Castillo de San Marcos National Monument, St. Augustine, Florida.

The Oldest City in the United States
One day a hurricane, fire or flood will destroy the home or business of a valued client and an insurance carrier will attempt to deny or limit the claim.

When YOUR client needs to fight back, turn to Gunn.

Gunn Law Group has the depth of resources and breadth of experience to hold insurance companies to their promises.
Cities throughout the state this year are celebrating the first exploration of Florida 500 years ago. Spanish explorer Juan Ponce de Leon claimed the area now known as St. Augustine for the Spanish crown in 1513, making it the oldest continuously occupied European-established settlement in the continental United States. Construction began on the Castillo de San Marcos, the oldest masonry fort in the continental United States, in 1672, more than 100 years after the city was founded as San Agustín. The city served as the capital of Spanish Florida for 200 years.

The Silver Springs postcard, shown right and on page 64, features one of the largest artesian spring formations in the world.

Postcards courtesy of Raymond T. (Tom) Elligett, Jr.
18 JUDGE DAN SLEET JOINS THE SECOND DISTRICT COURT OF APPEAL
Appellate Practice Section by Raymond T. (Tom) Elligett, Jr.

20 FINALIZING A COLLABORATIVE DIVORCE IN HILLSBOROUGH COUNTY
Collaborative Law Section by Adam B. Cordover

22 THE FIVE QUALITIES OF HIGHLY EFFECTIVE OUTSIDE COUNSEL
Corporate Counsel Section by Harold Oehler

24 UPCOMING DECISION ON CONSTITUTIONALITY OF WARRANTLESS SEARCHES
Criminal Law Section by Aliza Hochman Bloom

28 NURSING FACILITY MANDATORY COMPLIANCE PROGRAMS
Health Law Section by Nathaniel Lacktman

38 HEY, TRADEMARK LICENSE, PUT ON SOME CLOTHES!
Intellectual Property Section by Jim Matulis

40 SURVIVING SUMMARY JUDGMENT WITH CIRCUMSTANTIAL EVIDENCE
Labor & Employment Section by Scott T. Silverman

44 THE LAW OF SUPPORTIVE RELATIONSHIPS: ALIMONY FOR THE POOL BOY?
Marital & Family Law Section by Marian P. McCulloch and Zachary L. Bayne

50 THE WILLS FOR HEROES PROGRAM
Real Property Probate & Trust Section by Katie Everlove-Stone

52 HOW DOES THE BP OIL SPILL RELATE TO ME, MY FIRM, AND MY CLIENTS?
Solo/Small Firm Section by Anthony J. Garcia

54 NO FIFTH AMENDMENT PRIVILEGE FOR OFFSHORE RECORDS
Tax Law Section by Joseph A. Eustace

56 PROPOSALS FOR SETTLEMENT: NOT DEAD YET?
Trial & Litigation Section by Charles T. Moore

14 THE THIRTEENTH JUDICIAL CIRCUIT 2013 PRO BONO SERVICE AWARD WINNERS
Pro Bono Committee’s Message Thirteenth Judicial Circuit by Rosemary Armstrong

26 ADVANCING DIVERSITY THROUGH STUDENT EDUCATION
Diversity Committee by Caroline Johnson Levine

48 PRACTICING WITH ETHICS, CIVILITY AND PROFESSIONALISM SEMINAR
Professionalism & Ethics Committee by Kevin McLaughlin

IN EVERY ISSUE
9 SAVE THE DATE
27 HCBA 100 CLUB
41 HCBA BENEFIT PROVIDERS
60 AROUND THE ASSOCIATION
62 CLASSIFIED ADVERTISING
63 JURY TRIAL INFORMATION
63 ADVERTISING INDEX

THE HILLSBOROUGH COUNTY BAR ASSOCIATION
Lawyer
Chester H. Ferguson Law Center
1610 N. Tampa Street, Tampa, FL 33602
Telephone (813) 221-7777, FAX (813) 221-7778

[ISSN 1553-4409] THE HILLSBOROUGH COUNTY BAR ASSOCIATION Lawyer is published in September, November, December, February, March, May and June by the Hillsborough County Bar Association. Editorial, advertising, subscription, and circulation offices: 1610 N. Tampa Street, Tampa, FL 33602. Changes of address must reach the Lawyer office six weeks in advance of the next issue date. One copy of each Lawyer is sent free to members of the Hillsborough County Bar Association. Additional subscriptions to members or firm libraries are $50. Annual subscriptions to others, $100. Single copy price, $15.00. (All plus tax.) Write to HCBA, 1610 N. Tampa Street, Tampa, FL 33602. This Lawyer is published as part of the HCBA’s commitment to provide membership with information relating to issues and concerns of the legal community. Opinions and positions expressed in the articles are those of the authors and may not necessarily reflect those of the HCBA. Submissions of feature articles, reviews, and opinion pieces on topics of general interest to the readership of the Lawyer are encouraged and will be considered for publication.
Finding a Balance

While work-life balance is a hot topic in newsrooms and offices around the country, lawyers have helped drive the discussion for years.

For almost as long as I can remember, spring has been a busy time. In school, much of the season was spent preparing for exams and attending social and awards events to wrap up the academic year. After I started practicing law, I noticed that some of my longest days took place in the spring. Clients seem energized to offer more work, perhaps because the holidays are a distant memory and the summer trips have not yet begun. Volunteer opportunities (particularly ones involving students) seem abundant. And, for many of us, spring training and the beginning of baseball season are met with the challenge to attend as many games as possible.

In spite of the hectic schedules that each spring usher in, it can be a great time to be a lawyer. A heavier plate at the office is a blessing to those of us lucky enough to have the work, and the most daunting project or case still presents the opportunity to hone a skill or develop some expertise. Our profession is particularly devoted to promoting community involvement through volunteerism and networking, and that type of social activity can prove quite satisfying. But to the extent those activities ramp up with a busier work season, it is crucial to establish balance between work, community involvement, and personal life.

While work-life balance is a hot topic in newsrooms and offices around the country, perhaps more so recently in the wake of Yahoo!’s work-from-home arrangement policy changes, lawyers have helped drive the discussion for years. Client needs and nuanced laws rarely allow for a 40-hour work week, often at the expense of the “life” in work-life balance. And the process of finding that balance can be exhausting, and time-consuming, in itself. Still, the potential for positive mental and physical health effects, or more quality work product and personal time, seem to make the effort worthwhile. It is encouraging to know that even small steps, like making time to get in a good workout or catch up on sleep, or prioritizing a family event you really do not want to miss, can be beneficial.

I wish you all luck in finding work-life balance. You may get the hang of it in time to celebrate with a restful summer break!
The Ship Runners

Nautically speaking, from the beginning of September to the end of June of each year, the Hillsborough County Bar Association is like a luxury liner at sea. It is staffed by a stouthearted and steadfast crew. Once it leaves port, the 14-member staff and its independent steward collectively dedicate themselves to serving the ship’s manifest comprised of 3,800 association members and organizing the approximately 240 separate events and programs that are planned for its passengers during this extended voyage. Calmly and cordially, they traverse the various, unexpected tides and smoothly negotiate the reefs and swells that may be encountered during any given Bar year. Let’s meet them.

John Kynes, the executive director and captain, has been at the helm for almost two years. Even-keeled, organized, deferential, always on call and patient, John was made for this leadership role. Having worked for Congressman Jim Davis in our nation’s capitol and having spent time in Tallahassee, he has a keen understanding of the protocol and procedures as well as the interpersonal people skills needed to run an efficient and effective organization such as the HCBA. He is a gifted athlete and incredible golfer who can hit the ball a country, nay, nautical mile. As a result of the outstanding efforts he displayed during his first year as captain, Pedro Bajo presented John, as a co-recipient, with the 2012 James M. “Red” McEwen Memorial Award for his outstanding service to the bar association. He is a devoted husband and father of two who coaches his son’s basketball and Little League teams.

Laurie Rideout is the first mate and assistant executive director. At eleven years, she is now the longest serving current staff member of the HCBA. As one of...
Continued from page 4

her colleagues perfectly described, Laurie is one of the sweetest individuals you could ever meet. She manages the staff, handles payroll, insurance, and the bills associated with the operation of the vessel, oversees maintenance, is the first to address staff-related concerns when they may arise, and is in charge of the third-party cabin rentals. Like Starbuck in my favorite work of fiction, Moby Dick by Herman Melville, Laurie is prudent, calm, and reasonable, devoted to the ship’s mission as prescribed by the association’s bylaws and its historical intents and purposes. Probably because of her longevity, she has an uncanny ability to recall the state of affairs during her tenure, including past events, tribulations, outcomes, and decisions made.

Michele Revels is the second-longest serving staff member on board and second mate, having been with the association for almost 10 years. From White Plains, New York, she is Stubb to Laurie’s Starbuck — happy-go-lucky, jolly, and yet, at times, charmingly irreverent. As the program and events coordinator, her duties are monumental, from working the general membership luncheons to the Pig Roast and 5K Run to the Law Follies to the Installation of Officers and Directors and to the many other Bar activities too numerous to list here. Her seasonal labors are never concluded until the luxury ship finally docks at its home port of call in preparation for next year’s trip. Michele is also the liaison for the HCBA’s 30-plus section and committee chairs, assisting them in the coordination of their planned events and other functions. She attended high school in Barbados and attended business college in London, England. Her father once owned a fleet of taxis in New York City, but then moved his family to this Caribbean island where he owned a sugar cane plantation. In her occasional spare time, she loves going to flea markets and high-end garage sales.

Wendy Whitt has done a remarkable job during her first year as the public relations & communications coordinator. She holds an undergraduate degree in English education from the University of North Carolina at Chapel Hill and is a faithful Tar Heel. Wendy also went on to receive two separate master’s degrees in Literary Studies and in Journalism and Mass Communications. After having taught high school English, grammar, literature, and reading for six years, she entered the field of print media: first as a reporter at the Raleigh News & Observer; at the Sarasota Herald-Tribune, where she was the an editor and assistant bureau chief of news arising out of Manatee County; at the San Diego Union-Tribune as an editor; and then for ten years with The Tampa Tribune, holding various editorial and other journalistic positions. Her background explains why the Lawyer magazine has been so appreciated this year and, by all counts, is a superlative publication. When she has spare time, Wendy enjoys yoga and loves to read, primarily non-fiction. In many ways, she is the Ishmael of the staff in that she promotes and narrates the story of the HCBA to potential sponsors of the many events held each year.

Continued on page 6
Continued from page 5

Yolanda Lee is the third-longest tenured member of the Bar staff and is the third mate and purser of the ship. She is the accountant and data coordinator in charge of all incoming receipts and outstanding payables. Additionally, Yolanda supervises and maintains the membership database, which includes overseeing any concerns related to the accuracy of the information entered into the system. A native of Tampa, Yolanda describes herself as someone who is “determined.” In the HCBA’s newly published cookbook, there is a testimonial about her experience and history with Bay Area Legal Services, of which she is a current board member. She has written two books, one of which is titled Someone Almost Loved Me To Death, a narrative about the unfortunate series of episodes this lovely woman once endured. He Apologized, a dinner theater production adapted from her book, will be presented at the Bar building on Saturday, June 1, 2013, beginning at 7:00 p.m. Like her fellow crew, Yolanda is present at the many luncheons and events that are held in and outside of the Ferguson Law Center, greeting people with her bright smile and shining morning face.

Rita Zemetres is the receptionist who has been the welcoming voice of the HCBA for five years, answering and redirecting the calls that come into the building, booking the luncheon and event reservations for its members, and responding to the many daily inquiries that are received from callers outside of the association. She also works with Yolanda in the database entry of membership background information. From Drakut, Massachusetts, Rita is of Lithuanian dissent. Along with her colleagues, she cheerfully meets and greets the local judges and attorney passengers as they appear on deck to attend the numerous law-associated gatherings and affairs that are thrown throughout the year.

Amanda Uliano and Monique Lawson are cabin mates who coordinate and run the continuing legal education programs offered by the HCBA during the year. They work hand-in-hand with the 23 sets of co-chairs of the substantive law sections and the specially designated committees as well as with the powers that be at The Florida Bar to gain approval and credit for the CLE classes that are eventually offered. Their biggest project of the year is to plan the Bench Bar Conference, comprised of both the breakout and plenary sessions that occur during the entire afternoon following the November Membership Luncheon in which Tampa Bay area lawyers and judges get together to address and discuss the pressing legal issues of the day. It is a significant undertaking that this perfectly matched team of part-timers jointly performs with great success. Monique, who is an avid fan of both the Tampa Bay Lightning and Rays, may have traveled the farthest to board our vessel and join its crew, having come from Washington state. As she has said, “When you marry a Marine, you are taken to far-away places.” Amanda, who is a past performer in the Law Follies, has also practiced law for 10 years and is originally

Continued on page 7

HCBA Membership Renewal
Renew your HCBA membership today at www.hillsbar.com.
Share the benefits of membership with your friends.
Continued from page 6

from New York. She enjoys going on cruises and is a bit of a poker player.

**Arlene Lozano, Lupe Vazquez-Mitcham** and **Nelson Mariscal** make up the HCBA’s Lawyer Referral and Information Service team. Together they accept phone calls and inquiries from individuals, and, in some instances, corporate entities that are seeking legal representation and then refer and direct those prospective clients to attorneys or agencies registered with LRIS. Arlene is a full-time member of this specialty area who has been on staff for two years. As an escape from her duties monitoring and ensuring that the association is appropriately compensated under the contract it enters into with the referral attorney, Arlene, a Tampa native, loves to work out and has a serious and difficult exercise regime that builds strength and agility, which includes dance studies and pole dancing fitness classes. Lupe is one of the newest members of the crew, finishing up her first year with the organization. She loves to travel, dance, cook and create new recipes and, in that vein, she assisted in promoting and selling the recently published HCBA member cookbook. Nelson is an accomplished guitarist and musician who teaches his craft.

**Terri Schanken** has described herself as the “chief cook and bottle washer” of the deck crew, but her formal title is executive assistant. Since 2008, when she was hired, Terri has regularly marketed the Bar building for outside sales through the preparation of packets and letters, has assisted in the rental of the room suites, attends promotional events to network the availability of the Law Center for use, including weddings, private parties, and special affairs, and assists Michele in the preparation and coordination of our many events and meetings. She also prepares the initial draft of The Weekly that is circulated each Monday and mans the registration table for the four general membership luncheons. Prior to her current position, Terri worked at the Tampa campus of Stetson College of Law when it was first opened. She is from Baltimore.

