge, or not to merge? That question seems to be on the minds of managing partners at an increasing number of law firms across the country these days.

This includes Tampa, where it was first reported in January that the prominent 97-lawyer firm Fowler White Boggs was in merger talks with the 450-lawyer Pittsburgh-based firm Buchanan Ingersoll & Rooney. No deal was final as the *Lawyer* went to print, but the talk of a combination does seem to reflect a national trend.

There were 88 law firm mergers and acquisitions announced in the U.S. in 2013, according to a recent report by the legal research firm Altman Weil. The total number of mergers is up 47 percent from 2012.

This is the largest number of law firm combinations recorded in the seven years Altman Weil has been compiling statistics.

“The surge in 2013 numbers was driven by a boom in acquisitions of small firms,” said Altman Weil principal Ward Bower. “These kinds of deals are smart, low-risk moves to enter new markets and acquire new clients, and we expect the trend to continue in 2014.”

Of the 88 law firm mergers reported in 2013, 82 percent were acquisition of firms with 20 or fewer lawyers, according to the report. The South was the most active geographic region for combinations in 2013, representing 25 percent of all recorded deals.

Rhea Law, Fowler White’s chief executive officer, told the *Tampa Bay Times* in January that the firm regularly gets “many inquiries” from firms wanting to expand in Florida. “These inquiries have increased during 2013 because of the recovering economy and Florida’s attractiveness for business growth and economic development,” Law said. “We have had serious discussions with Buchanan Ingersoll & Rooney over the last few months because of similarities in culture,

Continued on page 7
practices, commitment to clients, as well as their existing presence and desire to grow in Florida.”

Meanwhile, Carlton Fields, which was founded in 1901 and is Tampa’s largest firm with 111 local lawyers and government consultants, announced in January that it had finalized its merger with Jorden Burt LLP. The firm now operates as Carlton Fields Jorden Burt, P.A., and consists of more than 370 lawyers and consultants spread out over 10 offices.

“We believe this combination positions us exceptionally well to meet the evolving needs of our clients in this country and abroad,” Gary Sasso said in a statement. Sasso will serve as president and CEO of the combined firm.

Jim Burt, founder and managing partner of Jorden Burt, said of the merger: “Both firms waited a long time to make a move like this, and we feel quite confident that this is the right decision and the right time.”

This merger comes on the heels of another high-profile combination in 2012 between Tampa’s 23-attorney Williams Schifino Mangione & Steady, P.A., and Birmingham, Ala.-based Burr & Forman LLP. The combined firm, which now operates as Burr & Forman, has 55 attorneys across Florida and 277 overall across nine offices in five Southeastern states.

“Our entire firm is excited about the opportunities this combination provides us,” William J. Schifino Jr. said in a statement at the time of the merger. Schifino, who is a former Hillsborough County Bar Association president, now serves as Burr & Forman’s Tampa office managing partner. “After discussions with our clients, we determined that they would best be served if we joined forces with a Southeastern powerhouse that offers full-service legal support with a wider geographic market presence,” Schifino said.

No one can say for sure whether the surge of merger activity will continue at its current pace, but close observers say it is likely the legal markets in Tampa and Florida will remain attractive to out-of-state firms looking to grow as the economy improves. In any case, it should be interesting to see what deals transpire.

See you around the Chet.
Fighting Prescription Drug Abuse

Too many lives have been destroyed by prescription drug abuse.

Nearly 15,000 people die every year of overdoses involving prescription painkillers. In 2010, 1 in 20 people in the US (age 12 or older) reported using prescription painkillers for nonmedical reasons in the past year. Enough prescription painkillers were prescribed in 2010 to medicate every American adult around-the-clock for a month.”1 These statistics paint a shocking picture of the dangers of prescription drug abuse.

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One of the tools available to my office in fighting this problem can be found in Chapter 893 of the Florida Statutes. Florida Statute § 893.03 establishes categories of drugs called schedules that are regulated under criminal law.2 Currently, more than 300 drugs are specifically listed in the schedules.3 The schedules classify drugs based upon their potential for abuse and whether the drugs have accepted medical uses.4 Although some drugs have “no currently accepted medical use in treatment in the United States,”5 the schedules also contain drugs that can be obtained by a valid prescription from a physician.

Florida Statute § 893.13 regulates the possession and distribution of scheduled drugs and delineates what acts constitute criminal violations. This statute also makes the possession of certain drugs that are “lawfully obtained from a practitioner or pursuant to a valid prescription” noncriminal.6 Some prescription drugs have a high potential for abuse and are sought by people with an addiction to these substances. The statute criminalizes certain acts such as possessing a blank prescription form or obtaining drugs through the use of fraud or forgery.7 My office uses these statutes as well as others to try to combat the dangers of prescription drug abuse.

Criminal prosecution alone cannot stop this crisis. The combined efforts of the entire community are needed. Every individual who legally possesses prescription drugs can help control how accessible these drugs are. In 2010, the Drug Enforcement Agency began the National Prescription Drug Take-Back Day. This program allows individuals to turn in unused or unwanted prescription medications so that the drugs can be disposed of safely by law enforcement. By 2012, this program had taken in more than 2 million pounds of prescription drugs.8 Our local law enforcement agencies have been instrumental in coordinating these take-back events. In an effort to expand the availability of this disposal method, the Hillsborough County Sheriff’s Office and Tampa Police Department have installed permanent drug drop-off boxes. This makes the disposal of unused or unwanted drugs even easier.

Too many lives have been destroyed by prescription drug abuse. Law enforcement and the public must work together to end this epidemic.

2 § 893.03, Fla. Stat.
3 Id.
4 Id.
5 § 893.03(1), Fla. Stat.
7 § 893.13(7)(a), Fla. Stat.
Franklin Roosevelt once said, “Nobody will ever deprive the American people of the right to vote except the American people themselves, and the only way they could do this is by not voting.” One of our most cherished ideals is that we are a government of the people, by the people, and for the people. This principle is enshrined in our nation’s founding documents.

The right to vote is the very foundation of a government by the people. This year’s Law Week theme is “American Democracy and the Rule of Law: Why Every Vote Matters.” As we approach the 50th anniversaries of

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LAW WEEK COMMITTEE’S MESSAGE
Alexandra Haddad, Burr & Forman LLP

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the Civil Rights Act of 1964 and the Voting Rights Act of 1965, Law Week’s aim is to reflect on the importance of a citizen’s right to vote and the challenges we still face in ensuring that all Americans have the opportunity to participate in democracy.

Law Week will take place this year from March 17 through 21. Throughout the week, volunteers will educate local youth on the development of voting rights in the United States. They will highlight that citizens who participate in free and fair elections can ensure the legitimacy of the rule of law. Law Week provides opportunities for attorneys across Hillsborough County to break away from their daily routines to reach out to local students through three different activities: courthouse tours, classroom discussions, and mock trials.

The courthouse tour involves leading groups of students through courtrooms and other areas of the courthouse to give them a glimpse of the rule of law in action. Classroom discussions involve traveling to a local school to lead a class or group of students in a discussion on the law and answer student questions. Finally, volunteers who participate in mock trials team up in groups of three and travel to a local school to work with students in presenting a student-friendly case (such as Goldilocks vs. The Three Bears). Participating schools are located throughout the county, and volunteer attorneys are welcome to participate in any of the three activities available.

By taking a few hours out of the daily grind, local attorneys have the opportunity to really interact with young students. By teaching these students about democracy in America, the attorneys themselves will be reminded of how lucky we are to live in a country where everyone is afforded the right to vote and how special that right is.

Speaking about the right to vote, Lyndon B. Johnson said, “There is no duty which weighs more heavily on us than the duty we have to ensure that right.” As we celebrate Law Week 2014, let’s all remember how fortunate we are to have the right to vote in free and fair elections, but let’s also work toward the challenges we face to ensure that right.

If you are interested in learning more about Law Week 2014 or volunteering, please contact Young Lawyers Division Law Week Committee Co-Chairs Kelly A. Zarzycki (kzarzycki@slk-law.com) or Amy Nath (amy.nath@baycare.org).

Author: Alexandra Haddad - Burr & Forman LLP

Save the Dates

MARCH 22
Judicial Pig Roast/Food Festival & 5K Pro Bono River Run
on the grounds of Stetson’s Tampa Law Center

APRIL 18
Florida Bar New Admittee Swearing-In Ceremony
George E. Edgecomb Courthouse

MAY 13
Law Day Membership Luncheon
at the Hilton Tampa Downtown

Learn more about HCBA events at www.hillsbar.com.

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Renaissance man Ben Stein melds deadpan humor and serious insights on the economy and human nature in talks that leave people laughing and thinking.

Ben Stein offers laughter, insight and tears as he explores society’s most quirky conundrums. Armed with a curmudgeonly persona and offbeat style, he dissects the economy and helps audiences balance life’s priorities, even as he offers an eye-opening tour of its greatest absurdities. An exceptionally gifted economist whose market analysis is sought by companies and organizations across the country, Stein is author of Yes, You Can Supercharge Your Portfolio; Yes, You Can get a Financial Life; and How to Ruin the United States of America, among others.

The nation’s self-styled “hope for the new millennium” Stein’s career achievements range from Economist and Longtime Columnist for The Wall Street Journal, Barrons and The New York Times; Commentator for CBS News, Fox News and CNN and Award-winning Commentator on Finance; to speech writer and aid for Presidents Nixon and Ford; and even the pop icon who starred as Ferris Bueller’s teacher. He is, above all, an expert on bringing meaning to both life and work.

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

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

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For more information call (818) 221-7774.
A jury verdict affords a moment of triumph or defeat. However, it is often not the end of the battle, with work quickly resuming to draft post-trial motions and prepare for appeal. For lawyers handling a motion for new trial or an appeal of an order granting one, a recent Florida Supreme Court decision provides an excellent review of the applicable law.

In *Van v. Schmidt*, the Florida Supreme Court considered how an appellate court should review a trial court’s order granting a new trial because the jury verdict was contrary to the manifest weight of the evidence, where the order was partly premised on legal error. *Van* involved a personal injury action where liability was admitted. The jury returned a verdict awarding no damages. The trial court granted the plaintiffs’ motion for new trial based on the manifest weight of the evidence regarding causation, but the order was partially premised on the erroneous legal conclusion that the jury could not reject uncontroverted expert testimony. The First District Court of Appeals reversed the order and remanded for the trial court to enter judgment on the verdict.

Exercising its discretionary jurisdiction, the Florida Supreme Court resolved a conflict between the First and Fourth Districts regarding the deference an appellate court affords to a trial court’s legal conclusions in an order granting new trial. It also explained the proper inquiry and remedy once an appellate court concludes the order is premised on erroneous conclusions of law.

The court held that “an appellate court properly applies a de novo standard of review to a trial court’s conclusions of law in an order granting a new trial based on the manifest weight of the evidence, giving no deference to the trial court’s legal conclusions.”

However, the appellate court affords deference to a trial court’s findings of facts and determinations of credibility given the trial court’s superior vantage point over the trial. The appellate court may not focus on whether the verdict was supported by competent, substantial evidence, but instead on whether the trial court was unreasonable in ordering a new trial.

If an appellate court determines a new trial was ordered based, in some part, on legal error, the next question is whether the trial court would have granted a new trial but for the error of law. When the appellate court cannot determine whether the trial court would have reached the same result but for the legal error, the proper remedy is to return the case to the trial court for reconsideration of its order in light of the correct legal principles. However, if the trial court’s result could only be based on the legal

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*Continued on page 15*
Continued from page 14

error, the appellate court can reverse and remand for reinstatement of the jury’s verdict.

Aside from the holding, this decision is worth reviewing for a refresher on the cases that established the principles governing appellate review of these orders. Van will assist in preparing post-trial motions or proposed orders, while affording guidance on the standard and remedy on appeal.


2 The Supreme Court exercised its discretionary jurisdiction to resolve the conflict between the First District’s decision in Schmidt v. Van, 65 So. 3d 1105, 1107-08 (Fla. 1st DCA 2011), which did not give deference to the trial court’s erroneous conclusion of law, and the Fourth District’s decision in Kuebler v. Ferris, 65 So. 3d 1154, 1158-58 (Fla. 4th DCA 2011), which emphasized the “very limited authority of the appellate court in reviewing the broad discretion granted to the trial court.”

3 Id. at *1 (approving the reasoning of Schmidt to the extent that the First District’s analysis was consistent with this holding, and disapproving Kuebler to the extent that the Fourth District interpreted E.R. Squibb & Sons, Inc. v. Farnes, 697 So. 2d 825 (Fla. 1997), and Brown v. Estate of Stuckey, 749 So. 2d 490 (Fla. 1999), to require deference to a trial court’s conclusions of law, even where the trial court’s order was partially premised on an error of law).

4 Id. at *10, *16.

Author: Kimberly Jones - Phelps Dunbar, LLP
Ouch, My Appendix!
Appellate Practice Section
Chairs: Ezequiel Lugo - Butler Pappas Weihmuller Katz Craig, LLP; and Dineen Pashoukos Wasylik - Dineen Pashoukos Wasylik, P.A.

Florida Rule of Appellate Procedure 9.220(a) specifies that the purpose of the appendix is “to permit the parties to prepare and transmit copies of such portions of the record deemed necessary to an understanding of the issues presented.” Sometimes the appellate rules mandate or strongly encourage that an appendix accompany a petition, brief, motion, response, or reply where a formal record is not required.1 Other times an appendix may be helpful to direct the appellate court to key documents in an otherwise cumbersome record.

An appendix must contain an index and a conformed copy of the opinion or order to be reviewed.2 An appendix may also contain other portions of the record and pertinent authorities that may be difficult to locate through conventional research methods.3

However, an appendix is not a means to have the appellate court consider materials that were not part of the original record.4 And an appendix cannot be used in lieu of a formal record required for appeals of final orders of lower tribunals.5

There are additional considerations now that e-filing is required throughout the state. Several appellate courts have entered administrative orders outlining supplementary requirements for electronically filing these appendices.6 For example, the Second District Court of Appeals requires that appendices be in Adobe PDF format, properly indexed, and either bookmarked or hyperlinked and fully searchable.7 The Second District also suggests that an attorney submitting the appendix assign identifying letters or numbers to the documents, refer to this designation in the principal submission, provide an index to the appendix at the outset, and include both the name of the document and the corresponding letter or number assigned to it in the Adobe pane.8 Further, all of the documents submitted as appendices shall be transmitted in one filing that does not exceed the e-portal’s 10MB capacity.9 Filers who do not comply with these procedures risk having the Second District order them to submit a supplemental electronic appendix.10

Because the e-filing procedures are still being improved, it is prudent to not only consider the Florida Appellate Rules while creating an appendix but to also review the website materials and administrative orders from the applicable appellate court to determine whether additional procedures need to be followed.

1 See Fla. R. App. P. 9.100(g), (k); 9.110(i); 9.120(d), (f); 9.130(e); 9.142(c)(5); 9.160(h); 9.170(c)-(d); 9.180(h)(2); 9.190(c)(2)(F), (c)(3), (c)(4).
3 Id.
4 See Pedroni v. Pedroni, 788 So. 2d 1138, 1139 n.1 (Fla. 5th DCA 2001); Altcilier v. Dep’t of Prof’t Reg’l, 442 So. 2d 349, 350 (Fla. 1st DCA 1983); Finchum v. Vogel, 194 So. 2d 49, 51 (Fla. 4th DCA 1966).
5 See Crabtree v. Rogers, 364 So. 2d 106 (Fla. 1st DCA 1978) (citing rule 9.100(g)).
7 See Order 2013-2.
8 See Bookmarking Appendices in the Second District Court of Appeal, http://www2dca.org/Clerk/e-portal%20info/Bookmarking%20Appendices%20in%20the%20Second%20District%20Court%20Appeal.pdf (last visited October 15, 2013).
9 Id.
10 See Order 2013-2.

Author: Robin Horton Silverman - City of Tampa
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For more information about the Judicial Pig Roast/Food Festival & 5K Pro Bono River Run, go to hillsbar.com or call (813) 221-7777.
Collaborative divorce is relatively new in this area, and there is still much to be learned by those involved — from the experienced professional to the newcomer. Although I have been involved in hundreds of traditional litigation cases during my career, this knowledge and experience is not completely transferable due to unique aspects of the collaborative process. The work product is much the same, but key differences lie in the process by which the outcome is achieved. Because these differences do not involve the technical aspects of a financial professional’s work, traditional education methods are less effective, and a mentoring process is beneficial. The discussions, support, and free exchange of ideas that form the basis of a mentoring relationship would offer advantages for all participants.

Unlike traditional divorce litigation, the collaborative process combines four professional roles to form a multi-disciplinary team. The team includes an attorney for each party, a financial professional, and a facilitator. The parties ultimately control the outcome, but the form of the process is set by the team. It is this collaborative team aspect that introduces new questions and issues for the professionals involved. Examples of the types of issues that are unique to the collaborative process include:

- Devising solutions when conflicts between the parties arise. There is no judge to

Continued on page 19
make rulings to resolve conflicts. Therefore, the professional team must determine the proper approach to move the process forward in a way that best addresses the goals identified by the parties.

• Handling communications between professional team members and with the parties. Some communications may be appropriate for all parties, but some should be limited to specific team members.

• Working effectively with the facilitator. A financial professional’s work on a litigated matter does not typically involve interacting with a mental health professional or facilitator.