**Derek Jardeleza** is in charge of the navigational information technology system that keeps the ship afloat and on course. In other words, he is the “go to” whiz who maintains the second-floor computers and its related technology, and keeps them running and up to date. Derek works with Terri on both The Weekly and on the email messages that are blasted to the membership to keep us advised and informed of the goings on in the association. Additionally, he is in charge of the HCBA website and works with John and Wendy on its content. A quiet gentleman, Derek nonetheless played the nattily-attired croupier at the craps table that was set up in conjunction with the recent Follies Gone Vegas show. Like Amanda, he knows the ropes and strategies and understands the ins and outs of the gaming industry as an avocation and hobby. He especially takes pleasure in playing rounds of golf when he finds the occasion. Derek lives on Harbour Island.

**Gatewood Bridges** is essentially a one-man show who maintains the appearance of the deck, the spotlessness of the individual cabins and suites, as well as the operation of the engine room and galley. He primarily works with Laurie, Michele, and Terri in the upkeep of the facility. Gatewood is originally from the Tampa Bay area whose family later resided in Houston, Texas, where he graduated from high school. His grandfather was a colonel who was once stationed at MacDill Air Force Base in the 1960s. At one time, Gatewood was in the construction trade and worked in Utah in preparation for the 2002 Winter Olympics. His project assignment was the bobsled run. As his colleagues have often said with admiration, he is committed to the well-being of his five children, whom he cherishes and to whom he is devoted.

**Rita Carlino** is the independently contracted steward in charge of commissary duties for the lounge and dining halls and in stocking the kitchen’s cargo. From Midtown Manhattan, she has spent 50 years in the restaurant business — 20 years catering the special events of the bar association. Rita also accommodates and caters the dinner meetings of several of the American Inns of Court in Hillsborough County. She holds a Fine Arts and Painting degree from the University of South Florida and lives in a 110-year old home on the Hillsborough River, spending her life reconstructing and refurbishing it. She is also a florist with a passionate love of gardening. Originally appointed by then-Tampa Mayor and future Florida Governor Bob Martinez, Rita provided the catering services at the old Tampa Convention Center, known as Curtis Hixon Hall, between 1975 and 1985.

In summary, you have now been formally introduced to the crew members and staff who run the Good Ship Chester. With them in charge, neither this splendidly lavish craft nor any of its travelers find themselves adrift. So next time you run into any of these shipmates, please pay them homage and thank them for the smooth sailing they provide during the course of our yearly journey.
It is important to remember how fortunate we are and to do what we can to help those in need.

As Hillsborough County lawyers, we have many pro bono opportunities available to us. A great place to start is Bay Area Legal Services ("BALS"). The organization’s website, www.bals.org, includes links for volunteer opportunities, which keep visitors apprised of some ongoing pro bono projects. BALS also offers the community regularly scheduled intake sessions. Volunteers have the chance to help low-income members of the community begin the process of addressing their consumer, family, domestic violence, or housing issues.

The Young Lawyers Division ("YLD") is also doing its part to provide opportunities for its members to participate in pro bono activities. Last year, the YLD began its initiative to help staff and maintain Family Forms Clinics. At these clinics, volunteers assist clients in filling out forms related to family law issues. Family law experience is not required; however, the program offers training sessions to prepare its volunteers. The YLD also hosts periodic training sessions for the program.

Another program the YLD assists with is the Wills for Heroes Program. Volunteer attorneys draft essential end-of-life legal documents for Hillsborough County first responders and their spouses. These documents include wills, health care advance directives, and durable powers of attorney. This program is aimed at protecting and creating a plan for first responders’ families should tragedy strike.

Finally, Crossroads for Florida Kids is an outstanding new program. It helps children through dependency and delinquency issues. Crossroads offers training sessions and CLE credits. But most importantly, Crossroads provides a voice for children during difficult times.

All of these programs are great opportunities to get involved in pro bono and give back to the community and the profession. In addition, Florida continues to promote its ONE Campaign, where attorneys are encouraged to help one client or take one pro bono case each year. To learn more and volunteer, visit www.onepromiseflorida.org.

Please consider joining one of these pro bono efforts. Your participation may help a family keep its home, a child find a home, or an elderly resident or victim of abuse gain access to justice. For additional information on getting involved, please contact Tammy Briant at tbriant@law.stetson.edu or Brad Barrios at brad.barrios@bajocuva.com.

Authors:
Tammy Briant, Stetson University
College of Law and Brad Barrios,
Bajo | Cuva | Cohen | Turkel, P.A.
Save the Date

Law Day Membership Luncheon
Tuesday, May 21, Noon
Hilton Hotel Tampa
(formerly downtown Hyatt Regency)
Speaker: Colonel Scott V. DeThomas
Commander, 6th Air Mobility Wing, MacDill Air Force Base

Learn more about HCBA events at www.hillsbar.com

Stay Connected

THE HCBA WELCOMES ITS NEW MEMBERS

FEBRUARY
Kali Campbell
Martin Engelman
Diana Esposito
Gregory Firestone
Duane Kaizer
Matthew Goodwin
Kristal Knox
Dallas LePierre
Louis Lira
Robert MacKinnon
Jeffrey Rich
Trina Sams
Traci Stevenson
Tami Trimming
Morgan Vasign
Alicia Whiting-Bozich

MARCH
Eula Bacon
Alrecia Gulley
Amber Hill
Loren Pincus
Richard Rivas
Laura Tanner

Colonel Scott V. DeThomas
Tampa attorney Jeanne Tate has made pro bono service and helping the poor a priority in her career.

As one of the top adoption lawyers in Florida, Tate was frustrated about the amount of time it takes children to find permanent homes.

Instead of accepting the status quo, however, she took action.

Tate approached then-Gov. Jeb Bush and state officials and offered an innovative solution to improve the situation.

She offered to donate her legal services and those of members of her firm to the state and its Tampa-based community provider, Hillsborough Kids Inc., to speed up adoptions and to expand the pool of prospective adoptive families.

Tate, the managing partner with the Law Office of Jeanne T. Tate, P.A., also has offered to handle every adoption-related case from Bay Area Legal Services, donating many hundreds of hours of pro bono service.

Further, she created a nonprofit called Heart of Adoptions Alliance, Inc., that raises money to give grants to prospective adoptive parents.

For her extraordinary service, Tate was awarded the 2013 Tobias Simon Award Pro Bono Service, the state’s highest pro bono award, by Florida Supreme Court Justice Ricky Polston at a special Supreme Court ceremony in Tallahassee.

The award commemorates Tobias Simon, the late civil rights attorney from Miami.

“I grew up in Fort Lauderdale, Florida. I was the oldest of four children and no one in my family ever went to college. It was basically hard
work, nose to the grindstone. We got things done,” Tate told the justices and an overflow crowd at the ceremony on January 31.

Tate said her experiences growing up in South Florida and the stark contrasts she saw between the “haves and have-nots” helped make her the person she is today.

“It has caused me to live by a simple and succinct adage of Winston Churchill: ‘We make a living by what we get. But we make a life by what we give,’” Tate said. “And giving has always been part of my life, particularly in the area of abused, neglected, and abandoned children.”

Lawyer Rosemary Armstrong of Tampa nominated Tate for the Simon award.

Notably, Armstrong in 2012 received the Simon award herself for her strong commitment to pro bono service.

“The impact of Jeanne Tate’s thousands of hours of pro bono service to poor children is immeasurable,” Armstrong said. “But what is certain is that many hundreds of children would not be in permanent placements today without her assistance.”

Besides the Simon award to Tate, awards were given for each of Florida’s 20 judicial circuits.

But most of the service awards went to Hillsborough County, a point not lost on former HCBA president and current Florida Bar President Gwynne Young of Tampa.

“As president of The Florida Bar, it makes me feel particularly proud to see so many people from the Thirteenth Circuit who are here for the good work that I know they do and have done over the years,” Young told those in attendance.

Thirteenth Judicial Circuit Judge Claudia Rickert Isom received the 2013 Distinguished Judicial Service Award for her work as a co-chair of the HCBA’s 5K Pro Bono River Run.

Isom has chaired or co-chaired the event for three years, and has devoted hundreds of hours to ensure the success of the race, which benefits Bay Area Legal Services.

“It’s a great day for Hillsborough County,” Isom said as she recognized many of her family and friends who had traveled to Tallahassee for the ceremony.

In addition, the Tampa law firm of Clark & Washington, P.C., represented by managing attorney Glenn E. Gallagher, received the 2013 Law Firm Commendation.

The firm, which focuses on bankruptcy cases, has taken on a large pro bono caseload by accepting numerous referrals from the Tampa Bay Hispanic Bar Association and Bay Area Legal Services.

And attorneys at the firm donated hundreds of hours to pro bono service.

Lastly, the Tampa Bay Hispanic Bar Association was honored with the Voluntary Bar Association Pro Bono Service Award.

Founding member Luis A. “Tony” Cabassa was on hand to receive the award from Chief Justice Polston on the organization’s behalf.

Cabassa talked about the history of the group and its programs to serve the Hispanic community.

These programs include staffing a Spanish Family Forms Clinic, providing translation services and offering scholarships to students.

U.S. Bankruptcy Judge Catherine Peek McEwen, who serves as chair of the Thirteenth Judicial Circuit Pro Bono Committee, watched the ceremony online.

McEwen believes the Supreme Court awards are a testament to the work of her predecessors, including Circuit Judges James M. Barton II and Ashley B. Moody, whom she says helped create an environment where pro bono service is encouraged.

Looking ahead, McEwen says: “This year’s committee members are energized to continue that legacy and increase pro bono volunteerism, especially given funding cuts to traditional legal service providers.”

See you around the Chet.

Read about the winners of the Thirteenth Judicial Circuit Pro Bono Awards on page 14.
The Life of Law is the Life of Study

The law is forever evolving, and practicing law means meeting new challenges and learning new aspects.

As state attorney, I frequently have the opportunity to meet with young men and women who are considering pursuing a career in the field of law. At the beginning of my law school career at South Texas College of Law, Judge Spurgeon E. Bell, retired chief justice of the First Court of Appeals in Texas, inspired me with these words: “The life of law is the life of study.” The law is forever evolving, and practicing law means meeting new challenges and learning new aspects whether we have been practicing for one year or 30 years. As attorneys, we all have a responsibility to rise to those challenges and to help teach the next generation of lawyers how to practice in a knowledgeable and ethical manner.

In furtherance of this goal, my office participates in the Florida Bar’s Law School Practice Program. This program is governed by Chapter 11 of the Rules of the Florida Bar. Under this program, students participating in a law school clinical program are able to get hands-on experience handling cases before graduation. This allows the student to learn how a classroom education relates to the day-to-day practice of law and to determine whether a particular area of law is of interest. In order to participate, the student must have a letter of clearance regarding his or her character and fitness from The Florida Bar, as well as satisfy other requirements.

Florida Bar Rule 11-1.2 allows students to appear on behalf of the state in criminal proceedings under the supervision of an assistant state attorney. These certified legal interns are normally placed in our misdemeanor and juvenile divisions, where they are able to learn the daily duties of an entry-level prosecutor. These future lawyers prepare discovery and research and argue motions. They also have the opportunity to prosecute non-jury trials and jury trials. In addition to the nuts and bolts of prosecution, we instill in our interns the broader goals and duties of being a prosecutor. “His duty is not to obtain convictions but to seek justice, and he must exercise that responsibility with the circumspection and dignity the occasion calls for. His case must rest on evidence, not innuendo. If his case is a sound one, his evidence is enough. [If] it is not sound, he should not resort to innuendo to give it a false appearance of strength. Cases brought on behalf of the State of Florida should be conducted with a dignity worthy of the client.”

As a prosecutor and a member of The Florida Bar, I have an obligation to maintain a high standard of practice and to create a strong foundation for those starting their legal careers with my office. I feel fortunate to have this opportunity to give back what I have been given.

1 The preeminent law school in the United States, often referred to as “EJU” or the Harvard of the Southwest.
2 Florida Bar Rules Governing the Law School Practice Program, Rule 11-1.3.
Photography
Head Shots, Advertising, Marketing.

We bring our studio to you!

HCBA Members receive a 10% discount on all services!

Call Today
813.994.2000

THOMPSON Studios
1710 Newberger Rd. | Lutz | Florida 33549
Visit ThompsonStudiosTampa.com
On April 25, 2013, two law firms, an organization, and three lawyers were honored at the Sixth Annual Circuit Pro Bono Service Awards Ceremony. Award nominations were submitted to the Thirteenth Judicial Circuit Pro Bono Committee. More than 100 lawyers were also recognized for their pro bono service contributions of 20 or more hours in 2012. The awards ceremony and reception were hosted by the Committee, the Bay Area Legal Services Volunteer Lawyers Program (“BAVLP”), and the HCBA.

Hillsborough County Bar Association’s Jimmy Kynes Pro Bono Service Award
Patrick W. Skelton, a partner at Holland & Knight’s Tampa office, practices in the areas of creditors rights and real estate related litigation. He is a graduate of the University of Wisconsin and the University of Florida Levin College of Law.

In 1975, Skelton started his legal career as a Bay Area Legal Services (“BALS”) staff attorney. In 1980, he began private practice with two fellow BALS attorneys. With no paying clientele to rely upon for business, they started with a fair number of their clients pro bono.

In 1993, Skelton joined Holland & Knight as a partner. The firm’s commitment to pro bono was an important attraction to him. It had formed a Community Services Team headed by Steve Hanlon, a fellow BALS attorney in the late 70s, and had an organized pro bono component in each office. He remembers saying at the time that he had come full circle. He started his legal career rendering legal services to the poor and could end it doing pro bono legal services at Holland & Knight. Since that time, Skelton has averaged more than 100 hours of pro bono service each year, with some years well in excess of 200 hours.

Twelve years ago, Skelton was appointed pro bono partner of the Tampa office. In addition to handling pro bono cases himself, he oversees its pro bono program, including recruiting and

Continued on page 15
He had come full circle...started his legal career rendering legal services to the poor and could end it doing pro bono legal services at Holland & Knight.

Continued from page 14

mentoring attorneys. The firm’s goal that each attorney contributes 50 hours a year of service is often met in Tampa, with a focus on assistance related to health, education, housing, and matters associated with children and the military.

Skelton is proud that as pro bono partner he cannot recall ever turning away a case referred by any social service agency, the State Department in Hague Convention cases, the National Center for Refugee Children, the American Bar Association, state and federal judges, and other organizations with matters involving indigent persons. That, he says, is a tribute to the fine group of attorneys he works with and their willingness to take on cases when he comes calling.