• Using a problem-solving approach to find solutions to issues that meet the parties’ stated goals/interests. This is a different approach to the resolution of financial issues than that used in preparing for litigation or even in traditional mediation. Collaborative team members must exercise their own discretion, both individually and in collaboration with other team members. Good judgment is gained in large part through experience. The experience and insight that can be offered by a mentor would be of great value to a newcomer to the collaborative process. Having the opportunity to observe other collaborative matters and have access to a mentor for support would allow professionals new to the collaborative process to confidently fulfill their role and be a fully contributing member of the team. This will, in turn, result in better outcomes for the parties, which will be beneficial to the future success of the collaborative model for divorce practice. It’s my hope that all those practicing collaborative law will be open to and supportive of the development of mentoring relationships among professionals in our community.

Author: Jennifer Ross
- Litigation Support Advisors, PLC
CSC GETS MORE THAN 250 ELDERS ADOPTED AS PART OF ELVES FOR ELDERS!
Community Services Committee
Chairs: Lisa Esposito - Law Offices of Lisa Esposito, P.A.; and Lara M. LaVoie - LaVoie & Kaizer, P.A.

The Elves for Elders was a huge success thanks to our legal community. The Community Services Committee adopted every elder on Aging Solution’s Elves for Elders gift list. That’s more than 250 elderly wards of the state! We also raised almost $7,000 for non-covered medical services such as dental and vision care. Thank you to every elf who donated, volunteered, or spread the word. We are making a difference in the lives of those less fortunate and changing negative opinions about our legal community!

To date, we have adopted every veteran on the James A. Haley Veterans’ Hospital’s hardship list, and now we have found an elf and placed presents under an elderly person’s tree/menorah for the holidays. Give yourself a pat on the back.

Continued on page 21

In May, the CSC will work with a nonprofit organization for abused children, A Kid’s Place, where we hope to hold a pirate plunder party for these deserving kids.

E. TYLER CATHEY
ATTORNEY

Englander Fischer Congratulates our very own Tyler Cathey on his appointment as Chief Deputy Attorney General. We wish him great success and look forward to welcoming him home after his service to our state.

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In November and December, we asked the community to adopt (be an elf) for a needy elderly person whose wish list was simple — a shirt, socks, and maybe a teddy bear for when times got tough. One elderly man asked for a stuffed cat for his bed, and another requested a purple bunny with long ears. These wish lists brought tears to many people’s eyes as the lists encompassed basic necessities. Your response was overwhelming. Every elder found an elf, and that gray cat and purple bunny made the holidays brighter for those two particular elders!

On December 21 and 22, CSC volunteers spent time at a nursing home, giving out gifts to elders on our list, passing out candy to every elder we met, donning an elf hat (or maybe even a pair of elf shoes), and singing holiday songs, whether in tune or not! Volunteers thought they were giving back, but they walked away realizing that they got much more. They remembered what the holidays are all about — giving to others in need. I saw many smiles and a few tears, but I also saw a group of people who didn’t know each other come together, sing some songs, and smile at the joy they brought to people who are often forgotten that time of year.

In fact, one 90-year-old named Jose got out of a wheelchair to sing and dance to “Rudolph, the Red-Nosed Reindeer” because he got a new pair of sneakers that actually fit. He told us he hadn’t had shoes that fit in two years, but now he could get up and walk around to help others. He called us angels. I don’t know about angels, but we certainly made a difference in Jose’s life, and that is what the CSC is trying to do.

If you couldn’t participate in Elves for Elders, no worries. In May, the CSC will work with a nonprofit organization for abused children, A Kid’s Place, where we hope to hold a pirate plunder party for these deserving kids. We need volunteers, donations, and sponsors for a bouncy house, lunch, games, and pirate plunder. Arrrg! Please help the CSC continue to make a difference. We can’t do it without you! Contact Lisa Esposito at lisa@lesposito.com or Lara LaVoie at lmlavoie11@gmail.com.

Author: Lisa Esposito - Law Offices of Lisa Esposito, P.A.
Parties in construction defect lawsuits routinely assert common law indemnity claims against downstream subcontractors, material suppliers, and other entities whose work or materials caused the defects at issue. Common law indemnity is a claim that shifts responsibility for damages from a party without any active negligence or fault — but who is liable for damages via vicarious, constructive, derivative, or technical liability principles — to the party who is actively negligent or at fault. In the seminal Florida common law indemnity case, Houdaille Industries, Inc. v. Edwards, 374 So. 2d 490 (Fla. 1979), the Supreme Court stated that there is no right to common law indemnity absent a “special relationship” that makes the prospective indemnitor vicariously, constructively, derivatively, or technically liable for the wrongful acts of the prospective indemnitee. Because Florida law does not clearly define this purported “special relationship,” defendants frequently move to dismiss common law indemnity claims, arguing that the existence...
Continued from page 22

of a “special relationship” is not properly pleaded.

In Diplomat Properties Limited Partnership v. Tecnoglass, LLC, 114 So. 3d 357 (Fla. 4th DCA 2013), the Fourth District Court of Appeals determined that a “special relationship” is not a separate element that a plaintiff must allege to state a common law indemnity cause of action. The case relates to the construction of The Westin Diplomat hotel in Hollywood, Florida, that the plaintiff, Diplomat Properties (“Diplomat”), owned. During the project’s construction, Diplomat hired Shower Concepts, Inc., to furnish and install glass shower doors in the guest rooms. Shower Concepts entered into a contract with Tecnoglass to fabricate the shower doors. After the hotel opened, numerous shower doors spontaneously fractured as a result of a manufacturing defect. Diplomat obtained an arbitration award and final judgment against Shower Concepts for the associated damages. The arbitration award did not include any finding that Shower Concepts was vicariously, constructively, derivatively, or technically responsible for Tecnoglass’ manufacturing defect.

In lieu of executing on its judgment, Diplomat took an assignment of Shower Concepts’ claims against Tecnoglass. As Shower Concepts’ assignee, Diplomat then filed a separate lawsuit against Tecnoglass that included a common law indemnity claim alleging that Shower Concepts was held vicariously, constructively, derivatively, or technically liable for Tecnoglass’ wrongful acts. Tecnoglass successfully moved to dismiss the common law indemnity claim because Diplomat failed to allege that a “special relationship” existed between Shower Concepts and Tecnoglass.

The Fourth District reversed the trial court’s decision and held that Diplomat was not required to specifically plead the existence of a “special relationship.” The court stated that “[t]he term ‘special relationship’ merely describes a relationship which makes a faultless party ‘only vicariously, constructively, derivatively, or technically liable for the wrongful acts of the party at fault.’” Thus, if a plaintiff sufficiently pleads the existence of vicarious, constructive, derivative, or technical liability, there is no separate requirement to allege a “special relationship.” Based on Diplomat, it appears common law indemnity claims will be more likely to survive motions to dismiss and may be a more viable basis to shift liability to parties that bear responsibility for defect claims.

Author:
Adam C. King - Mills Paskert Divers, P.A.
How long has it been since you dusted off your company’s employee handbook? Dedicating the time and resources to reviewing policies on an annual basis is well worth the investment. Consider the following five areas during your 2014 review.

1. Superfluous Language
   Most employers have learned that including an at-will policy in the handbook reinforces the principle that employment may be terminated at any time for any lawful reason. Likewise, at-will policies should clarify that the handbook is not a contract, and employers may revise policies without prior notice. Equally, employers should beware of potential promises made by superfluous language. Unnecessary purpose statements, rigid progressive discipline steps, and unrealistic commitments to provide training or a mutually enjoyable work environment should be avoided. Gratuitous leave provisions may lead to Family and Medical Leave Act estoppel arguments.

2. Bullying
   Twenty-five states have introduced legislation that makes workplace bullying illegal. A criminal statute related to bullying is currently pending in Florida. Employers should consider adding a separate policy to address bullying. This goal can often be accomplished with mutual respect policies, giving a clear definition of prohibited behavior and examples (while being mindful of the National Labor Relations Act).

3. The National Labor Relations Board (Beyond Social Media)
   Much ado has been made regarding the NLRB’s recent policing of social media policies. Yet, this inquiry extends to other policies. Many code of ethics, computer usage, and disciplinary policies may run afoul of the same principles scrutinized in social media policies. In recent decisions, the board has taken issue with dress-code policies that prevent employees from wearing insignia or messages on clothing and at-will policies that state the employment relationship may never be changed. The board has further made clear that employers cannot have a blanket requirement for employees to keep internal investigations confidential. A disclaimer may not save an otherwise defective policy.

4. Timekeeping and Technology
   Due to unrelenting litigation under the Fair Labor Standards Act, time-keeping and overtime policies should specifically prohibit employees from working off-the-clock. Policies should explain it is the employee’s responsibility to report pay errors and how to do so. A related consideration is a policy that addresses employees’ use of their own electronic devices (laptops, smartphones, and tablets) for work purposes. Policies should be crafted to address concerns regarding privacy, protection of confidential information, and working off-the-clock.

5. Employee Acknowledgments
   Employee acknowledgements evidence that employees have received the handbook, and they should be obtained each time the handbook is updated. The acknowledgement can be used to reiterate the at-will policy and to shift responsibility to the employees to raise any questions or concerns about the handbook or company policy. Also note that violations of any company policy, even one not identified in the handbook, can lead to discipline.

A well-drafted handbook is an essential foundation for handling difficult personnel and legal issues. Handbooks that require a complete overhaul may be best handled by legal counsel.

Authors:
Dee Anna Hays
and Caren Skeersky
- Ogletree, Deakins, Nash, Smoak & Stewart
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THE END OF THE BIASED JUROR?
Criminal Law Section
Chair: Matt Luka - Trombley & Hanes, P.A.

In September 2013, the Supreme Court of Florida confronted the practical “realities of human nature” that place potential jurors who express personal bias beyond rehabilitation through voir dire. See Matarranz v. State, — So. 3d —, 2013 WL 5355117, *9 (Fla. 2013). The court recognized what many practitioners have long felt.

“Any lawyer who has spent time in our courtrooms, whether civil or criminal, has experienced the frustration of prospective jurors expressing extreme bias against his or her client and then recanting upon expert questioning by the opposition, which generates such embarrassment as to produce a socially and politically correct recantation.” Id. at *15.

To that end, the court determined that a juror’s assurances of impartiality after an announced prejudice “are neither determinative nor definitive” and are “questionable at best.” Id. at *9 (citations omitted).

After Matarranz, jurors who express fixed opinions and firmly held beliefs based on personal life experiences are considered essentially beyond rehabilitation.

“Any lawyer who has spent time in our courtrooms … has experienced the frustration of prospective jurors expressing extreme bias against his or her client and then recanting upon expert questioning …” Id. at *10.

The court found “preposterous” the notion “that ‘the human capacity for rational reflection’ is but a light switch that can be flipped on or off, and a trial court may thereby procure a juror who mere minutes before expressed unacceptable bias and partiality.” Id. at *13.

To its credit, the court sought to redress firmly rooted ideas about the ability of jurors to

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THE END OF THE BIASED JUROR?
Criminal Law Section

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put aside “unique biases, prejudices, predilections, predispositions and viewpoints.” Id. at *9. The court recognized that over time, “trial court discretion with regard to the removal of comprised jurors has at times become so broad that our courts have lost sight of the principles of law that undergird juror qualification determinations.” Id. at *10.

However, the court did not entirely foreclose the possible rehabilitation of a juror. The court distinguished between jurors who hold biases rooted in life experiences or personal beliefs and those who merely express a misunderstanding of the law or judicial process. Id. at *10-11. The latter can be corrected through discussion with the court and attorneys, whereas the former cannot. Id.

Matarranz’s impact is significant, but the impact could be lost by failing to preserve jury selection errors for appellate review. Counsel should first object to a specific juror for cause. Id. at *6. If the court overrules the objection, counsel should then exercise a peremptory challenge on the juror. Id. at *8 (reversible error for court to force a party to use peremptory challenge).

Once peremptory challenges are exhausted, counsel must request additional peremptory challenges that are denied and identify a specific juror that he or she would have excused with the additional challenge. Id. at *7. Counsel is not required to list by specific name a second time the juror who should have been initially removed for cause but was not. Id. at *7. And, most importantly, counsel must renew the objection before the jury is sworn. Id. “Once counsel has noted that he or she would strike a specific juror for cause, and again renews the objection before the jury is sworn … a trial court [has] notice that counsel believes a juror has been retained in error … [and] a final opportunity to redress the situation.” Id. (citing Joiner v. State, 618 So. 2d 174, 176 (Fla. 1993)).

Author: Matt Luka - Trombley & Hanes, P.A.
BAR LEADERSHIP INSTITUTE VISITS MOFFITT CANCER CENTER

Members of the HCBA Bar Leadership Institute took a tour of Moffitt Cancer Center on January 23 to get a feel for the impact the center has both locally and nationally. Moffitt offers many ways for attorneys to support the efforts of the cancer center, including participating in awareness events and contributing to fundraising efforts.

Thanks to the Bar Leadership Institute’s sponsor:

SENIOR COUNSEL SECTION LUNCHEON

Sen. Tom Lee was the guest speaker at the HCBA’s Senior Counsel Section Luncheon on January 29. The senator discussed issues facing the Florida Legislature in 2014. Thanks to all who attended!
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HUMAN TRAFFICKING AND 32 BILLION REASONS TO FIGHT IT
Diversity Committee

During the 360-year span of the Trans-Atlantic Slave Trade, approximately 9.9 million Africans were transported to the Americas.¹ It is estimated that there are currently 27 million people enslaved worldwide.² President Barack Obama has stated that human trafficking is modern-day slavery.³ More awareness is necessary to eradicate human trafficking. Most people simply do not think that slavery still exists today; however, human trafficking is a $32 billion-per-year industry.⁴

Civil rights and social justice advocates in the United States need to pay particular attention to the human-trafficking epidemic. Traffickers prey on vulnerable populations, such as undocumented migrants, runaways, at-risk youth, and members of oppressed and marginalized groups,⁵ although anyone is a potential victim.

Florida ranks third in the nation for human-trafficking violations.⁶ Many victims of the sex-trafficking industry are linked to adult entertainment, and Hillsborough County has more strip clubs per capita than any other city in America.⁷ The ramifications of the human-trafficking epidemic are, as a recent and compelling WEDU documentary title states, “Too Close to Home.”⁸

What can we do to help? Education, corporate responsibility in supply chains, conscientious consumerism, and legislative reform are all viable ways to effectuate positive change. You can go to www.slaveryfootprint.org to see how the items you purchase are related to human trafficking (and see how many slaves are working for you). Additionally, you can report suspicious activity to the National Human Trafficking Tip Line at 1-888-373-7888.

Dr. Martin Luther King Jr. once said, “We will have to repent in this generation not merely for the hateful words and actions of the bad people but for the appalling silence of the good people.”⁹ Let us do what we can to end the silence. Noted abolitionist William Wilberforce once said, “You may choose to look the other way, but you may never again say that you did not know.”¹⁰ We must acknowledge the crisis of human trafficking in order to successfully combat it. If you are interested in learning more about human trafficking, you are welcome to email me at swansons@cooley.edu.

³ Id. (quoting material stated on September 25, 2012).

Author:
Stevie J. Swanson - Thomas M. Cooley Law School
The HCBA Diversity Committee welcomed Pulitzer Prize-winning author Gilbert King for a special CLE/CJE luncheon on February 25. King walked the audience through his book “Devil in the Grove,” which details the heart-wrenching case of four young black men who were falsely accused of raping a young white woman in Lake County, Florida, in the late 1940s. He painted the picture of an exhausted but determined Thurgood Marshall, who would take up the case in an era when racial tensions were boiling over and the fight for civil rights was at a critical stage.

In the audience for the event were family members of Francisco Rodriguez, a Tampa attorney who worked with Marshall and the NAACP Legal Defense Fund on the case.

After the presentation, HCBA President Susan Johnson-Velez led a panel discussion featuring King; Stetson College of Law Professor Bruce Jacob; local civil rights leader Clarence Fort; immigration attorney Susan Pai; Diversity Committee member Kim Byrd, who focuses on family and LGBT law; and Dr. Joyce Hamilton Henry, regional director of the American Civil Liberties Union. The panelists discussed the evolving standards of justice and the civil rights issues the nation still struggles with today.

The Diversity Committee would like to thank Gilbert King and all the panelists for participating in this educational event. The committee also appreciates the support of the event sponsor, The Bank of Tampa.
Diversity Networking Social Brings Students, Law Firms Together

Law students from across Florida gathered at the Hillsborough County Bar Association on Saturday, February 22, for an afternoon of networking and fun. HCBA President Susan Johnson-Velez and Diversity Committee Co-Chairs Amanda Buffinton and Ronnell Robinzine welcomed students to the social, which featured firms and voluntary bar associations from across the Tampa Bay area. The event gave students a chance to explore the diversity of the local legal community and all it has to offer.
The Diversity Committee would like to thank the event’s sponsors:

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In March 2014, the Eleventh Circuit Court of Appeals will hear oral arguments concerning Pasco County’s alleged “land grab” in Hillcrest Property, LLP v. Pasco County. In Hillcrest, Pasco County passed an ordinance requiring only development permit-seeking landowners to deed a portion of land to Pasco County for future roadway development without compensation. On the other hand, for non-permit-seeking landowners, Pasco County offered just compensation for the landowner’s property. Furthermore, permit-seeking landowners demanding compensation or seeking relief from the requirements solely bore the burden of proof before a review committee appointed by Pasco County.

Because the petitioner failed to assert a federal takings claim, the U.S. District Court, Middle District of Florida, evaluated Hillcrest under a substantive due process analysis. The court looked to Nollan v. California Coastal Commission, 483 U.S. 825 (1987) and Dolan v. City of Tigard, 512 U.S. 374 (1994) (“Nollan/Dolan”), the two United States Supreme Court cases requiring development exactions to: (i) have an “essential nexus” between the permit condition and the legitimate state interest; and (ii) maintain a “rough proportionality” between the permit condition and the proposed development impacts. From Nollan/Dolan, the court reasoned that the Takings Clause affirmed “a right in the citizen that private property cannot be taken for public use without just compensation.”