Outstanding Pro Bono Service by a Law Firm

Hill Ward Henderson (“HWH”) was founded in Tampa in 1986. It has grown to 96 attorneys and has continued to support a culture of pro bono service.

The firm’s attorneys provide a wide range of services in complex commercial litigation and transactional matters. In 2012, 100 percent of them participated in pro bono legal services totaling 12,701 hours through Bay Area Legal Services and other community organizations that serve the poor. For HWH, “giving back” starts with its leadership. Benjamin H. Hill, III, one of the firm’s founders, believes that “(p)racticing law is a privilege, not a right. As such, we as lawyers have an obligation to give back to our community.”

Shook Hardy Bacon (“SHB”) opened its Tampa office in 2000. It provides a range of legal services including expertise in products liability, business litigation, and corporate transactions.

Continued on page 16
The firm’s pro bono focus is helping underprivileged, at-risk youth in Hillsborough County through partnerships with Bay Area Legal Services, the Guardian ad Litem Program, and Crossroads For Florida Kids. In addition to its 13 attorneys, the firm’s paralegals, legal assistants, and receptionist also engage in pro bono efforts, including serving as guardians ad litem. The attorneys alone contributed more than 550 pro bono hours in 2012.

**Outstanding Pro Bono Service by a Young Lawyer**

Megan J. Ellis is senior counsel with Foley & Lardner LLP and represents developers, financial institutions, and businesses in the areas of commercial and residential real estate development, and commercial lending and leasing.

Ellis has volunteered at the BAVLP Family Forms Clinic (“FFC”) for four years. She helped BAVLP launch the Young Lawyers Division Family Forms Clinic (“YLD FFC”), extending the daytime hours of the FFC to evening hours to accommodate the working poor. Ellis recruited and trained 35 volunteers and runs the clinic one evening each month. The YLD FFC has served 53 clients.

As a member of the BAVLP Case Referral Panel, Ellis currently represents three clients in cases involving a variety of legal issues, and provides pro bono legal services to other nonprofit organizations. In 2012, Ellis donated more than 200 hours of pro bono legal services volunteering at the FFC and the YLD FFC, and for nonprofits serving the poor.

**Outstanding Pro Bono Service by a Lawyer**

Jo Ann Palchak practices at Zuckerman Spaeder LLP in cases involving white collar criminal defense and complex civil litigation in state and federal courts, and defense of criminal misdemeanor and felony charges, juvenile charges, as well as post-conviction appellate work.

During 2012, Palchak contributed about 1,000 pro bono hours representing clients in both federal and state courts. She worked as part of a team in conjunction with the Migrant Farmworker Justice Project, and through the Innocence Project on a post-conviction matter for a client convicted of murder 20 years ago. Palchak is also regularly appointed as an attorney ad litem for children in foster care, some of whom are involved in delinquency proceedings. In 2012, she represented four children, all in different counties. She spends at least five hours a week speaking with them about their school work and legal proceedings, and visits them when she can.

**Outstanding Pro Bono Service by an Organization**

St. Michael’s Legal Center for Women and Children, Inc. (“SMLC”) was founded in 2007 by attorney J. Michael Shea to meet the needs for representation of persons with family law issues such as child support and visitation. The first clients could not afford to hire an attorney and were unable to obtain assistance from a legal services organization, either because their income was slightly above guidelines or because of legal services funding cuts. Currently, SMLC volunteer attorneys represent clients in matters including divorce, shared parental responsibility, visitation, child support, adoptions, foreclosure defense, and bankruptcy, and in post-judgment matters. SMLC does not discriminate based on religion, race, color, sex, or national origin, and serves clients in Hillsborough, Pinellas, Pasco, Hernando, and Citrus counties.

In 2012, six SMLC volunteer attorneys contributed 2,440 hours of pro bono service working on more than 106 cases in Hillsborough County. An additional 2,000 hours were contributed by law clerks and paralegals in these cases.

**Special Recognition Award**

Craig Evan Rothburd has contributed an average of 125 pro bono hours annually for several years, most recently by handling foreclosure defense cases. Rothburd’s advocacy earned him a Homeless Hero Award from the Homeless Coalition of Hillsborough County. Rothburd also provides pro bono representation in consumer and debt relief cases.

In 2012, Rothburd proved to be a champion for legal services providers throughout Florida, including Bay Area Legal Services, at a time when funding had been severely cut. Collaborating with other lawyers, he was instrumental in obtaining two cy pres awards totaling $550,000 for BALS in its time of great need, thus allowing the organization to assist more poor people in our community.

Author: Rosemary Armstrong, Executive Director, Crossroads for Florida Kids, Inc.
Continued from page 16

100 + Pro Bono Hours -
Gold Letter Recipients

1. Armstrong, Rosemary
2. Bachman, Michael
3. Bittick, E. Kelly
4. Blain, Russ
5. Burton, Christopher
6. Chidnese, Patrick
7. Cochran, Robert
8. Conti, Louis
9. Curran, Francis
10. Ellis, Megan J.
11. Estes, Jillian
12. Harris, Amy
13. Hapner, Elizabeth
14. Hooi, Michael
15. Horvat, Scott
16. Hoyer, Jesse
17. Keane, Cristin
18. Kibert, Nicole
19. Kimbro, Brad
20. Kirkwood, Allison J.
21. Lang Jr., Joseph H.
22. Lisko, David
23. Meehan, Patrick
24. Page, Edward J.
25. Palchak, Jo Ann
26. Rankin, Mark
27. Rothburd, Craig
28. Salario Jr., Sam J.
29. Shea, Michael J.
30. Sikorske, Caroline Black
31. Smith, Richard A.
32. Stamatakis, Scott
33. Stichter, Don
34. Tate, Jeanne T.
35. Ulloa, Paul
36. Varner III., Joseph H.
37. Vavra, Brian B.
38. Walbot, Sylvia
39. Yanes, Katherine

Lapel Pin Recipients

Donation of 20 – 49

Pro Bono Hours

1. Aebel, Erin
2. Alaee, Adam
3. Allman, Alison
4. Alpert, Sara
5. Ambrose, Jacqueline R.
6. Andersen, Carter
7. Banks, Erin E.
8. Bartlett, Jay
9. Barton Jr., Bernard
10. Bean, Judd
11. Blunt, Dana R.
12. Bristow, April
13. Calabrese, Susanne
14. Calhoun, Patricia S.
15. Carlson, Gayle
16. Catoe, Lauren E.
17. Creely, Curt
18. Cuchel, Ardyn
19. Curran, Tom
20. Dees, Justin
21. Dolence, Bill
22. Dufoe, William
23. Eckhard, Rick
24. Ellis, Megan
25. Everlove-Stone, Katie
26. Faggianelli, Nancy J.
27. Faulkner, Brandon
28. Felman, Jim
29. Fendrick, William
30. Fernandes, Ieda
31. Ferrante, Jr., Thomas B.
32. Gallagher, Glenn
33. Gamba, Blaise N.
34. Gilbert, Leonard
35. Gilleland, Lisa
36. Griffin, Christopher
37. Hinds, Carol
38. Hodz, Vivian
39. Housepian, Steven
40. Howard, George
41. James, Ronnie
42. Jameson, Yolanda F.
43. Kacarab, Chris
44. Kantaskas, J. Derek
45. Kay, Sarah
46. Kelly, Peter
47. Koren, Ed
48. Koster, Traci
49. Lackman, Nathaniel
50. Lahlou-Amine, Sarah
51. Lamoureux, John J.
52. Lawler, Paul
53. Lennox, Andrew
54. Lennox, Casey
55. Lincoln, Stefanie D.
56. Little, Tommy
57. Liu, Jason
58. Lockett, Laurel E.
59. Madison, Kimberly
60. Maguire, Michael
61. Matthews, Michael
62. McCoy, Kevin P.
63. Mullin, Peyton
64. Palermo, Anthony
65. Parker, Terri
66. Parramore, Tyler
67. Pence, Scott P.
68. Pettigrew, Brett
69. Porter, James
70. Rahall, Brett
71. Rao, Tara
72. Richards, Darryl
73. Riedel, Harley
74. Roach, Christopher
75. Sacco, Christopher M.
76. Sansone, Amanda A.
77. Schmidt, Donald R.
78. Schultz-Kin, Leslie
79. Sharp, Susan
80. Shwayri, Rebecca N.
81. Silva, Albert
82. Singer, Allison
83. Smietanski, Debra
84. Stamatakis, Scott
85. Stichter, Scott
86. Tager, Robert
87. Thomas, Natalie
88. Tinkle, Kenneth A.
89. Todd, Carly
90. Twine-Thomas, Barbara
91. Welch, Gary
92. Weber, Janelle
93. Weed, Dirk
94. Wierenga, Ryan W.
95. Wiley, James
96. Wise, Mamie
97. Witzmeyer, Sara G.
98. Wolf, Randolph
99. Wolfson, Mark
100. Young, Gwynne
101. Zuppa, Michael A.

Donation of 50 – 99

Pro Bono Hours

1. Almon, Eric
2. Allen, II., H. Ray
3. Baggett, Lori Y.
4. Bandow, Amy
5. Borucke, David
6. Choudas, Marina
7. Cochran, Robert
8. Cole, Tiernan
9. Dabol, Bonnie
10. Dixon, Penelope A.
11. Doliner, Nathaniel L.
12. Driskell, Fentrice D.
13. Garcia, Joanna
14. Gentile, Emanuela
15. Heckert, Katherine L.
16. Jattansingh, Vashti
17. Kamm, Cathy
18. Keeling, Jody
19. Knight, David
20. Lang, Robert
21. Leahu, Stephen
22. Lester, Jr., Edgel C.
23. Little, Walter “Chet”
24. Lyons, Ellen
25. McDermott, Paul
26. McLeroy, Kathleen S.
27. Meyer, George J.
28. Munro, Thomas
29. Napper, Kevin J.
30. Noisette, Desiree
31. Pinder, Jennifer Hayes
32. Rierson, Audrey K.
33. Rodriguez, Anthony
34. Rothburd, Craig
35. Ryan, Priscilla
36. Schlosser, Richard
37. Schwenke, Roger D.
38. Sembler, Lauren
39. Shivers, Olin
40. Shuler, Kevin
41. Skelton, Patrick
42. Smart, Christopher
43. Solomon, Marty J.
44. Taylor, Christina
45. Warram, Rob
46. W. Cary Wright
JUDGE DAN SLEET JOINS THE SECOND DISTRICT COURT OF APPEAL
Appellate Practice Section
Chairs: Kristin A. Norse - Kynes, Markman & Felman, P.A.; and Ezequiel Lugo - Butler Pappas Weihmuller Katz Craig LLP

Born and raised in Charlotte, as the youngest of seven children, Dan Sleet knew he would need to find a way to fund his higher education. Furman University recruited him with a full football scholarship to play defense, but when another player was injured, the coach converted the future judge to offensive guard. Sleet was recognized as an A.P. All American, and twice named to the All Southern Conference First Team.

After earning his B.A. degree in history, Sleet attended Cumberland School of Law, where he made the Dean’s List, was a member of the ATLA Mock Trial National Championship Team, and a director of Trial Advocacy. Under a special program in Alabama, he also worked for two years as a magistrate for the city of Birmingham, to help pay his way.

The magistrate position helped prepare him for his first job after law school. From 1987 to 1991, Sleet served as an assistant state attorney in Hillsborough County, during which time he tried more than fifty jury trials, and more than 500 non-jury trials.

From prosecuting, Sleet joined what was then a four-person firm of Barr, Murman, Tonelli, Slother & Sleet. The firm had grown to 24 lawyers when he applied and was appointed to the circuit bench in Hillsborough County in 2006 by then-Gov. Jeb Bush.

While on the circuit bench, Sleet presided over 9,000 felony cases and more than 135 jury trials. In late 2011, he moved to the family law bench, until being appointed to the Second District late in 2012, as Gov. Rick Scott’s first appellate appointment in this district.

While on the circuit bench, Sleet read the parties’ motions in advance and typically ruled at the hearing, rarely taking matters under advisement. On the appellate court, he says he is learning something new every day, and is always cognizant that at least two out of three judges must agree before they can issue an opinion.

Sleet has taught trial advocacy as an adjunct professor at Stetson University College of Law, where he has also served on the Trial Advocacy Board. He has been active in local public schools, including as a Justice Teaching volunteer. He is a master in the Herbert G. Goldburg Criminal Law American Inn of Court.

Continued on page 19

MEDIATION
RICHARD A. TANNER, ESQ.
Certified Mediator
No Travel Fees In
Tallahassee, Orlando, Tampa
850-201-3655/ 407-422-2454
rt7@dbksmn.com
BIO: www.dbksmn.com
FL Sup Ct Cir.Civil Certified
JUDGE DAN SLEET JOINS THE SECOND DISTRICT COURT OF APPEAL
Appellate Practice Section

Continued from page 18

Sleet and his wife, Helen, also a lawyer, have two daughters. For non-legal activities, he enjoys traveling. He has visited Greece 10 times, and describes Santorini, Greece, as among the most beautiful spots he has seen. As the accompanying photos show, he is an avid traveler.

From our discussion for this article, it is apparent that Sleet approaches his new position with energy and dedication (when we spoke, he had already analyzed a United States Supreme Court opinion issued the preceding day, down to the issues it had addressed and had left unresolved). We are fortunate to have him continue his service to the citizens of Florida in his new role as a judge on the Second District.

Author: Raymond T. (Tom) Elligett, Jr., Buell & Elligett P.A.
Collaborative divorce is often described as a “no court divorce,” and for good reason. Personal issues such as custody or alimony are decided by the clients in private offices of attorneys or other professionals. This is in contrast to traditional divorce litigation, where these decisions are adjudicated by judges in a public courtroom.

Based on Florida law, however, there are formalities that must be done through the court. Additionally, the Thirteenth Circuit prescribes procedures.

I recently completed a collaborative case and thought it would be helpful to discuss finalizing a collaborative divorce in the Thirteenth Circuit.

In my case, the clients had already gone through the collaborative process utilizing a neutral collaborative facilitator and neutral financial professional, exchanged sworn financial affidavits, and executed a marital settlement agreement (“MSA”) prior to filing. The clients also signed a Joint Petition for Dissolution of Marriage Utilizing the Collaborative Process.

We filed the petition, participation agreement, and redacted financial affidavits. To maintain our clients’ privacy, we did not file the MSA, nor did we file the unredacted affidavits.

Upon filing the participation agreement, the clerk automatically provided us with an Order Setting First Collaborative Status Conference. The status conference is generally scheduled about six months from the date of filing. This order usually comes more into play when the collaborative process begins after a case has already been filed, or when — by consent of both clients — there is a temporary agreement they want ratified by a judge.

Because the clients in my case had already come to a full agreement, we scheduled a final hearing before the status conference. The hearing was set for the court’s regular Uncontested Hearing Docket.

Continued on page 21
FINALIZING A
COLLABORATIVE DIVORCE
IN HILLSBOROUGH COUNTY

Continued from page 20

Though not required, both clients and both attorneys appeared for the final hearing.

At the hearing, the other attorney on the case began “proving up” the divorce by having her client testify that the statutory requirements (such as six-month residency) were met.

We then notified the judge that the clients had exchanged unredacted financial affidavits, and we requested that the parties not be required to place them in the court file. The judge granted the request.

Next, we provided a copy of the MSA to the judge for inspection. We requested that the judge sign a judgment that incorporated the MSA by reference rather than place it in the court file. The judge granted our request, returned the MSA, and signed a final judgment.

All cases are different, and one should keep in mind that judges do have discretion regarding agreements. They have the power to reject MSAs that violate public policy or parenting plans that are not in a child’s best interests.

The judge asked both clients their thoughts on the collaborative process. They both expressed that it was surprisingly quick, relatively (though not completely) painless, and that they would recommend it to others.

1 Hillsborough County Administrative Order S-2012-041, “Collaborative Family Law Practice.”

Leadership Institute Spruces Up Tampa’s Alpha House

On Saturday, March 2, 2013, the Hillsborough County Bar Association’s Leadership Institute members – 21 lawyers selected by the HCBA as up-and-coming leaders – and their families beautified the landscaping at Tampa’s Alpha House, a shelter for homeless pregnant women. They spent the morning digging up weeds and roots, planting 177 grasses and bushes, fertilizing, and mulching five flower beds at the Bonnie Center, which is one of several buildings in Alpha House’s “Alpha Village.” The Leadership Institute members also donated more than $400 of their own money to purchase supplies such as cypress mulch, potting soil, and weed barrier to make it a low-maintenance landscape.

“We’re so grateful to the Leadership Institute for their help with this project and their support of our mission,” said Patricia Langford, the Alpha House executive director.

This was a community effort, as many others contributed to making this event a success. Among them, Minnows and Monsters Tackle with Teeth, a Tampa tackle shop, donated a dump truck for the Leadership Institute to use. And special thanks to Leadership Institute members Stephanie Martin, Ana-Klara Anderson, and Sarah Kay along with their respective law firms Adams and Reese LLP; Thomas & LoCicero PL; and Mason Black and Caballero P.A., for their generous donation of time and talent to plan and organize this project.

Author:
Adam B.
Cordover,
The Law Firm of Adam B.
Cordover, P.A.
THE FIVE QUALITIES OF HIGHLY EFFECTIVE OUTSIDE COUNSEL
Corporate Counsel Section
Chairs: Eric Almon – Holland & Knight, LLP; and Patricia Huie – Intelident Solutions, Inc.

At noon on May 16, 2013, the Corporate Counsel Section will host a panel discussion on the qualities that in-house counsel value most in outside counsel. Topics include effective marketing strategies for outside counsel, expectations of corporate counsel, best billing practices, the hiring process, common missteps by outside counsel, and keys to building a long-term relationship. Call 221-7777 to RSVP for this event. This article is a preview of one of the topics to be discussed by the panel.

Competition for corporate clients is tougher than ever. Lawyers who demonstrate certain qualities quickly stand out from the competition and earn the long-term loyalty of their clients. I have been fortunate to work with outstanding attorneys in many legal specialties. These lawyers share several qualities that make them indispensable to our business.

Competency: I am looking for counsel that is a subject matter expert in the relevant field. As critical, however, is the expertise and experience of the second (and sometimes third) lawyers on the assignment. They will greatly influence the quality of the final product.

Character: Corporate counsel are cognizant that they will be judged based on the actions of their chosen representative. An attorney who conducts himself with class and professionalism, even in a heated lawsuit, will cast his client in the most positive light, decrease the cost of the representation, and maximize opportunities for resolution.

Capacity: Counsel must have the capability to adequately staff the matter without over-staffing. For instance, tag teaming depositions or hearings is unacceptable unless the client agrees in advance that this is warranted.

Communication: In-house counsel have only one client, so it is very important to avoid surprises because surprises are not perceived well within the in-house counsel’s

Continued on page 23
chain of command. You cannot communicate too often with your client about upcoming developments, costs, and legal risks.

The best counsel are the best listeners. They are keenly tuned to both the client’s evolving objectives but also to information provided by the client. A veteran lawyer once told me, “Listen to your client. They are trying to tell you how to win.” The client lives with the matter 24/7 and has insight outside counsel cannot anticipate.

**Cost Efficiency:** In-house counsel face increasing pressure to accomplish objectives within shrinking legal budgets. A resourceful attorney who is creative in finding the most efficient way to accomplish the client’s goals is invaluable. The fastest way to ingratiate yourself with corporate counsel is to bring a matter home for less than anticipated.

Before embarking on any significant task within the representation, the potential value of that task must be weighed against the cost, and this should be discussed in advance with in-house counsel. This will prevent “sticker shock” and an unhappy client at the end of the billing cycle.

Exemplifying these qualities will distinguish outside counsel and foster long-term relationships with their clients.

**Author:**
Harold Oehler,
General Counsel,
LazyDays

---

**The Centers**

Because a structured settlement may not be everything your client needs.

www.centersweb.com

(877) 766-5331

**Settlement Optimization™**

Lien Resolution
MSA Allocation
MSA Administration
Life Care Planning
Special Needs Trust Administration
Fiduciary Support Services
Public Benefits Compliance
Structured Settlements
Investigative Services

---

What If The Fireman Showed Up With Only A Cup Of Water?
In January, the Supreme Court heard argument in Missouri v. McNeely to determine whether a motorist arrested for driving under the influence can be compelled to give a blood sample without a warrant. The court will reconsider Schmerber v. California, 384 U.S. 757 (1966), and whether the Fourth Amendment permits taking a warrantless blood sample under the exigent circumstances exception.

On October 3, 2010, a Missouri police officer observed Tyler McNeely driving above the speed limit. State v. McNeely, 358 S.W.3d 65, 67 (Mo. 2012). Upon stopping him, the officer observed that McNeely’s eyes were red and glassy, and his breath smelled like alcohol. McNeely performed poorly on field sobriety tests and refused to submit to a Breathalyzer test. The officer arrested McNeely, transported him to a hospital, and obtained a blood sample despite McNeely’s refusal. The test revealed McNeely’s blood-alcohol level greatly exceeded the legal limit.

McNeely moved to suppress the evidence of the blood sample because it was obtained without a warrant. The trial court granted McNeely’s motion, but the state appealed, arguing that the risk of McNeely’s blood-alcohol evidence diminishing with time represented an exigent circumstance requiring the blood draw. The Missouri Court of Appeals transferred the case to the Missouri Supreme Court, which affirmed the trial court’s decision suppressing the test. McNeely, 2011 WL 2455571, *7 (Mo. 4th DCA 2011); McNeely, 358 S.W.3d at 75.

Florida law holds that where an officer has probable cause to believe an individual is driving

Continued on page 25
while intoxicated, the rapid diminution of blood-alcohol content creates an exigent circumstance exception to the Fourth Amendment’s warrant requirement. *State v. Geiss,* 70 So. 3d 642, 645-46 (5th DCA 2011). The Fifth DCA recently reiterated that Florida’s constitutional right against unreasonable searches conforms to the Fourth Amendment as interpreted by the U.S. Supreme Court. *Geiss,* 70 So. 2d at 645. Interpreting existing Supreme Court precedent, the 5th DCA concluded that because police had probable cause to believe Geiss was driving while intoxicated, his involuntary blood test was constitutional. *Id.* at 646.

Observers note that the Supreme Court is unlikely to find that the diminution of alcohol in a suspect’s bloodstream can categorically justify a warrantless search. See, e.g. Lyle Denniston, Argument recap: Compromise on DUI blood tests? *Scotus Blog* [http://www.scotusblog.com/?p=157395]. The Court is likely to articulate a subsection of exigent circumstances that would excuse law enforcement’s inability to obtain a warrant. In oral argument, justices appeared skeptical of Missouri’s argument that there can be insufficient time for law enforcement to obtain a warrant. Justice Anthony Kennedy noted that given many states have a warrant requirement, officers must utilize technology to streamline warrant requests in cases where evidence can dissipate. Justice Sonia Sotomayor warned that the Fourth Amendment cannot be interpreted to reward the least efficient law enforcement jurisdictions.

Given the impending decision on when the Fourth Amendment permits warrantless blood samples, criminal practitioners should file motions to suppress and preserve their objections to evidence that may have been obtained without a warrant.

**Author:** Aliza Hochman Bloom, Office of the Honorable Judge Charlene Honeywell of the Middle District of Florida
On February 16, 2013, the Hillsborough County Bar Association Chester H. Ferguson Law Center held a diversity networking event on the benefits of embracing diversity and inclusion in the legal profession. Sponsors of the event provided law students with opportunities for future networking, internships, and employment. Additionally, three lucky law students entered raffles and received scholarships. The HCBA provided two students with $500 scholarships to assist with law school tuition costs and BARBRI provided a $1,500 scholarship for its bar review course.

More than 150 people attended the event, which included 84 students, representing the Stetson University College of Law, Florida State University College of Law, University of Florida Levin College of Law, Thomas M. Cooley Law School, Florida A&M University College of Law, and Ave Maria School of Law.

Bianca Guerrier, a second-year law student, said, “the HCBA diversity event was eye-opening. Learning about the different diversity associations in the legal community made me feel compelled to become familiar with the missions and issues of each of the groups in relation to the legal world, so as to effectively serve the diverse needs of those closest to me, as well as future clients.”

First-year law student Brandy Pikus said, “it was wonderful to be able to interact with representatives from multiple firms all in one place, and the panel provided great insight on how getting involved can make a difference.”

Representatives of several voluntary bar associations in the Tampa Bay Area participated in a panel discussion about their groups as well as the importance of a diverse profession, enabling attendees to earn 1.0 CLE credit. The panelists were Victoria Cruz-Garcia, president of the Tampa Bay Hispanic Bar Association; Cory Person, president of the George Edgecomb Bar Association; Jason Liu, president of the Asian Pacific American Bar Association; Christine Derr, past president of the Hillsborough Association for Women Lawyers; Navin Pasem, president-elect of the South Asian Bar Association; Kim Byrd, past president of the LGBT Association; and Ric Asfar, who is working to create a bar association that will represent lawyers advancing diversity for people of Middle Eastern and North African descent.

Cory Person enthusiastically supported the event, saying “the diversity networking event is important because it gives minority and diverse law students a unique perspective on the practice of law and the continuing importance of racial and cultural understanding. We must keep the dialogue going!”

Victoria Cruz-Garcia said, “I think it was a fantastic event! The opportunity to be able to present your thoughts and experiences to a group of law students is inspiring. I certainly hope that by all of us sitting before them speaking about our different organizations, we gave them diversity through choice.”

The HCBA Diversity committee, voluntary bar associations, and the students were grateful to the sponsors of this event for the opportunity to provide a welcoming environment for all of those who are committed to professionalism through diversity and inclusion.

Author: Caroline Johnson Levine, Office of the Attorney General
Hillsborough County Bar Association 100 Club
Law firms with 100% membership in the HCBA