Hillcrest found that Pasco County exploited its police power to avoid paying just compensation to only permit-seeking landowners.

Ultimately, the court held that the ordinance failed rational basis

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review. Hillcrest found that Pasco County exploited its police power to avoid paying just compensation to only permit-seeking landowners. Furthermore, under the ordinance’s procedures, the landowner bore the burden of proving a lack of the Nollan/Dolan requirements. Essentially, the landowner must undergo inverse condemnation proceedings, which “is not on equal footing with an owner whose land is ‘taken’ through formal condemnation proceedings.”

Nollan/Dolan’s application to development permit grants may have been affirmed by Koontz v. St. Johns River Water Management District, 133 S. Ct. 2586 (2013). In Koontz, a landowner similarly sought a development permit to build on his property and offered to deed a conservation easement to the district to offset the proposed development’s environmental impact. The district refused and made further demands, which were rejected by the landowner. Subsequently, the landowner filed suit in state court, claiming that the district’s refusal to grant a development permit amounted to an unconstitutional taking.

The United States Supreme Court held that a government agency’s demand for property from a development permit applicant must satisfy the Nollan/Dolan requirements, even when it denies the permit. The court failed to distinguish between the approval or the denial of a permit. The court failed to distinguish between the approval or the denial of a permit, noting that the government would be able to simply evade the limitations with mere rephrasing of the conditions required for permit approval. Also, the government failed to give at least one plausible alternative to the dedication of land.

Koontz suggests that unreasonable demands for property in exchange for development permits are considered takings if they fail to meet the Nollan/Dolan requirements for exactions. The Eleventh Circuit may find Koontz persuasive as it, too, applies Nollan/Dolan to development permit grants.

Author:
Lisa Lee - Fowler White Boggs, P.A.
YOUR DREAM HOME DESERVES A DREAM MORTGAGE.
Fowler White Boggs Named 2014 Healthiest 100 Workplaces Award Winner

Healthiest Employers, the leader in employee health analytics, best practices and benchmark data, has announced the induction of Fowler White Boggs into the 2014 Healthiest 100 Workplaces in America.

Fowler White Boggs, ranked fifth in the listing of 100 companies, attained this recognition as the culmination of a year-long, highly selective two-stage assessment process spanning the United States to include companies of all sizes from all regions and industries.

These state and national awards recognize employers who have comprehensively incorporated the most effective employee wellness programs and practices. The Healthiest 100 have successfully implemented practical, effective and continuously improving corporate wellness strategies for creating a sustainably healthy workplace.
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CONGRATULATIONS TO PRO BONO SERVICE AWARD WINNERS

During a special ceremony on January 30, the Florida Supreme Court and The Florida Bar recognized those in the legal field who have dedicated their time and expertise to making legal services available to the poor. Congratulations to the winners from the Thirteenth Judicial Circuit:

KAREN MEYER BUESING, a shareholder at Akerman LLP, received the 2014 Tobias Simon Pro Bono Service Award, the highest statewide pro bono award. Buesing was also recognized with The Florida Bar President’s Pro Bono Service Award for the Thirteenth Judicial Circuit. Buesing has provided pro bono legal services to the poor in the Tampa Bay area throughout her 30-year career. In the last year alone, she logged more than 180 hours of pro bono service.

THE HONORABLE EMILY A. PEACOCK, of the Thirteenth Judicial Circuit, received the 2014 Distinguished Judicial Service Award. The award honors outstanding and sustained service to the public, especially as it relates to support of pro bono legal services. Judge Peacock spends considerable time mentoring attorneys and judges, speaking to voluntary bar groups, and volunteering in the classroom or mock trial practices at law schools.

LAURA E. WARD, an attorney at DLA Piper LLP in Tampa, received the 2014 Florida Bar Young Lawyers Division Pro Bono Service Award. Ward, a member of the HCBA Board of Directors, concentrates her practice on complex commercial and civil litigation in state and federal courts throughout Florida. In 2013, Ward logged approximately 260 pro bono hours. In 2011 and 2012, she was the DLA Piper Tampa pro bono award winner, and in 2013, she received the HCBA’s Outstanding Young Lawyer Award.

THE LAW FIRM OF STICHTER, RIEDEL, BLAIN & PROSSER, P.A., received the 2014 Law Firm Commendation. The award honors significant contributions in the delivery of legal services to individuals or groups on a pro bono basis. The 17-member firm specializes in bankruptcy, insolvency matters, and related civil litigation. In 2013, Stichter Riedel’s attorneys donated approximately 700 pro bono hours to a variety of pro bono projects. The firm handles numerous consumer matters on a pro bono basis for clients who cannot afford to pay.
Any physicians and health care businesses in Florida are developing telemedicine practices to treat patients located in other states. The governing law for practicing medicine is in the state where the patient is located, not where the physician is located. Therefore, a physician based in Florida who provides telemedicine services to a patient located in Indiana must be licensed to practice medicine in Indiana (or meet an exception to licensure).

However, securing proper licensure is not the only consideration for a multi-state telemedicine practice. Essential legal and regulatory considerations include: 1) business models (peer-to-peer, direct-to-patient, remote monitoring, mHealth, etc.); 2) state fraud and abuse laws; 3) professional compensation arrangements (contractor, employee, investor, corporate practice of medicine, etc.); 4) special consent and recordkeeping rules for telemedicine; 5) medical record privacy and security; 6) credentialing; and 7) payor reimbursement.

The challenge with these issues is that a successful telemedicine business typically operates across multiple states and is subject to the state laws of all the places where the patients are located and it does business. Although health care providers are no stranger to high levels of regulation, business models and contractual arrangements that work in Florida will not necessarily work in other states. Telemedicine practices must be sensitive to, and aware of, the need for business arrangements capable of satisfying health care regulations across multiple states.

Take, for example, scope of practice. This issue is important because it dictates what services the physician may offer patients under the telemedicine arrangement. Whether or not a physician, even if fully licensed, may provide certain services via telemedicine is an issue of scope of practice governed by state law (e.g., conduct a patient consult, render a diagnosis, make a treatment recommendation, issue a remote prescription). Some states (e.g., Texas, Louisiana) require the telemedicine physician to have performed at least one in-person physical examination prior to utilizing telemedicine, whereas other states (e.g., Mississippi, North Carolina) explicitly permit a physician to establish a valid physician-patient relationship entirely via telemedicine.

Unlike many states, Florida has no statutes or regulations specific to telemedicine practice. The closest relative is a decade-old regulation (F.A.C. 64B8-9.014) designed to restrict unscrupulous Internet pharmacies from dispensing drugs online to patients without a valid physician-patient relationship. Recently, telemedicine legislation has been discussed in the Florida Legislature, but nothing has yet been enacted. The absence of a telemedicine-specific set of laws or rules can act as a barrier to widespread telemedicine availability because the lack of clear guidance creates uncertainty and risk for telemedicine providers looking to do business in Florida but unfamiliar with the acceptable practices and standards of care.

The pace of telemedicine technology and the vision of leading health care providers have outpaced state law and policy. With an appreciation for, and understanding of, the multidimensional (and multistate) nature of telemedicine, providers have fantastic opportunities to develop successful telemedicine practices.

Author: Nathaniel Lacktman - Foley & Lardner LLP
HEALTH CARE LAW NETWORKING RECEPTION

About 100 in-house and private-practice lawyers, law students, and health care consultants gathered at the Chester H. Ferguson Law Center on January 30 for a health law networking reception. This event was jointly hosted by the HCBA's Health Care Law Section and the American Health Lawyers Association Young Professionals Council, Advisory Council on Diversity, Mentoring Committee, and Membership Committee. Local law firms also supported the event with sponsorships.

The evening featured a panel discussion with Suzanne Hurley, senior attorney for the Florida Agency for Health Care Administration; Laurie Spieler, vice president of legal services for Shriners Hospitals for Children; and Carol Ann Kalish, shareholder at Williams Parker Harrison Dietz & Getzen. The panelists offered words of wisdom regarding pursuing careers in health law, challenges facing health care lawyers today, and practical tips on how to stay current with daily changes occurring within health care. After the panelists concluded their remarks, the attendees had an opportunity to mix and mingle in a relaxed atmosphere.

Thanks to all who attended for making this another successful HCBA event!

Author: Radha Bachman - Carlton Fields Jorden Burt, P.A.
The federal government’s most cost-effective method of detecting unlawful aliens in the United States is the use of what are commonly called “ICE holds.” These ICE holds, or detainers, are used to investigate, arrest, and eventually remove suspected illegal aliens from the United States. The process is cost-effective because the real work is basically outsourced to local police departments and county jails across the country.