12th Judicial Circuit
13th Judicial Circuit Court
13th Judicial Circuit Court Plant City
2nd District Court of Appeal Lakeland
Addison & Howard, P.A.
Allen Dell, P.A.
Alley Clark Grewe
Almericio & Mooney
Alvarez Garcia
Ansa Assuncio, LLP
Anthony & Partners, LLC
Anthony J. LaSpada P.A.
Austin, Roe & Patasko, P.A.
Baccarella & Baccarella, P.A.
Baird Law Group
Bajo | Cuva | Cohen | Turkel
Banker Lopez Gassler P.A.
Barbas Nunez, Sanders, Butler & Hovsepian, P.A.
Barker, Rodems & Cook, P.A.
Barnett, Bolt, Kirkwood, Long and McBride, P.A.
Bavol Judge, P.A.
Bay Area Legal Services Plant City
Bay Area Legal Services Wimauma
Belz and Ruth
Bivins & Hemmenway, P.A.
Boore & DePoppo, P.L.
Bradford & Bradford
Brannon & Humphries, P.A.
Brennan, Holden & Kavocklis, P.A. Attorneys at Law
Broad and Cassel
Buell & Elliott, P.A.
Burr & Forman, LLP, formerly Williams Schifino
Busciglio & Sheridan Law Group PA
Bush Ross
Butler Pappas Wehrmuller Katz Craig LLP
Cagianone, Miller & Anthony, P.A.
Carey O'Malley, Whitaker & Mueller, P.A.
Carlin Fields, P.A.
Carmon & Corn, P.A.
Caveda Law Firm, P.A.
Cedola and Vincent P.L.
Cheeseman & Phillips, P.A.
Christopher N. Ligori, P.A.
City of Tampa
Clark & Martino, P.A.
Clerk of the Circuit Court’s Office
Cody Fowler Davis Trial Attorneys, P.A
Cole, Scott & Kissane, P.A.
Cordell & Cordell, P.C.
County Attorney’s Office
Cristal Law Group
Cruzer Mitchell Nicholas & Bell, LLP
Cruz-Garcia Law, P.A.
Danahy & Murray, P.A.
Davidson McWhirter, P.A.
de la Parte & Gilbert, P.A.
Dennen, Ragano, PPLC
Dennis LeVine & Associates, P.A.
District Court of Appeal
Donica Law Firm, P.A.
Dornan & Gutman, P.L.
Esobar, Ramirez and Associates
Fernandez & Hernandez, LLC
Foi & Gomez, P.A.
Fisher and Frommer
Fisher Law Group
Florida Default Law Group, P.L.
Fowler White Boggs P.A.
Fuentes & Brischler, P.A.
Fulgentio Law
Fuller Holsonback & Malloy, P.A.
Gallagher Keenan, P.A.
Gardner Brewer Martinez Monfort, P.A.
Garrison, Yount, Forte, Mulcahy & Lehrer, LLC
Gatlin & Birch, P.A.
Gayford Merlin Ludovici & Diaz
Genders-Alvarez-Diedicue, P.A.
George & Titus, P.A.
Gibbons, Tucker, Miller, Whatley, & Stein, P.A.
Gibbs and Parrnell, P.A.
Givens Law Group
Glenn Rasmussen, P.A.
Gray Robinson, P.A.
Griffin & Associates, P.A.
Guemmer & Ritt
Gunn Law Group
Hancock & Hancock, P.A.
Harmon, Woods, Parker, Hendricks & Abrunzo, P.A.
Harris and Hunt, P.A.
Hillsborough County Sheriff’s Office
Hill Ward Henderson
Himes & Hearn, P.A.
Hines Norman Hines, P.L.
Holcomb & Mayts, P.L.
Hunter Law Group
James, Hoyer, Newcomer & Smiljanich, P.A.
Jayne M. Lambert P.A.
Jayson, Farthing, Skaffidas & Wright, P.A.
Jeanne T. Tate, P.A.
John H. Rains III, P.A.
Johnson, Pope, Bokor, Ruppel & Burns, LLP
Jorgensen & Ozyskowski, P.A.
Joyce & Reyes Law Firm
Jung & Sisco, P.A.
Kadyk Delesie & Espat P.A. Cap Trust
Keys & Coakley, P.L.
Knopik Deskins Law Group
Kubicki Draper
Kunkel, Miller & Hament, P.A.
Kymes, Markman & Felman, P.A.
Lauro Law Firm
Law Office of Donald P. Decort, P.A.
Law Office of Jason D. Montes
Law Office of Kevin M. Gilhod
Law Office of Patricia Gomez, P.A.
Law Office of Robert M. Geller
Law Offices of Butler & Boyd, P.A.
Law Offices of Darrin T. Mish, P.A.
Law Offices of Emma Hennessy, P.A.
Law Offices of Jacob I. Reiber
Law Offices of Matthew J. Jowanna, P.A.
Leon & Berg, P.A.
Leslie Reichin Stein P.L.
Levine, Hirsch, Segall, Mackenzie & Friedsam, P.A.
Ligori & Cappy, P.A.
Lopez, Kelly & Bible, P.A.
Luk, Santaniello, Perez, Pettitio & Gold
Lynette Silva-Laguna, P.A.
MacA. Greco, Jr., P.A.
Mandelbaum,Trichler Law Center, P.A.
Manson Law Group, P.A.
Mark Bentley, P.A.
Marlowe McNabb, P.A.
Martinez, Odorn Law Group
Mary Beth Corn, P.A.
Mason Black & Caballero P.A.
Matassini Law Firm, P.A.
McCumber, Daniels, Buntz, Hartig & Puig, P.A.
Mechanik Nuccio Heanne & Wester, P.A.
Melkus, Fleming & Guitierrez, P.L.
Michael P. Maddux, P.A.
Mike Murburg, P.A.
Mills Paskert Divers
Morgengenst & Herd, P.A.
Oder, Lundy & Weissman, Attorneys at Law
Phillip A. Baumann, P.A.
Pitsco, Dowell, Markowitz & Murphy
ReliaQuest Legal Services
Resnick & Serrano, P.A.
Richard W. Driscoll, P.A.
Rieth & Ritchie, P.A.
Robert E. Morris, P.A.
Rumbeiker, Kirk & Caldwell, P.A.
Saady & Saxe, P.A.
Sammis Law Firm, P.A.
Schropp Law Firm
Sessions Fishman Nathan & Israel, LLP
Seth R. Nelson, P.A.
Shock, Hardy & Bacon, LLP
Sisco Law
Sparkman & Sparkman, P.A.
Spector Gadon & Rosen
Stanton Clark Law Group, P.L.
Stetson University College of Law
Stichter, Riedel, Blain & Prosser, P.A.
Stone & Walder, P.L.
Straley & Robin
Sykes Enterprises, Inc.
Tampa Law Advocates, P.A.
Terranova Perez & Salgado, P.A.
The Bowes Law Group
The Criminal Defense Group, P.A.
The Davis Law Group, P.A.
The Diecidue Law Firm, P.A.
The Fernandez Firm
The Foster Law Group, P.A.
The Law Firm of Beverly J. White, P.A.
The Plante Law Group, PLC
The Thorpe Law Firm, P.A.
The Yendin Law Firm
Thomas & LoCicero
Thompson & Brooks
Thompson, Szemore, Gonzalez & Hearing, P.A.
Thorn Whittington, LLP
Thorn | Lawrence, P.L.
Timothy G. Anderson, P.A.
Tison Law Group
Trentalange & Kelley, P.A.
Trombley & Hanes, P.A.
U.S. District Court
United States Bankruptcy Court
Wagner, Vaughan & McLaughlin
Walters Levine Klingensmith & Thomson, P.A.
Walton Lantaff Schroeder & Carlson LLP
Weekley | Schulte | Valdes, L.L.C.
Wenzel, Fenton, Cabassa, P.A.
Whitney Bardi Mediation Group, Inc.
Wilson Law Group, P.A.

FOR YOUR FIRM TO BE LISTED HERE, CONTACT WENDY WHITT, WENDY@HILLSBAR.COM
By now, every Medicare or Medicaid nursing facility should be developing a health care compliance program. The Centers for Medicare & Medicaid Services (“CMS”) is expected to issue a set of regulations requiring all nursing facilities that participate in Medicare or Medicaid to implement mandatory compliance programs. These regulations are required under the Patient Protection and Affordable Care Act (”PPACA”).

Nursing facilities would be well-served to start developing their own compliance programs now. Not only will it be a requirement to participate in Medicare or Medicaid, but a nursing facility with an effective compliance program can immediately realize significant benefits.

Other health care providers should also take note. While this first set of forthcoming regulations applies only to nursing facilities, PPACA also requires CMS to issue regulations making compliance programs mandatory for all providers that enroll in Medicare or Medicaid.

Mandatory Compliance Programs

Among the many health care reform provisions introduced through PPACA, the sections relevant to compliance programs are Sections 6401 and 6102. These sections require, as a condition of enrollment in Medicare or Medicaid, that all providers and suppliers establish and maintain compliance programs that satisfy requirements to be established by the federal government. CMS will issue regulations establishing the “core elements for a compliance program” for providers within particular industries.

Nursing facilities are the first provider types required to implement mandatory compliance programs, and CMS was instructed to issue the implementing regulations no later than March 23, 2012. Although CMS missed that deadline, the regulations will offer all providers insight into what CMS expects mandatory compliance and ethics programs to look like. Providers who draw on this insight now can best position themselves for a smooth transition to implementing their own compliance programs.

What Makes a Compliance Program Effective?

There are no bright line rules as to what makes a compliance program “effective,” but providers can draw from a wealth of existing guidance to help build their own compliance programs.

At the heart of an effective compliance program are the seven elements articulated by the HHS Office of Inspector General (“OIG”) and the U.S. Federal Sentencing Guidelines. In general, the elements of an effective compliance program are:

1) implementing written policies, procedures, and standards of conduct;
2) designating a compliance officer and compliance committee;
3) conducting effective training and education;
4) developing effective lines of communication;
5) enforcing standards through well-publicized disciplinary guidelines;
6) conducting internal monitoring and auditing; and
7) responding promptly to detected problems and developing corrective action.

Though the CMS implementing regulations have not been issued, nursing facilities and other providers should start developing their own compliance programs now. Not only will it be a requirement to participate in Medicare or Medicaid, but a provider with an effective compliance program can immediately realize significant benefits.

Author:
Nathaniel Lacktman, Foley & Lardner LLP
Normal or Abnormal?

Our peers trust us with their most valuable clients because of our expertise.

Clark & Martino P.A. has extensive experience handling brain, neck and spine injury cases related to automobile and truck accidents. Many attorneys with success in other areas of practice refer their serious injury clients to Clark & Martino because of our understanding of the complexity of serious injury cases.

When you have such cases, we want to help. Your participation and input as a referring attorney will be critical and you will receive up to 25% of Clark & Martino’s share of the ultimate settlement or verdict.*

Brain, neck and spine injury cases are as complicated as any medical negligence claim. Visit www.CMreferral.com today to watch our video and learn more about how Clark & Martino may help you be of service to your clients.

813-579-4603 · www.CMreferral.com

* Referral fees paid in accordance with Rule 4-1.5 of the Florida Bar Rules of Professional Conduct.
TCS
Trial Consulting Services, LLC

(800) 395 - 7994  www.TRIALCS.com
Tampa  •  Orlando  •  Ft. Lauderdale

Proud HCBA Supporter & Benefit Provider

Mediation
- Compelling & Efficient Presentations
- Show of Force
- PowerPoint™ & Scripted Presentations
- Electronic Demand Packages

Exhibit Boards
- Flip Charts
- Acetate Overlays
- Magnetics
- Dry Erase Lamination
- Hinged Boards

Day-in-the-Life
- Show Daily Impact of Injuries
- Clear & Fair Portrayal of Altered Lifestyle
- Powerful & Effective
- Memorialize Terminal Patients

Trial
- Experienced Consultants
- Electronic Presentations
- Equipment Rental
- Deposition Editing/Playback

Graphics
- Timelines & Charts
- Document Call-Outs
- Colorized MRI’s, X-Rays & CT Scans
- Custom Medical Illustrations
- Online Medical Illustration Library

Depositions
- State-of-the-Art Audio & Video
- Trial Ready Video Transcript Synchronization with DepoView™
- Capture Witness Demeanor, Body Language, Hesitancy & Facial Expressions

Mock Trials & Focus Groups
- Jury Selections
- Large & Small Groups
- Demographic-Specific
- Theme Development
- Witness Preparation

Animations
- 2-D & 3-D Animations
- Interactives
- Accident Simulations & Animations
- Custom Medical Animations

Video Documentary
- Site Surveys
- Inspections
- Environmental
- Commercial/Residential
- Construction
one man has cut more nets than anyone in history...

You’re invited by The Hillsborough County Bar Foundation to get all the inspiration and insights without any of the hard practices and sweaty drills.

Thursday, May 16, 2013 | 6:00 PM
Hotel Tampa (formerly Hyatt Regency Downtown Tampa)
211 North Tampa Street | Tampa, FL 33602

The Hillsborough County Bar Foundation welcomes Coach K to our 8th annual Law & Liberty Dinner. Inspiration and leadership take the court as we raise money to provide legal services for disadvantaged children and families.

Please call 813.221.7774 for sponsorship information and call 813.221.7777 for reservations.
Cases in other states?

If you need the resources of a national law firm, with coast-to-coast experience, then consider Wilkes & McHugh, P.A. With lawyers presently licensed in 23 states, we may have the financial and technical resources you need to successfully represent your clients — even those who are thousands of miles away.

Wilkes & McHugh, P.A. has been handling serious injury, medical malpractice, nursing home abuse, wrongful death and trucking accident cases for over 25 years — and we’re still going strong!

We are pleased to offer referral fees as permitted by the Florida Bar as well as appropriate state bars throughout the country.

Wilkes & McHugh, P.A. has you covered.

Lawyers licensed in 23 states.
Coverage of nearly 70% of the U.S. population.
Offices in 6 states.

800.255.5070
www.wilkesmchugh.com
One North Dale Mabry Highway, Suite 800, Tampa, Florida 33609
Lexington, KY | Little Rock, AR | Memphis, TN | Philadelphia, PA
Phoenix, AZ | Pittsburgh, PA | Tampa, FL | Tucson, AZ

With lawyers licensed in 23 states.
10th Annual Judicial Pig Roast/Food Festival and 5K Pro Bono River Run

2013 was a year of firsts for the HCBA’s annual pig roast and 5K run, held March 23, 2013, on the grounds of Stetson’s Tampa Law Center. Both events were renamed to better reflect what they have become, and each now has a new logo. Judging of the food and booths was also handled differently. A panel of five judges — HCBA President Bob Nader, HCBA President-Elect Susan Johnson-Velez, Chief Judge Manuel Menendez, Jr., Tampa Tribune columnist Steve Otto, and Tampa Tribune food writer Jeff Houck — determined the winners.

Both events set records for participation and were great successes. The HCBA appreciates the months of planning and hard work from the committees and their leaders.

Booth host Adams and Reese LLP provided another first for the kids. In addition to its food booth, the firm hosted a petting zoo that delighted the children — and a lot of adults.

Many thanks to our generous sponsors (see page 37), booth hosts and volunteers.

BOOTH RESULTS:
Best Pig Slop: Trenam Kemker
Runner-up Best Pig Slop: Wilkes & McHugh, P.A.
Best Pigsty: Judges of the Thirteenth Judicial Circuit
Runner-up Best Pigsty: GrayRobinson, P.A.

BOOTH HOSTS:
Adams and Reese LLP
Alvarez Law Group
Bay Area Legal Services
Best Buddies
Bush Ross, P.A.
Thomas M. Cooley Law School
Esquire Deposition Solutions
FCR Reporting
GrayRobinson, P.A.
HCBA Young Lawyer Division & Trial Consulting Services, LLC
Hillsborough County Association of Criminal Defense Lawyers
Neil F. Lewis PA
Immigration Attorneys
Older & Lundy
Sparkman & Sparkman, P.A.
SSD Assistants
Stetson College of Law
Thirteenth Judicial Circuit Judges
Trenam Kemker
Wilkes & McHugh, P.A.
Thank you to Chip Boeckh, our logo designer.
5K RACE RESULTS
- Overall Male Winner: Wade Fitzgerald
- Overall Female Winner: Andrea Lundy
- Fastest Male Judge: Matthew Lucas
- Fastest Female Judge: Virginia Covington

TEAM WINNERS
1. Older & Lundy
2. Hillsborough County Attorney’s Office
3. Cool Runnings

PRO BONO HOURS
- Total pledged: 899
- Individual: Rosemary Armstrong, 200 hours
- Team: Holland & Knight, 305 hours
- Proven Producer: Rosemary Armstrong, performed more than 700 hours
HCBA
10th Annual
Pig Roast/
Food Festival
and 5K Pro
Bono River Run

Thank you to the Sponsors

BIG KAHUNA
ADAMS AND REESE LLP
Burr & Forman LLP, Formerly Williams Schifino
Fordharrison LLP
Greenberg Traurig
Holland & Knight
Isom Mediation
Morgan & Morgan
Stetson University College of Law
The Bank of Tampa
Thomas M. Cooley Law School
Trial Consulting Services, LLC
Wilkes & Mchugh, P.A.

SURFER STAR
Banker Lopez Gassler P.A.
Butler Pappas Weihmuller Katz Craig LLP
Cardillo Law Firm
Carlton Fields
Esquire Deposition Solutions
Gunn Law Group, P.A.
Hill Ward Henderson
Sparkman & Sparkman, P.A.
The Ticktin Law Group, P.A.
Thompson, Sizemore, Gonzalez & Hearing, P.A.