How does this work? Brace yourself for acronyms. The U.S. Immigration and Customs Enforcement (ICE) Bureau of Enforcement and Removal Operations (ERO) is in charge of removing unlawful aliens. ICE ERO assigns officers to the Criminal Alien Program (CAP) to coordinate with local jails in support of their objective. In Hillsborough County, the CAP office is in downtown Tampa.

Ostensibly, the federal government’s objective is to detain and remove “criminals who pose a serious threat to public safety.” The practical analysis of who qualifies as a “criminal” is questionable. A study by Syracuse University found that in 2012, 48 percent of individuals targeted by immigration detainers nationwide had no prior criminal conviction.

A common hypothetical? Officer Farva arrests Juan for having no valid driver’s license, a traffic misdemeanor. Juan is booked and processed into Orient Road Jail and is issued a standard $250 bond. Because Juan doesn’t have a social security number, a jail employee notifies a Tampa ERO CAP officer, who in turn issues the detainer and interviews Juan, without the presence of counsel. Juan is determined to be an undocumented immigrant, and the removal process is started.

What happens after the hold is issued? Jail deputies in central booking frequently refuse to accept cash bonds, incorrectly advising family members that they cannot post bond due to the ICE hold.

To join an HCBA section or committee, call (813) 221-7777.
In holding that Electronic Arts Inc.’s (EA) use of player likenesses in its popular “NCAA Football” video game series was not protected by the First Amendment, the Ninth Circuit Court of Appeals followed the Third Circuit and applied the “transformative use” test. These decisions seemingly depart from prior decisions applying the Rogers test to evaluate a First Amendment defense to right-of-publicity claims based on the unauthorized commercial use of a claimant’s likeness.

Both cases involve claims brought by former college athletes against EA alleging that the video game maker violated the players’ right of publicity under state law by including the players’ likenesses in multiple versions of “NCAA Football.” EA’s success with the “NCAA Football” franchise is in no small part owed to EA’s focus on realism and detail. Every team included in the game is populated by digital avatars resembling real-life counterparts with each player’s actual jersey number and similar appearances and biographical information. In fact, EA did not contest right-of-publicity liability but instead asserted that its use of player likenesses was a protected expression under the First Amendment.

The transformative use test applied by the Ninth and Third Circuits derives from copyright law and is an adaptation of a factor commonly considered when evaluating a fair-use defense — the purpose and character of the use. The central question is whether the accused use merely copies the plaintiff’s identity or instead creates something new. The test attempts to strike a balance between safeguarding a plaintiff’s right of publicity and the public’s interest in free expression.

By contrast, the Rogers test stems from trademark law and provides a defense to liability unless the claimant’s likeness has no artistic relevance to the accused work, or the work is explicitly misleading as to its source or content. In declining to apply the Rogers test, the circuit courts noted that the test was designed to protect consumers from the risk of confusion — a policy consistent with trademark law. The right of publicity on the other hand, serves a distinct purpose in protecting a form of intellectual property in one’s person.

Notably, cases applying the Rogers test often involve federal trademark claims related to the use of a plaintiff’s likeness to create confusion about affiliation or endorsement, but the former players made no such allegations against EA. Thus, it is likely premature to assume that the Rogers test will fall by the wayside, and practitioners should carefully consider the nature of the alleged harm as it relates to potential defenses against a right-of-publicity claim.

1 In re NCAA Student-Athlete Name & Likeness Licensing Litig., 724 F.3d 1268 (9th Cir. 2013); Hart v. Electronic Arts, Inc., 717 F.3d 141 (3d Cir. 2013).
2 See, e.g., Brown v. Electronic Arts, Inc., 724 F.3d 1235 (9th Cir. 2013); Parks v. LaFace Records, 329 F.3d 437 (6th Cir. 2003).
In 2011, the Florida Legislature added Subsection 9 of § 61.08, which states: “The award of alimony may not leave the payor with significantly less net income than the net income of the recipient unless there are written findings of exceptional circumstances.” § 61.08(9), Fla. Stat. (2011). “The amendments to s. 61.08, Florida Statutes, made by this act are applicable to all cases pending on … July 1, 2011.” See Ch. 2011-92, Sections 79-80, at 1704, Laws of Fla. Importantly, since there are no restrictions contained in § 61.08(9), it is applicable to all forms and all combinations of alimony awards. There is only one district court opinion addressing the application of § 61.08(9), and it comes from the Fourth District Court of Appeals. In Koski v. Koski, 98 So. 3d 93 (Fla. 4th DCA 2012), the former husband sought a modification of his $400-per-month permanent alimony obligation to the former wife, based on a substantial increase in her income ($1,710 to

Continued on page 47
A TOOL THAT GUARDS AGAINST INEQUITABLE ALIMONY AWARDS
Marital & Family Law Section

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Mr. Koski still has to pay more than a nominal amount of alimony to Ms. Koski, it must make written findings of exceptional circumstances to justify the award of alimony because it leaves the former husband with significantly less income than the former wife. *Id.*

If your client is facing a request for any type of alimony award, it would be wise to advise the court that pursuant to § 61.08(9), any alimony award must not leave your client with “significantly less net income than the net income” of the opposing party. If your client is requesting an alimony award that may result in a significantly higher income to your client than the opposing party, you should establish “exceptional circumstances” that would permit and support the alimony award.

If the trial court issues an alimony award that results in the payor spouse’s net income being significantly less than the receiving spouse, and the order does not make the requisite finding that exceptional circumstances exist to support the award, the filing of a motion for rehearing asserting the lack of requisite factual finding to support the award is highly recommended. *See Esaw v. Esaw*, 965 So. 2d 126, 1263 (Fla. 2d DCA 2008); *Broadfoot v. Broadfoot*, 791 So. 2d 584 (Fla. 3d DCA 2001).

Author:
Allison M. Perry - Florida Appeals & Mediations, P.A.
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GIVING BACK

On January 11, the Tampa office of Galloway Johnson Tompkins Burr and Smith volunteered at Feeding American Tampa Bay, a local food bank, helping sort food donations that were then distributed to a variety of local charities and nonprofit organizations that help fight hunger.

The HCBA invites members to share photos of themselves giving back to the community! Email to Corrie Benfield at corrie@hillsbar.com, or post them on Facebook.com/HCBAtampabay.

THANK YOU TO OUR VOLUNTEERS FOR JANUARY’S ASK-A-LAWYER ON FOX 13!

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To volunteer for the Ask-A-Lawyer programs, please contact HCBA Lawyer Referral & Information Service at (813) 221-7780.
Good mediators should love working hard to help litigants settle cases. Expect no less, and take steps to get the best your mediator has to offer. In other words, “Help me help you.” Consider these tactics to maximize your mediator’s effectiveness.

1. **Perform Due Diligence.**
   Call potential mediators to discuss their experience, build rapport, and evaluate whether their approach is right for your case and client. Confidential *ex parte* communications are a benefit of mediation.

2. **Expect the Mediator to Work Ahead.**
   If something must occur before you can meaningfully mediate, let the mediator know in advance. Do you need discovery responses, records, a ruling on a key motion? The mediator may have ideas to get what needs to happen done, or about a workaround.

3. **Use the Mediator’s Emotional Intelligence.**
   Talk about party dynamics, your client’s experience with litigation, your relationship with opposing counsel, involvement of adjusters and other decision-makers, or anyone else who may impact the mediation. Share any larger consequences of the negotiations. Discuss why you anticipate taking certain approaches to issues or with attendees. These pieces of information will help the mediator set the right tone for the mediation.

4. **Give the Mediator Information.**
   Some lawyers provide information via letter, email, or a call before mediation, and others do not. If you do, include the following:
   - (a) Status of past and ongoing settlement discussions;
   - (b) Attendees’ names, titles, and roles;
   - (c) Procedural posture; and
   - (d) Factual and legal issues of the case.
   Expect your mediator to read everything you send. Bullet point timelines are easier to use in caucus than narrative summaries.

5. **Tell the Mediator Where Things Stand.**
   Memories and notes about past demands and offers may differ. Discrepancies arise when lawyers have informal discussions, cases change hands, or for other reasons. Sort through that history before mediation to save time and avoid losing ground already gained.

6. **Vet Your Demands and Offers with the Mediator.**
   “The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem solving, and exploring settlement alternatives.”
   Expect your mediator to do these things. Experienced mediators have seen hundreds of people negotiate and may see things that are overlooked. Ask for thoughts and suggestions about issues, positions, and numbers, so you and your client have the benefit of your mediator’s ideas when making decisions.

7. **Have the Mediator Message the Other Side.**
   (a) Numbers are more effective with messages than without. Without a message, a recipient will speculate about the number, your strategies, and your intentions. Telling the recipient this information eliminates time-consuming and distracting speculation.
   (b) Use your mediator as a sounding board for messages you want to convey and to help you craft effective ones.
   (c) If a message is crucial, delicate, or expected to evoke a strong reaction, have your mediator say it to you first. Hearing it yourself may make you reconsider the number and/or your message.