5K STAR
Bush Ross, P.A.
Mason Black & Caballero PA
Michael P. Maddux, P.A.
Thorpe Law Firm, P.A.
Wiand Guerra King P.L.

SHARK BAIT
Thomas & Locicero Pl
The owner of a trademark has not only a right to license the use of his mark to others, but also a concurrent duty to exercise control and supervision over the licensee’s use of the mark.1 Where the licensor allows others to use the mark without exercising “reasonable control over the nature and quality of the goods, services, or business on which the mark is used by the licensee,” the licensor has engaged in “naked” licensing.2 This can result in the trademark owner being deemed to have “abandoned” the mark, thus losing all rights in the mark. This is because the mark misrepresents the connection with the owner. Because a licensor may

Continued on page 39
Hey, Trademark License, Put on Some Clothes!

Continued from page 38

forfeit all trademark rights, the burden of proof to show abandonment through naked licensing is “stringent.”

One accused of naked licensing might attempt to defend by arguing that goods sold were of superior quality despite the absence of the licensor’s quality control. The problem with this approach, however, is that one of the primary goals of trademark law is assuring customers that they can rely on the trademark as an indicator that the product has a certain set of predictable characteristics, including quality — whether those characteristics are high quality or low quality. “Trademarks are indications of consistent and predictable quality, and predictable quality is assured through the trademarks owner’s control over the use of the [mark].” As a result, licensors need to include quality control provisions in their license agreements to ensure consistent quality in the product sold under the mark, and then monitor the quality of the licensed product.

Typically, only third parties can rely on naked licensing to invalidate a trademark. Licensees, on the other hand, are estopped from invalidating their licenses, or the licensor’s trademark rights, based on the licensor’s failure to control the licensee’s quality during the term of the license.

The moral: If you are going to license your trademark, you have to do more than cash the royalty checks. You have to include provisions in the license that allow you to monitor product quality. And then, of course, you have to institute those monitoring procedures. If you do not, you might be exposed.

1 Sheila’s Shine Prods., Inc. v. Sheila Shine, Inc., 486 F.2d 114, 123-124 (11th Cir. 1973).
2 Eva’s Bridal Ltd. v. Halanick Enterprises, Inc., 639 F.3d 788, 790 (7th Cir. 2011); see also Prof. Golfers Ass’n v. Bankers Life & Cas. Co., 514 F.2d 665, 671 (5th Cir. 1975)
3 Tumblebus Inc. v. Cranmer, 399 F.3d 754, 765 (6th Cir. 2005)
4 Eva’s Bridal, 639 F.3d at 790.
5 Prof. Golfers Ass’n, 514 F.2d at 671.

Other courts have refused to allow any subsequent challenges by a former licensee, including for naked licensing after the license expires. See id. (citing cases).

Author: Jim Matulis, Conwell Kirkpatrick, P.A.
The Florida Supreme Court recently held in Koren v. School Bd. of Miami-Dade County, 97 So. 3d 215 (Fla. 2012), that section 447.501, Florida Statutes, merely requires an employee, who alleges that an employer engaged in retaliatory employment actions in response to protected activity, to demonstrate the following for a *prima facie* charge: (1) protected activity; (2) adverse employment action; and (3) a causal connection between the two. Further, Koren held that circumstantial evidence was sufficient to establish such a *prima facie* charge of a section 447.501 violation.

Justin Koren was employed as a language arts teacher at Southwood Middle School. After three years of employment, Koren received a request from Kimberly Morris to assist in the drafting of a civil rights violation complaint due to Morris’ belief that she was being harassed because of her sexual orientation. The school principal, Deborah Leal, confronted Koren about his assistance in drafting the complaint. Subsequently, Leal engaged in retaliatory acts against Koren by filing disciplinary actions and eventually transferring Koren to a school that was a substantial distance from Southwood. Koren filed a charge of unfair labor practice (“ULP”) violations with the Public Employee Relations Commission (“PERC”) against the school board, pursuant to sections 447.501(1)(a) and (d), Florida Statutes (2008), which prohibit public employers from “interfering with, restraining, or coercing public employees” in the exercise of their rights and from “discharging or discriminating against a public employee because he or she has filed charges or given testimony” in a ULP action.

Koren’s charge was summarily dismissed by the PERC General Counsel, which was affirmed by PERC and the Third District Court of Appeal. The Florida Supreme Court reversed, holding that the actions alleged by Koren were sufficient for a *prima facie* violation of section 447.501, and the charge should not have been summarily dismissed. Importantly, the Florida Supreme Court distinguished between the heightened standard that an employee must prove a violation of the statute through a preponderance of the evidence that protected activity was a substantial or motivating factor in adverse action and the lower burden, stated above, that an employee must meet to state a *prima facie* violation in a charge of retaliation. PERC and the Third District Court of Appeals erred by applying the former standard to determine whether Koren had stated a valid charge.

Applying the three prongs of the appropriate test, the Florida Supreme Court first held that “assisting a fellow employee in drafting a ULP charge is clearly a protected activity under section 447.501.” *Id.* at 218. With respect to adverse action, Koren noted that the involuntary transfer could be seen as adverse by a reasonable person, satisfying the adverse action test under *Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53 (2006). Finally, for the third prong, Koren was required to show only that the adverse action was not “wholly unrelated” to the protected activity for a *prima facie* charge, which the short timing of events satisfied.

Because Koren utilized both public and private employer precedent in reaching its decision, it reminds that all employers must be careful when taking adverse action against an employee who has engaged in protected activity. As demonstrated by Koren, a *prima facie* case in such circumstances may easily be met, leading to litigation.

Author: Scott T. Silverman, Akerman Senterfitt, LLP
HILLSBOROUGH COUNTY BAR ASSOCIATION BENEFIT PROVIDERS

Listed below are companies that have agreed to participate as a HCBA Benefit Provider. They offer all HCBA members a special discount or value added service especially for you, an HCBA member.

- **AFFINISCAPe** - A Law Firm Merchant Account through our benefit provider enables your practice to accept credit cards in a professional manner and in compliance with trust accounting procedures. Why turn away potential clients simply because they can not pay a retainer in advance? For more information, go to http://hillsbar.affiniscape.com.

- **AGW CAPITAL ADVISORS** is an investment consulting firm with a focus on advising professional service firms on their 401(k) and defined benefit retirement plans. AGW serves several well-established law firms in the Tampa Bay area, providing them with expertise on fund menu design, investment manager due diligence, record-keeper search and selection, ongoing performance measurement and evaluation, and fiduciary oversight. AGW offers HCBA members a 20% discount for a comprehensive investment review and fee analysis of their firm’s retirement plan. For more information, please contact Jay Annis, PJ Gardner or Paul Whiting, Jr. at (813) 254-4700 or visit AGW’s website at http://www.agwcapital.com.

- **THE BANK OF TAMPA** - With assets in excess of $1 billion, The Bank of Tampa is the largest independently owned bank in Hillsborough County. More than 450 Hillsborough County law firms rely on The Bank of Tampa for their banking needs because of our expertise and understanding of the unique needs of legal professionals. For HCBA members, The Bank of Tampa is offering its Minaret Diamond relationship package for free, with no minimum average monthly balance and no monthly maintenance fee. Minaret Diamond comes with an interest bearing Minaret Checking account, a personal checking account, free checks with leather checkbook covers, and no foreign ATM fees and no surcharge fees at over 1000 Publix Presto! ATMs. In addition, The Bank of Tampa will refund surcharge fees imposed by other U.S. banks of up to $25 per month. Our Minaret Diamond package also comes with a free Visa Check Card with special higher purchase and withdrawal limits, plus a Minaret Diamond Visa credit card with no annual fee and a special low annual percentage rate (subject to credit approval). Both cards are eligible for Visa Extra Rewards. Minaret Diamond also comes with numerous other complimentary services and includes Personal Online Banking and our CheckFree Bill Pay service at www.bankoftampa.com, plus Mobile Banking. For more information, contact Jeff Armstrong at (813) 998-2733, call us at (813) 872-1200, or visit any of our nine Hillsborough County offices.

- **C1 BANK** is a proud HCBA benefit provider, and committed to “clients first...community first.” With almost $1 billion in local assets, C1 Bank is the fastest growing bank in the Tampa Bay area and the official bank of the Tampa Bay Buccaneers. Our Emerald Banking group was created to be your financial resource, with sophisticated lending and treasury products and creative solutions to meet the everyday and extraordinary banking needs of your practice and family. We measure success by the kind of relationship we build with you. For HCBA members, we are proud to offer our Value checking account package with direct deposit with no charge and no minimum balance. Partners are eligible for our exclusive Emerald checking at no charge as well. For more information on practice or personal banking, please contact Brooke Melendi at 813-259-3961, or email us at HCBA@C1Bank.com.

- **FIRM SOLUTIONS, LLC** is a business consulting firm specializing in customized outsourcing solutions for the legal industry as well as internal business process optimization. Our firm’s partners have over 30 years of combined experience in the legal profession, serving clients nationwide. Originally developed to host large law firms in the mortgage banking arena, our team has progressively developed process enhancing initiatives designed specifically for small to medium size law firms. With our services, our clients have the opportunity to outsource key business practices as a means to increase process efficiency as well as time management. These practices range from e-filing pleadings with the Clerk of the Court through CourtXpress, Human Resource services, Training, Flexible workforce/staffing, Accounting functions, and document management through our Virtual Mail Room. Our team strives to provide quality services while alleviating unnecessary burdens from our clients, allowing them focus on their core competencies. At Firm Solutions, we let lawyers practice law.

- **JOHN BOYER, INC.** offers HCBA members a permanent 15% reduction in asset management fees and will waive the initial financial planning fee for new clients. John Boyer, Inc. is an independently owned fee-based Registered Investment Advisor. The firm’s mission is to simplify its clients’ lives by getting their financial house in order. It offers a full range of personalized financial services, from retirement, estate and tax planning to investment management, asset protection and wealth preservation. Principal John Boyer, who established the firm in 1995, is a Certified Financial Planner with over 20 years of experience. Contact Sarina Correa at (813) 254-9500, Sarina@johnboyerinc.com.

- **LNS TECHNOLOGIES** is a leader in IT & Network Systems infrastructure services and solutions. Since 1994, LNS has consistently provided our legal clients with the latest technology and support tools allowing their businesses to operate efficiently. LNS Technologies’ scalable, IT solutions and services increase productivity, reduce costs, and optimize asset utilization to derive maximum value from your IT investment. All HCBA members receive a FREE computer and network system health check upon request. Contact Sales at (813) 221-1315, or email your request or requirement to: info@LNStech.com. Visit our website at: http://www.LNStech.com.

- **PRINTERS PLUS** is a Benefit Provider.

- **THOMPSON STUDIOS** - We are proud to offer you an excellent photography resource for all law firms and individual photos. Thompson Studios is an all-digital, world-class photography studio. In studio or on location, we will capture all your photographic visions ... and we guarantee you’ll have fun doing it. Thompson Studios will come to your office for firm photos and headshots for your convenience. As a HCBA member, we offer you $100 off your location photo session. Keep us in mind for holiday and special occasion photos as well. Contact Kim at Thompson Studios at (813) 994-2000.

- **TRIAL CONSULTING SERVICES, LLC (TCS)** provides wide-ranging services and solutions to support every aspect of your case. Our services include exhibit boards, trial graphics, animation, medical illustrations, electronic trial presentation, video depositions, DVT, mock trials, CLE seminars and more. Our expert team is experienced in all practice areas of law. Visit our website at www.trials.com for a complete listing of services and testimonials. All HCBA members receive a 10% discount on all trial research including mock trials.
Nutrition & Health

Private Counseling. Group Workshops.

"...ENGAGING and EDUCATIONAL workshops that allow participants to both LEARN about healthy food choices as well as SAMPLE delicious and nutritious food..." K. Cunningham, EVP, COO, PAR

- Are you heavier than you should be?
- Have serious health concerns?
- Low energy or sluggish?
- Stressed out?
- Can’t sleep?
- You know you should be eating better, but don’t know where to begin?

strat•e•gic
HEALTH EDUCATION

10% discount
HCBA members

call 813.789.5582
email kim@StrategicHealthEd.com
www.StrategicHealthEd.com

Kim Thompson, CHHC

1 hr private sessions by phone or in-person.
1 hr group workshops.

I appreciate your guidance in nutrition and other areas of wellness. You have been a major catalyst of my change and transformation with food, which has brought about much improvement in my health. THANK YOU!

Karen, Private Counseling Client

Manage your clients. We’ll manage the rest.

Tribridge Legal
Complete Law Firm Management Solutions

Providing services to the Hillsborough Legal Community for over a decade

- Virtual Accounting Services
- Legal Consulting Services
- Technical Support Services
- Cloud Services

www.Tribridge.com/Legal

1 (877) 744-1360
4830 W. Kennedy Blvd. Suite 890
Tampa, FL 33609
For years you have been trusting us with your clients, families, friends and colleagues. We are always here when you need us.

WWW.OLDERLUNDYLAW.COM

813.254.8998
3014 West Palmira Avenue, Suite 202 Tampa, Florida 33629
Imagine this scenario: You are paying substantial alimony to your ex-wife and you find out that the “pool boy” has moved in with her, into your old house, and that your ex-wife is using those hard earned alimony dollars to pay the majority of the pool boy’s expenses. The pool boy, although he still cleans the pool, is not paying rent, utilities, maintenance, or groceries. On top of that, your ex “lends” the pool boy money to buy a new car, a “loan” he makes no effort to repay. What do you do? If you file a petition to reduce the alimony under the theory that your ex is in a “supportive relationship,” then you may be out of luck.

In 2005, the law of supportive relationships was codified, recognizing that “relationships do exist that provide economic support equivalent to a marriage.” Fla. Stat. § 61.14(1)(b)(3). Colloquially called “the cohabitation statute,” it provides that the court may reduce

Continued on page 45
or terminate alimony upon specific written findings that since the divorce, a supportive relationship has existed between the recipient spouse (here, the ex-wife) and a third party (here, the pool boy) with whom the recipient spouse resides.

The Third District recently considered such a case, and held that Judge Dennis Murphy must continue to pay monthly alimony to his ex-wife, even when she is living with her boyfriend and paying the majority of the couple’s expenses. See Murphy v. Murphy, 37 Fla. L. Weekly D2319 (Fla. 3d DCA Oct. 3, 2012). The Third District reversed the trial court’s reduction of Judge Murphy’s alimony payments, finding that no supportive relationship existed between Ms. Murphy and her live-in boyfriend because the boyfriend did not contribute economic support to her. In limiting the application of the statute, the court reasoned that inherent in the statutory term “supportive relationship” is the precondition that some form of economic support be supplied to the recipient spouse by her third party cohabitant.