8. **Expect the Mediator to Be the Last One to Quit.**

---

1 Jerry Maguire’s client, Rod Tidwell, burst into laughter upon hearing Maguire’s plea. Nonetheless, if you want your mediator to either save you money or show you the money, help her help you.

2 § 44.1011(2), Fla. Stat.

Author: Hilary High – Hilary High, P.A.
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Following the Florida Supreme Court’s Opinion No. SC 13-688, In Re: Code for Resolving Professional Complaints, the Thirteenth Judicial Circuit Committee on Professionalism and the Hillsborough County Bar Association Professionalism and Ethics Committee joined efforts and created a joint committee to address the Supreme Court’s mandate. The opinion tasked each of the state’s judicial circuits with creating a local professionalism panel to address unprofessional conduct not rising to the level of a formal Bar grievance. Initially, a small taskforce brainstormed how to synergize our circuit’s efforts to promote professionalism and how to structure a local professionalism complaint process.

As a result of that meeting, on October 28, 2013, Chief Judge Manuel Menendez Jr. issued Administrative Order S-2013-071, which established our circuit’s Local Professionalism Panel (LPP) and created a process by which the panel receives, hears, and disposes of complaints. It further created subcommittees, including the communications and promotions committees, to give the Thirteenth Circuit’s committee a voice and to promote professionalism within the circuit. The administrative order also consolidated into the LPP the HCBA Peer Review Program so that the LPP will be responsible for addressing complaints previously referred to the Peer Review Program.

Per the Administrative Order, any person may initiate a complaint against an attorney with the LPP and deliver it to the LPP chair, who will review the complaint and determine whether it is appropriate for referral to the LPP Review Panel. The panel consists of at least one judge and two other “members in good standing of the [HCBA] and the Florida Bar, [who] have been in practice at least ten years and have attained the highest respect of their peers and the judiciary for their professionalism and quality of practice.” The panel will meet without the subject attorney to review the complaint and determine whether it merits a meeting with the subject attorney. In less serious cases, a member of the panel may meet and discuss the process with the subject attorney. In more serious cases, the full panel may meet with the subject attorney to review the complaint and determine whether he or she may benefit from various training programs offered in the circuit.

In instances where the unprofessional conduct is so egregious that the LPP cannot appropriately dispose of the matter locally, the panel will send the matter back to the LPP chair for referral to the Attorney Consumer Assistance and Intake Program (ACAP).

Both the Administrative Order and Supreme Court’s mandate require that the Thirteenth Circuit’s committee submit an annual report on the status of professionalism and professional activities in the circuit. In a meeting on January 7, the committee’s executive chair, the Honorable Ashley B. Moody, requested that all members (who are representatives of the circuit’s voluntary bar associations and sections, committees, and divisions of the HCBA) report any professionalism activities that their respective organizations completed in the past year. There was an overwhelming response. Stay tuned.

Author: Katelyn Desrosiers - Thirteenth Judicial Circuit Court Staff Attorney

Save the Date: The next HCBA Law Day Membership Luncheon is May 13 at the Hilton Tampa Downtown.
Hillsborough County Bar Association 100 Club

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HCBA Membership Renewals

It’s almost that time of year again! The Bar year ends June 30, but we hope your membership will continue. Look for your renewal notice in the mail soon!

Rule 4-6.1 defines an attorney’s aspirational pro bono goal as 20 hours. Under SHARE, a designated number of attorneys for each firm will earn those 20 hours for themselves and the remainder of the firm. These hours can be accrued through: (1) a major case or matter involving a substantial expenditure of time and resources; (2) a full-time community or public service staff; or (3) any other manner that has been approved by the circuit pro bono committee in the circuit in which the firm practices.

Rule 4-6.5(d) plan suggestions include: (1) representation of clients through case referral; (2) a local program tentatively called SHARE (Sharing Hours And Reaping Equity). Over the next several months, expect to hear and see information about SHARE and how it can benefit your firm and your community. The authority for the SHARE program is found in Rule 4-6.5(c) of the Florida Rules of Professional Conduct and is expected to work as follows:

A law firm that chooses to participate will design a “plan.” This plan, called a “voluntary pro bono plan,” has as its goal “the improvement of the availability of legal services to the poor and the expansion of present pro bono legal services” Rule 4-6.5(a). This simple concept is limited only by the broad provisions of Rule 4-6.5(c), as applicable.

A plan, once created, gets submitted to the local Standing Committee on Pro Bono Legal Service [Rule 4-6.5(b)], where it will be reviewed for compliance. Once approved, the plan may be implemented and the pro bono hours earned may be distributed according to the schedule outlined in the plan. The distributed hours are then reported on The Florida Bar annual reporting form. Under the rule, the only requirement of the distribution is that it be done in a fair and reasonable manner as determined by the firm. It’s that simple.

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OPTION TWO — THE BEST-KEPT SECRET
Real Property, Probate & Trust Law Section

Continued from page 54

(2) interviewing of prospective clients;
(3) participation in pro se clinics and other clinics in which lawyers provide advice and counsel;
(4) acting as co-counsel on cases or matters with legal assistance providers and other pro bono lawyers;
(5) providing consultation services to legal assistance providers for case reviews and evaluations;
(6) participation in policy advocacy;
(7) providing training to the staff of legal assistance providers and other volunteer pro bono attorneys;
(8) making presentations to groups of poor people regarding their rights and obligations under the law;
(9) providing legal research;
(10) providing guardian ad litem services;
(11) providing assistance in the formation and operation of legal entities for groups of poor persons; and
(12) serving as a mediator or arbitrator at no fee to the client-eligible party.

However, this list is far from exhaustive. “Any legal services to charitable, religious, or educational organizations whose overall mission and activities are designed predominantly to address the needs of the poor, including the working poor, are also permitted.”

If you are drawn to pro bono work, this is a great tool to get your firm’s support. The plans are custom-made, allowing each firm to designate as many attorneys it determines appropriate and how those attorneys will spend their pro bono time. The entire firm will be involved in and benefit from the good work.

A fill-in-the-blank form for plan submissions is in the works, and we hope to get it to you soon. For now, get your creative juices flowing and let’s begin to SHARE. It’s a win/win for everyone.

Author: Lynn Hanshaw — Langford & Myers, P.A.

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Sect 20(a) of the Securities Exchange Act of 1934 states as follows:
(a) Joint and several liability;
good faith defense
Every person who, directly or indirectly, controls any person liable under any provision of this chapter or of any rule or regulation thereunder shall also be liable jointly and severally with and to the same extent as such controlled person to any person to whom such controlled person is liable ... unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation or cause of action.

15 U.S.C. § 78t(a). The scope of Section 20(a) is significant — any “control” person, such as an officer or director of a securities firm, can be held liable jointly and severally for the bad acts of a controlled person, e.g., an employee. It appears from the statute that the mere allegation of control person status would sufficiently state a claim for Section 20(a) liability and survive a motion to dismiss.

In In re Digital Island Securities Litigation, 223 F.Supp.2d 546 (D. Del. 2002), District Court Judge Gregory M. Sleet considered Section 20(a) and provided a detailed opinion about a plaintiff’s obligation to state a claim thereunder. Judge Sleet’s decision is regularly cited as one of the seminal decisions on control person liability under the Securities Exchange Act.

Judge Sleet held that in order to maintain a cause of action for control person liability, a plaintiff must establish: (1) an underlying violation by a controlled person or entity; (2) that the defendant is a “controlling person;” and (3) that the defendant was in some meaningful sense a culpable participant in the fraud. In re Digital Island, 223 F.Supp.2d at 560.

In considering the first element of plaintiff’s Section 20(a) claim, Judge Sleet held that the court should do so with the Private Securities Litigation Reform Act (“PSLRA”) in mind. The PSLRA raised Federal Rule of Civil Procedure 9(b)’s pleading requirements in securities fraud litigation by requiring that a complaint plead both falsity and scienter with particularity. In re Digital Island, 223 F.Supp.2d at 551.

As to the second element of a Section 20(a) claim, Judge Sleet noted that the plaintiff’s legal conclusions that the individual defendant qualifies as a “controlling person” under Section 20(a) may not be accepted as true absent factual support. Id. at 561. Thus, the heightened pleading standard of PSLRA requires that a claim for control person liability state with particularity the circumstances of both the defendant’s control of the primary violator, as well as of the defendant’s culpability as a controlling person. Id.

This third element of a Section 20(a) claim is the most significant of the three. This element establishes a critical principle — a control person cannot be held liable under Section 20(a) without proof of some personal fault.

A control person cannot be held liable under Section 20(a) without proof of some personal fault.

Save the Date: The next Trial & Litigation Section Luncheon is on May 7 at noon.
The Hon. Manuel Menendez Jr., chief judge of the Thirteenth Judicial Circuit, discussed the state of the courts during the HCBA Trial & Litigation Section Quarterly Luncheon on February 26. The chief judge reflected on how the courts have changed since he became a judge in 1983, and he addressed how they continue to evolve.