This narrow reading of the supportive relationship statute is rejected in Judge Leslie Rothenberg’s dissenting opinion, which asserts “a supportive relationship may be established through the economic support provided by the recipient spouse to the third party cohabitant.” Id. (emphasis added). The statute enumerates a non-exhaustive list of factors for a trial court to consider in determining whether a supportive relationship exists. Contrary to the majority’s decision, of the factors listed, none require that economic support must be provided to the recipient spouse. The statute, in fact, provides that the court should consider both the support provided to the significant other and the support provided to the recipient spouse.

So, did the Florida Legislature in enacting Florida § 61.14 intend to allow a recipient spouse to use the alimony paid by a former spouse to support a new significant other? Doubtful. The Murphy result could encourage the Legislature to address the problems inherent in the definition of supportive relationship. Until then, watch out, or you may get stuck paying alimony for the pool boy.

Authors:
Marian P. McCulloch, Allen Dell, P.A.; and Zachary L. Bayne, Allen Dell, P.A.

Appellate Breakfast
The Appellate Section held a breakfast and CLE with the Second District Court of Appeal on March 6, 2013, at Stetson’s Tampa Law Center. “The Year in Appellate Review Decisions, Developments, and Cases You Ought To Know” was the topic. Chief Judge Morris Silberman (pictured) delivered the state-of-the-court address, and Matthew Conigliaro discussed key decisions and developments in appellate practice.
HCBA Members, welcome to a whole new level of professional and executive banking.

Emerald Professional and Executive Banking from C1 Bank.

Designed to fit the distinctive needs of physicians, attorneys, and working professionals, Emerald Professional and Executive Banking from C1 Bank combines traditional banking services you expect with executive courtesies you deserve.

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

For a complete list of Emerald Professional and Executive Banking services, visit C1Bank.com/Emerald or your local C1 Bank location.

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

21 locations across Tampa Bay and now a Loan Production Office in Miami.

C1 Bank
Clients 1st. Community 1st.

Loans subject to credit approval.
BUELL & ELLIGETT, P.A.

Insurance Coverage

Representing policyholders and claimants in trial and appellate insurance coverage disputes

Cases analyzed and tried by Board Certified Trial and Appellate Lawyers.

For more information on our experience, see www.belowtampa.com
3003 W. Azeele Street, Suite 100 Tampa, FL 33609 (813)874-2600

RingCentral
The Attorney’s cloud-based phone system

RingCentral delivers your phone solution.

✔ Forward calls to any mobile device – smartphone, tablet, or PC.
✔ Easy to manage call logging – allows you to keep an accurate record of billable time.
✔ Manage multiple locations through one phone system.

Call now to find out how your business can save up to 80% on your phone and fax costs with RingCentral.

888.859.2649 Michael Alexander Sales Representative

DOW ELECTRONICS Authorized Dealer
Each new trial judge in the Tampa Bay area is presented with a plaque at their investiture that simply reads “Professionalism and Civility anything less will not be tolerated.” The plaque is presented on behalf of the Tampa Bay Chapter of the American Board of Trial Advocates (“ABOTA”), and most judges have the plaque prominently displayed as a reminder to the lawyers appearing before them and themselves that we are sworn to hold ourselves to the highest ethical standards.

ABOTA is an organization of experienced plaintiff and defense trial lawyers with the mission of preserving the civil trial jury right provided by the Seventh Amendment of the U.S. Constitution. ABOTA achieves this purpose, in part, through the education and training of trial lawyers. Similarly, the Hillsborough County Bar Association exists to inspire and promote respect for the law and the justice system through service to the legal profession and to the community. Consistent with its stated missions, ABOTA has again partnered with the Hillsborough County Bar Association in hosting the 2013 Practicing with Ethics, Civility and Professionalism Seminar, which was created to ensure that attorneys in Hillsborough County will carry on the tradition of holding ourselves and our peers to the highest ethical standards.

This free seminar will take place on May 31, 2013, at the Tampa Campus of Stetson University College of Law and the Chester H. Ferguson Law Center and is designed for local lawyers to learn from top trial lawyers and judges. Participants will enjoy a complimentary box lunch during the keynote address given by Justice E.C. Perry of the Florida Supreme Court. Thomas Roehn will give an

Continued on page 49
enlightening and entertaining review of important cases concerning attorney ethics after which the participants will break out into one of two sessions: Session 1 for civil practitioners will be held at the HCBA building; and Session 2 for criminal practitioners will be held at Stetson. The civil session will include presentations from Scott Tozian, Lisa Hurley, and a panel of state and federal judges; Dennis deVlaming will present at the criminal session. The day will wrap up with a social hour, including beer, wine, soft drinks, and light hors d’oeuvres at the HCBA building.

The seminar is open to all practicing attorneys, but is designed with attorneys working in the public sector in mind. With governmental budget cuts, money for continuing legal education programs is often one of the first items slashed. Recognizing this, ABOTA created this program so local attorneys could benefit from a first-class seminar at no cost to themselves. More than 250 attorneys attended last year’s seminar and everyone agreed that it was a huge success. Given the quality of the program, we are expecting an even bigger turnout this year. If you or someone you know would like to attend, you can confirm your registration by visiting www.hillsbar.com, emailing hcbarsvp@hillsbar.com or calling (813)221-7777.

Author: Kevin McLaughlin, Wagner, Vaughan & McLaughlin, P.A.

HCBA Night at the Lightning

HCBA members enjoyed an evening of hockey at the Tampa Bay Times Forum on March 9, 2013. The Tampa Bay Lightning took on the Montreal Canadiens, and the outcome looked promising for most of the game. Unfortunately, the game ended in another loss for the Lightning during this shortened hockey season.

Top: Bob Nader and Pedro Bajo, Jr.

Left: Judge James Barton attended the game with his son James and daughter-in-law Laura Barton.
O

ver the past two years, a small group of attorneys and paralegals, led by Debra Smietanski of Foley & Lardner LLP, has been working to bring the Wills for Heroes program to Hillsborough County. The Wills for Heroes program provides wills, powers of attorney, and health care advance directives to first responders and their spouses/partners free of charge. The Hillsborough County Wills for Heroes program has put on four events (two for Hillsborough County Fire and Rescue and two for the Tampa Police Department). At each event, attorneys prepared estate planning documents for about 30 first responders.

Wills for Heroes is a foundation based in Columbia, South Carolina, that began after September 11, 2001. After the attacks, South Carolina attorney Anthony Hayes contacted his local fire department to A group of volunteer attorneys began the pro bono program to make sure that first responders, who are at risk every day, have these essential documents.

Continued on page 51

Susan E. Johnson-Velez, HCBA President-elect graciously requests the honor of your presence at the

Installation of Officers and Directors
Monday, June 24, 2013
5:30 p.m. to 8 p.m.
Chester H. Ferguson Law Center

Complimentary for members
RSVP to (813) 221-7777 or HCBARSVP@HILLSBAR.COM
Continued from page 50

see what lawyers could do to assist their first responders. As the conversation developed, it became clear that many first responders do not have estate planning documents in place. A group of volunteer attorneys began the pro bono program to make sure that first responders, who are at risk every day, have these essential documents. The program caught on and has spread across the country as more local bar associations and volunteer groups set up local programs based on the national model.

The Wills for Heroes program has been embraced with great enthusiasm by our local first responders, especially in the Tampa Police Department. Corp. Wayne Hutches recently updated his will and other legal documents and told us he was “very impressed with the attorneys and staff that volunteered for this program and very grateful to those that volunteered.” Detective Paul Northrop and his wife, Beth, also had their estate planning documents prepared recently by Wills for Heroes volunteers, and said of the program, “You afforded us the opportunity to make sure our family is covered in the event something happened to us.” Over time, we will work to make the program available to all Hillsborough County first responder agencies.

The Hillsborough County Wills for Heroes program has two more events planned for 2013, all of which will be for Tampa Police Department officers and their spouses/partners. We are looking for volunteers to assist with the preparation of documents. The dates are Thursday, July 11, from 5 p.m. to 9 p.m., and Saturday, October 5, from 9 a.m. to 1 p.m. All events are held at the Hillsborough County Bar Association building. No experience in estate planning is needed as we will have training sessions immediately before the event starts. We use document assembly software (HotDocs), which makes the process very simple. If you would like to volunteer, please contact Katie Everlove-Stone at Katie@everlovelegal.com.

Author: Katie Everlove-Stone, Everlove Legal, PLLC
HOW DOES THE BP OIL SPILL RELATE TO ME, MY FIRM, AND MY CLIENTS?
Solo/Small Firm Section
Chairs: James A. Schmidt - James A. Schmidt, P.A.; and S.M. David Stamps, III - S.M. David Stamps, III P.A.

(Part 2 of a 2 Part Series)

The article in the March/April issue described how a local individual/business may qualify for funds under the Deepwater Horizon Settlement Agreement. Several factors to consider when performing diagnosis were noted, including: 1) geography matters, 2) how to choose the right counsel, 3) the importance of fiscal clarity, 4) causation standards, 5) damage calculation, and 6) proper submittal.

The agreement is a cumbersome matrix of date ranges, percentages, variable factors, and detail-conscious terms.

Though Tampa is made up of mostly Zone C claimants, please refer to the court-approved website for zone mapping: http://69.166.140.73/zonelocator-economic/.

Accordingly, one method of proving causation for most business economic loss claimants is a “V-shaped” revenue pattern, requiring conformation to the following:

1. **DOWNTURN:** a decline of an aggregate of 8.5 percent or more in total revenue over three consecutive months between May 2010 to December 2010 compared with the same months in the benchmark period selected by the claimant; and

2. **LATER UPTURN:** an increase of an aggregate of 5 percent or more in total revenue over the same period of three consecutive months in 2011 compared with 2010.

In addition to mathematical hurdles, business claimants will typically need to provide specific documentation to prove eligibility for compensation. This “laundry list” includes:

1. Documents reflecting the business structure;
2. Federal tax returns, including all schedules and attachments, for the claimant-selected benchmark period*, 2010, and, if applicable, 2011;
3. Monthly profit and loss statements for 2007-2011; and
4. Retail and lodging claimants must provide additional documents,

Continued on page 53
including monthly sales and use tax returns, lodging tax returns, occupancy reports or historical rental records, and, if applicable, documentation identifying how the rental property is managed. Typically, said information is required for the years included in the benchmark period, 2010, and, if applicable, 2011.

The next step is compensation calculation. According to the agreement, the compensation framework for business claimants compares the actual profit of a business during a defined post-spill period in 2010 to the profit that the claimant might have expected to earn in the comparable benchmark period. This process can be quite complex as it considers reductions in variable profit as well as expected incremental profits the claimant might have been expected to generate in 2010.

Court-appointed claims administrator Patrick Juneau was recently in Tallahassee to meet with state officials and said, “There are a lot more eligible claims in your state, which have not been filed.”

*Benchmark period is the pre-DWH Spill time period that claimant chooses as the baseline for measuring its historical financial performance. The claimant can select among the following benchmark periods: 2009; the average of 2008-2009; or the average of 2007-2009, provided that the range of years selected by the claimant will be utilized for all benchmark period purposes.

Author: Anthony J. Garcia, The Trial Lawyers of Alvarez Garcia

Judicial CLE

Judge James Barton was the keynote speaker at a Judicial CLE on March 12, 2013, at the Chester H. Ferguson Law Center. "Steering the Zamboni - Navigating Your Way Through Circuit Civil" was the topic of his lecture.

E-filing CLE

With the April 1 deadline looming for mandatory e-filing, lawyers packed Cohen Hall at the Chester H. Ferguson Law Center for training on March 27, 2013. The training was so in demand that a second session was scheduled in April.
The Eleventh Circuit Court of Appeals has held that the “required records exception” to the Fifth Amendment privilege against self-incrimination applied to a grand jury subpoena for taxpayers’ records pertaining to a foreign financial account.

*In Re: Grand Jury Proceedings*, No. 4-10, 23 Fla. L. Weekly C1864, (11th Cir. February 7, 2013).

Taxpayers are currently required to disclose on their tax returns whether they have an interest in a foreign financial account, as well as to file a Report of Foreign Bank and Financial Accounts on Form TD-F90-22, commonly known as the “FBAR”. *See, 31 U.S.C. § 5314, and 31 C.F.R. § 1010.350, which contains the reporting regulation, and 31 C.F.R. § 1010.420, which contains an additional records retention requirement. There are numerous civil and criminal penalties for failure to comply with these reporting requirements concerning such “offshore accounts.”

In the instant case, the government issued grand jury subpoenas *duces tecum* to individuals for the production of records relating to any offshore accounts. The targets refused to comply, and so the government moved to compel, arguing that since the subpoenas sought only records required to be kept by the statute and regulations above, the Fifth Amendment privilege would not apply. The district court granted the motion to compel. The Eleventh Circuit affirmed the district court’s ruling and held that the required records exception applied to these subpoenas *duces tecum* for the offshore account records.

The court reviewed the Bank Secrecy Act, 31 U.S.C. § 5311, et seq., discussed the Fifth Amendment privilege, and described the required records exception itself. The court found that the documents sought satisfied the three “premises” (elements) of the exception: The records were “essentially regulatory;” they were the type of records “customarily kept;” and they had assumed a “public aspect.”

Despite the obvious criminal consideration involved, the records did not pertain to inherently criminal activities, and because there are substantial civil regulatory purposes, the government’s interest is “essentially regulatory.” They are of a type “customarily kept” by any account holder, offshore or not. And despite the fact that these are personal, not corporate, records of the taxpayer, the records had assumed a “public aspect” due to the valid regulatory scheme concerning reporting of such accounts. And even though the very act of producing documents can be “testimonial” and incriminating, the court also concluded that because the exception applied to the records sought by the subpoenas, the act of producing them also fell outside of the Fifth Amendment.

The Eleventh Circuit thus joined three of its sister circuits in upholding the application of the required records exception to individuals served with subpoenas that sought production of financial records required to be kept pursuant to the BSA and its implementing regulations. *See, In Re Grand Jury Subpoena, 696 F.3d 428, 430-31 (5th Cir. 2012); Grand Jury Subpoena Dated Sept. 12, 2011, 691 F.3d 903, 905-09 (5th Cir. 2012); and In Re M.H., 648 F.3d 1067, 1071-79 (9th Cir. 2011).*
YLD State Court Trial
June 7, 2013, 1 p.m. to 5 p.m.
George E. Edgecomb Courthouse
6th Floor, Courtroom 1
800 E. Twiggs Street, Tampa, FL
4.0 Credits (applied for)
Happy Hour To Follow
Every appellate opinion coming down on proposals for settlement seems to hack off another limb. The Florida Supreme Court has taken another hack in *Diamond Aircraft Indus., Inc. v. Horowitch*, ___ So. 3d ___, SC11-1371, 2013 WL 105328 (Fla. Jan. 10, 2013).