Under the theme of “Yesterday, Today and Tomorrow,” Judge Menendez began his talk with an assessment of the diversity of the bench when he first became a judge, compared to the current numbers of minority and female judges. He also shared stories of noteworthy trials he had been involved with during the past 30 years.

Focusing on the issues facing the courts today, the judge discussed current legislative priorities and the transition to e-filing and other electronic record keeping. He talked about the challenges the judges and the clerks of court face related to technology, and he stressed the importance of attorneys filing searchable documents as PDFs or Word documents, rather than scanning in documents as TIFFS.

Looking to the future, Judge Menendez mentioned the emergence of e-judges, those who handle everything electronically. He also discussed upcoming retirements, including his own. The chief judge also stressed the importance of maintaining professionalism and outlined the role that the new Local Professionalism Panel plays in addressing complaints.

The Trial & Litigation Section would like to thank Judge Menendez for his time. The HCBA also appreciates the support of the luncheon sponsor: GulfShore Bank.
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Regular and honorary members of the HCBA may file a notice of intent to become a candidate for president-elect or for the HCBA and YLD board of directors.

The deadline for submitting a notice of intent is April 10 at 5 p.m.

Please mail a notice of intent to the HCBA or email Executive Director John Kynes at jkynes@hillsbar.com.

For more information, please call (813) 221-7777
T. Bennett Acuff, an attorney at Hill Ward Henderson, was recently elected to the board of directors for Habitat for Humanity of Hillsborough County. The mission of Habitat for Humanity of Hillsborough County includes showing love to first-time homebuyers and families by giving them a hand-up, not a handout. Habitat homebuyers must donate 300 “sweat equity” hours to assist with closing costs and must qualify to make monthly mortgage payments. Acuff is an associate in the firm’s construction and litigation groups.

Chris Brown, a Tampa-based attorney for Trenam Kemker, has been appointed to the board of directors of Stageworks in Tampa. Brown joined Trenam Kemker in October 2013 and practices in the firm’s commercial litigation group.

Amelia M. Campbell has joined Hill Ward Henderson as a shareholder in the firm’s trusts and estates group. Campbell has practiced law for more than 25 years and focuses on estate planning, estate and trust administration, and business succession planning.

Adam B. Cordover has been elected president of Next Generation Divorce, formerly known as the Collaborative Divorce Institute of Tampa Bay. Next Generation Divorce consists of attorneys, mental health professionals, and financial professionals dedicated to the private and peaceful resolution of family disputes.

Peter Gampel has joined Cherry Bekaert LLP, one of the nation’s largest and most prominent public accounting and consulting firms, as a litigation support principal. Based in Cherry Bekaert’s South Florida office, Gampel will assume leadership of the firm’s commercial litigation practice and will provide consulting services in the areas of commercial litigation, fraud, and forensics, including business valuation and litigation matters.

Gregory Gidus has joined Burr & Forman LLP as an associate in its Tampa office. Gidus joins the firm’s torts, insurance, and product liability practice with a focus on insurance coverage.

Yolyvee (Yoly) Y. Gordon has joined Himes & Hearn P.A. as an associate, practicing exclusively in marital and family law.

Dominic Kouffman has been elevated from associate to partner at Holland & Knight. Kouffman, a member of the firm’s litigation section, practices in the areas of complex commercial litigation, including contractual disputes, business torts, fraud, and commercial credit litigation. He has also represented clients in professional negligence disputes, construction litigation, and trusts and estates litigation.

Nathaniel M. Lacktman has been elected partner at Foley & Lardner LLP. Lacktman is a member of the firm’s nationally acclaimed Health Care Industry Team and focuses his work advising health care clients on the range of regulatory and compliance issues facing the industry.

Harold “Hal” Mullis, president and founding member of Trenam Kemker, was recognized by the Greater Tampa Chamber of Commerce with the 2013 H.L. Culbreath Jr. Profile in Leadership Award at the chamber’s annual meeting at the Tampa Convention Center on December 19. Established in 1997 by Leadership Tampa alumni, this award is presented annually to an individual whose leadership has made a positive impact within the greater Tampa community. Mullis currently serves as the vice chair for the University of South Florida Board of Trustees. He was previously the chairman of the board for Tampa General Hospital and Berkeley Preparatory School and a member of the Greater Tampa Chamber of Commerce’s board of governors.

Bob Rasmussen, a founding shareholder and managing director of Glenn Rasmussen, P.A., has been elected chair of the board of trustees of Lowry Park Zoological Society of Tampa. He will also continue to chair the board’s Strategic Vision Committee. Rasmussen is a distinguished corporate and securities lawyer who represents public and private businesses in all stages of development and in a broad range of corporate and financial matters.

John S. Vento, a Tampa-based shareholder at Trenam Kemker, served as a contributing author in the recently published book “Inside the Minds; Litigation Strategies for Government Contracts.” Vento authored a chapter on recent changes in government contracts law and the impact of the revisions to contractors and subcontractors.

Continued on page 62
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Catherine M. Verona has been elevated to partner at Burr & Forman LLP’s Tampa office. Verona, a member of the firm’s product liability practice, counsels her clients on the defense of auto and premises liability claims, civil rights litigation, and personal injury protection.

Peter W. Zinober, labor and employment practice group co-chair at Greenberg Traurig LLP, was inducted into the Tampa/Hillsborough County Human Rights Council’s Hall of Fame during its 40th annual Human Rights Awards Celebration. The organization’s theme for its 2013 hallmark year was “Marching Forward: Advancing the Dream.” Zinober was recognized for his lifelong commitment to human rights advocacy, specifically in Tampa/Hillsborough as well as throughout the state and nation. He was recognized alongside seven other community members, all of whom were present at the August 1963 Civil Rights March in Washington, D.C. Zinober is a national labor and employment lawyer specializing in the defense of employment discrimination cases in state and federal court, as well as wage and hour, disability discrimination, age, and all other types of employment litigation.

Hill Ward Henderson is pleased to announce the election of five new shareholders: Rachel M. Feinman, Eric J. Hall, Melanie J. Hancock, David L. Luikart, III, and Erik P. Raines. This election brings the firm’s total number of shareholders to 64.

Both Feinman and Hall practice in the firm’s corporate and tax group. Hancock practices in the firm’s executive compensation and employee benefits group. Luikart is part of the firm’s litigation group, and Raines is in the firm’s construction and design group as well as the litigation group.

Trenam Kemker is pleased to announce the firm’s contribution of $31,445 to United Way. Attorneys and staff recently participated in a firmwide fundraising campaign and surpassed its goal of $25,000. The annual fundraiser is a part of the firm’s ongoing involvement with United Way.

Michael L. Forte of Rumberger, Kirk & Caldwell, P.A., was elected to the board of the Risk Insurance Management Society Tampa Bay Chapter.

Trenam Kemker was recognized by the Legal Marketing Association’s Southeastern Chapter (LMASE) with a 2013 Your Honor Award. The firm was recognized in the “small firm category” for the TK Nugget, a weekly e-newsletter featuring legal information from a variety of blogs and online sources. The newsletter, which was developed by Trenam Kemker’s Anne Zambrano, director of marketing, was chosen for the award by a panel of judges from the legal community.

For the month of: December 2013
Judge: Honorable Sam Pendino
Parties: Lindsay Laird vs. Jason Cede
Attorneys: For plaintiff: Frank Fernandez and Jennifer Fernandez; for defendant: Matt Easterwood and Brandon Scheele
Nature of case: Admitted liability auto accident with neck and back surgical recommendation
Verdict: Outright defense verdict (zero verdict)

For the month of: December 2013
Judge: Honorable Douglas Frazier
Parties: Dominic Dimolfetta vs. Circle K Stores Inc.
Attorneys: For plaintiff: Mark Smith; for defendant: Catherine Verona and Robert Stoler
Nature of case: Premises liability
Verdict: Defense

For the month of: November 2013
Judge: Honorable Robert Egan
Parties: Walin vs. City of Orlando
Attorneys: For plaintiff: Joseph Lopez, Brandon Scheele and William Gower; for defendant: Austin Moore and Dennis O’Connor
Nature of case: Slip and fall in handicapped parking square; leg injuries
Verdict: For plaintiff, $105,932

For more HCBA news, go to www.facebook.com/HCBAAtampabay.
To submit news for Around the Association, email Corrie Benfield at corrie@hillsbar.com.
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CRIMINAL LAW SECTION CLE

The HCBA’s Criminal Law Section hosted a CLE on January 14 featuring guest speaker Todd Foster of Todd Foster Law Group. Foster spoke about “Florida’s Adoption of the Daubert Standard and the Use and Defense of Expert Witness Testimony in State and Federal Cases.” Thanks to all who attended!
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You may be eligible for significant tax benefits, which we encourage you to discuss with your tax advisor.