The Eleventh Circuit presented the Florida Supreme Court with two certified questions regarding the validity of a proposal for settlement that served as the basis for an award of attorney’s fees. In answering the first certified question, the Supreme Court held that a defendant’s offer of judgment to resolve “all claims” in a case where the plaintiff asserted both money damage and nonmonetary relief is invalid because Section 768.79, Fla. Stat. applies only to “any civil action for damages,” not a claim for “nonmonetary relief,” or even a hybrid claim of monetary and nonmonetary relief. Emphasizing the importance of strict application of Section 768.79, the court expressly held that there is no exception to this rule even when the equitable or nonmonetary claims lack “serious merit.”

In answering the second certified question, the court held that an offer of judgment is invalid if it does not separately specify whether fees are included in the offer, and specify whether attorney’s fees are part of the legal claim. The court reemphasized its point in *Campbell v. Goldman*, 959 So. 2d 223 (Fla. 2007) regarding Rule 1.442 and Section 768.79:

Because the overall subject is in derogation of the common law, all portions must be strictly construed. The district court erred in failing to strictly construe the plain language of the rule and statute.

*Horowitch* at *13. The court left little room for error:

if the elements of rule 1.442(c)(2) were not mandatory, we would have stated at the beginning of rule 1.442(c)(2) that the proposal “may” contain the requirements listed in that subsection. That subdivision of rule 1.442 explicitly states that a proposal “shall” contain the following requirements, which includes the requirement of a statement directed to the attorney’s fees at issue. . . . in *Campbell* we emphasized the necessity of strict construction of rule 1.442. *Campbell* dictates our answer with regard to the certified question. Strict construction of rule 1.442 required that the offer of settlement include a provision with regard to attorney’s fees, and whether such fees were a part of Horowitch’s legal claim. *Horowitch* at *14.

If it was not already clear from *Campbell*, the Florida Supreme Court has now made it crystal clear: because of the penal nature of the fee shifting statute and its related rule, even the most slight, technical violation of either Section 768.79, Florida Statute, or Fla. R. Civ. P. 1.442 will void an offer of judgment, demand for judgment under the statute, and/or settlement proposal made under the rule. While it is not dead yet, the proposal for settlement is seriously wounded. Drafters must take care to strictly follow the requirements of Rule 1.442 and Florida Statute Section 768.79 if a proposal for settlement is going to be worth much more than the paper it’s printed on.

Author:
Charles T. Moore,
Morgan & Morgan
Hold your next meeting at the

**CHESTER H. FERGUSON LAW CENTER**

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

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

“Wonderful facility! Rave reviews when I survey my participants about the location. Plenty of free parking, beautiful spacious rooms with all amenities…”

— Janelle Walkley, The Settlement Center, CME/CLE Training Provider

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

RESERVE YOUR SPACE TODAY.
CALL (813) 221-7777 OR EMAIL EVENTS@HILLSBAR.COM.
Fulfill Your Professional Responsibility
Donate to Bay Area Legal Services

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

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

• Carey, O’Malley, Whitaker & Mueller, P.A.
• The Law Office of Julia Best Chase, P.A.
• Preston O. Cockey, Jr., P.A.
• The Law Office of Christine Derr
• Epperson & Rich, P.A.
• Forcon International Corp.
• Buddy D. Ford, P.A.
• Fowler White Boggs, P.A.
• George & Titus, P.A.
• Gunn Appellate Practice, P.A.
• Gunn Law Group, P.A.
• William E. Hahn, P.A.
• Harmon, Woods, Parker & Abrunzo, P.A.
• Harris and Hunt, P.A.
• Hill Ward Henderson
• Himes & Hearn, P.A.
• Ron A. Hobgood, Attorney at Law
• Holland & Lamoureux, P.A.
• The Law Offices of George Hunter, P.A.
• A. Woodson Isom, Jr., P.A.
• Joyce & Reyes Law Firm
• Lauro Law Firm
• Ann Loughridge Kerr, Attorney at Law
• Leon & Berg, P.A.
• Mark A. Linsky, P.A.
• Madison Street Properties
• Mark E. Miller, P.A.
• Catherine Novack
• Rissman, Barrett, Hurt, Donahue & McLain, P.A.
• Rywant, Alvarez, Jones, Russo & Guyton, P.A.
• Stichter, Riedel, Blain & Prosser, P.A.
• John E. Sullivan, P.A.
• Jack L. Townsend, Sr., P.A.
• Veredus Corp.
• Wenzel Fenton Cabassa, P.A.
• Wiand Guerra King P.L.

To make a donation or become a 2013 Sustaining Law Firm, contact: Development, Bay Area Legal Services  (813) 232-1222 x 131 or e-mail: plubin@bals.org
Thank you to all of our 2012 Sustaining Law Firms for their loyalty and support:

- Shirley C. Arcuri, P.A.
- Addison & Howard, P.A.
- Allen Norton & Blue, P.A.
- Alley Clark & Greiwe
- Christie D. Arkovich, P.A.
- Arnstein & Lehr, LLP
- John Bales Attorneys
- Banker Lopez Gassler P.A.
- Bank of America, N.A.
- Barnes Trial Group
- Barnett, Bolt, Kirkwood, Long & McBride
- Betts Mediations
- Buell & Eligett, P.A.
- Burr & Forman, LLP, formerly Williams Schifino
- Norman S. Cannella, Jr., P.A.
- Ronald K. Cacciatore, P.A.
- Law Offices of J. Kevin Carey, P.A.
- Carey, O’Malley, Whitaker & Mueller, P.A.
- The Law Office of Julia Best Chase, P.A.
- Cheeseman & Phillips
- Clark & Martino, P.A.
- Preston O. Cockey, Jr., P.A.
- Thomas E. Cone, Jr., P.A.
- Law Office of Thaxter Cooper, P.A.
- Cortes Hodz Family Law & Mediation, P.A.
- Daniel Law Group, P.A.
- Davidson, McWhirter, P.A.
- DeCort & Kirkner, P.L.
- de la Parte & Gilbert, P.A.
- R. Michael DeLoach, P.A.
- The Law Office of Christine Derr
- Richard W. Driscoll, P.A.
- Epperson & Rich, P.A.
- The Fernandez Firm
- Gerald A. Figurski, P.A.
- Fisher & Phillips, LLP
- Forcon International Corp.
- Buddy D. Ford, P.A.
- Ford & Harrison, LLP
- Michael Foster, P.A.
- Fowler White Boggs
- Gallagher Keenan, P.A.
- George & Titus, P.A.
- Bruce S. Goldstein, P.A.
- Fritz Gray, Attorney at Law
- Gunn Appellate Practice, P.A.
- Gunn Law Group, P.A.
- The Law Firm of Gunster
- William E. Hahn, P.A.
- Linda C. Hanna, P.A.
- Harris and Hunt, P.A.
- Hill Ward Henderson
- Himes & Hearn, P.A.
- Ron A. Hobgood, Attorney at Law
- Holland & Lamoureux, P.A.
- Law Offices of George Hunter, P.A.
- A. Woodson Isom, Jr., P.A.
- Joyce & Reyes Law Firm
- Edwin B. Kagan, P.A.
- Ann Loughridge Kerr, Attorney at Law
- Kynes, Markman & Felman, P.A.
- Lauro Law Firm
- Vincent A. Leto, P.A.
- Leon & Berg, P.A.
- Mark A. Linsky, P.A.
- James B. Loper, Attorney at Law
- Marlowe, McNabb, P.A.
- Marshall Thomas Burnett, P.L.
- Mason Black & Caballero, P.A.
- The Law Offices of John W. McKnight, LLC
- LeRoy H. Merkle, Jr., P.A.
- Mark E. Miller, P.A.
- McClain, Smoak & Chistolini, LLC
- H. Lee Moffitt, P.A.
- Morgenstern & Herd, P.A.
- The Law & Mediation Offices of Robert J. Nader
- Catherine Novack
- Ogden & Sullivan, P.A.
- Quinn Law Firm, P.A.
- John H. Rains, Ill, P.A.
- Reiber Law Group
- Rissman, Barrett, Hurt, Donahue & McLain, P.A.
- Daniel Riveiro, Jr., P.A.
- Rocke McLean Sbar, P.A.
- Irene M. Rodriguez, P.A.
- Craig E. Rothburd, P.A.
- Rumberger, Kirk & Caldwell
- Rywant Alvarez Jones Russo & Guyton, P.A.
- Schiff Law Group
- Sharp Kemm, P.A.
- Mark Shelton, P.A.
- Cary R. Singletary, P.A.
- Singletary Law Firm, P.A.
- Christopher J. Smith, P.A.
- Law Office of James H. Smith PL
- Malcolm R. Smith, Attorney at Law
- Law Offices of Guy W. Spicola
- Gerald H. Stead, P.A.
- Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.
- Stichter, Riedel, Blain & Prosser, P.A.
- Law Offices of Ed Suarez, P.A.
- John E. Sullivan, P.A.
- TECO Energy, Inc.
- JF Thomas & Associates, P.A.
- Jack L. Townsend, Sr., P.A.
- Trenam Kemker
- Trombley & Hanes, P.A.
- Barbara Twine-Thomas, P.A.
- Veredus Corporation
- Law Office of Edward H. Ward
- Watkins Law Firm, P.A.
- Rory B. Weiner, P.A.
- Wenzel Fenton Cabassa, P.A.
- Deborah Larned Werner, P.A.
- Charles S. White, P.A.
- Wiand Guerra King, P.L.
- Barbara L. Wilhite, P.A.
- Richard Benjamin Wilkes, P.A.
- Law Office of Thomas L. Young
- Zuckerman Spaeder, LLP
Brannock & Humphries is pleased to announce that board certified appellate practitioner Ceci Berman has joined the firm as a partner.

Keith W. Bricklemyer, a founding shareholder with Bricklemyer Smolker, P.A., has been honored with a special recognition by The Wall Street Journal in its selection of “Florida’s Top Attorneys 2013.”

Congratulations to Andrew M. Brown on his recent induction into the American Board of Trial Advocates (“ABOTA”). Brown is a shareholder with the law firm of Macfarlane Ferguson & McMullen and joins fellow partners James A. Martin, Jr. and Stephen H. Sears as ABOTA members. ABOTA membership is by invitation only, requiring significant jury trial experience as lead counsel among its member qualifications. Macfarlane Ferguson & McMullen has partnered with clients to provide legal representation since 1884. The firm has offices in Tampa and Clearwater.

J. Richard “Dick” Caldwell, Jr., a founding partner of Rumberger, Kirk & Caldwell, earned legal board certification in civil trial in 1983 and has remained certified for 30 years. Caldwell established the firm’s office in Tampa, where he represents clients in product liability, commercial litigation, and professional liability.

Carlton Fields is pleased to announce that Donald R. Kirk has joined the firm in the Tampa office as a shareholder. Kirk practices in the firm’s Bankruptcy and Creditors’ Rights practice group and concentrates his practice on the representation of businesses in all aspects of bankruptcy cases, including bankruptcy and creditors’ rights, commercial litigation, and contract disputes. Kirk previously served as chair of Fowler White Boggs’ Business and Appellate Litigation practice group.

Carlton Fields is pleased to announce that Michael V. Leeman and Hema A. Persad have joined Carlton Fields’ Tampa office as associates. Both are members of the firm’s Bankruptcy and Creditors’ Rights practice group. Leeman focuses his practice on a variety of commercial litigation matters. He received his J.D., magna cum laude, from the University of Florida Levin College of Law, where he also served as articles editor of the Florida Law Review. Persad’s commercial litigation practice focuses on real estate litigation, foreclosures, contract claims, creditor’s rights and bankruptcy, and general business litigation. She is a member of the Tampa Bay Bankruptcy Bar Association. Persad received her J.D. from the University of Florida Levin College of Law. Prior to Carlton Fields, both were associates at Fowler White Boggs.

Carlton Fields is pleased to announce that Jourdan Haynes joined the firm as an associate in Tampa. Haynes practices in the firm’s Real Property Litigation practice group. He handles matters in state and federal courts, including real estate litigation, contract disputes, business disputes, construction litigation, and other commercial litigation matters. Prior to Carlton Fields, Haynes was an associate at Fowler White Boggs P.A.

Carlton Fields is pleased to announce that Jourdan Haynes joined the firm as an associate in Tampa. Haynes practices in the firm’s Real Property Litigation practice group. He handles matters in state and federal courts, including real estate litigation, contract disputes, business disputes, construction litigation, and other commercial litigation matters. Prior to Carlton Fields, Haynes was an associate at Fowler White Boggs P.A.

Carlton Fields is pleased to announce that Jourdan Haynes joined the firm as an associate in Tampa. Haynes practices in the firm’s Real Property Litigation practice group. He handles matters in state and federal courts, including real estate litigation, contract disputes, business disputes, construction litigation, and other commercial litigation matters. Prior to Carlton Fields, Haynes was an associate at Fowler White Boggs P.A.

Carlton Fields is pleased to announce that Jourdan Haynes joined the firm as an associate in Tampa. Haynes practices in the firm’s Real Property Litigation practice group. He handles matters in state and federal courts, including real estate litigation, contract disputes, business disputes, construction litigation, and other commercial litigation matters. Prior to Carlton Fields, Haynes was an associate at Fowler White Boggs P.A.

Carlton Fields is pleased to announce that Jourdan Haynes joined the firm as an associate in Tampa. Haynes practices in the firm’s Real Property Litigation practice group. He handles matters in state and federal courts, including real estate litigation, contract disputes, business disputes, construction litigation, and other commercial litigation matters. Prior to Carlton Fields, Haynes was an associate at Fowler White Boggs P.A.

Carlton Fields is pleased to announce that Jourdan Haynes joined the firm as an associate in Tampa. Haynes practices in the firm’s Real Property Litigation practice group. He handles matters in state and federal courts, including real estate litigation, contract disputes, business disputes, construction litigation, and other commercial litigation matters. Prior to Carlton Fields, Haynes was an associate at Fowler White Boggs P.A.
Louis D. Putney has been elected president of the Board of the Nathan B. Stubblefield Foundation, the non-profit licensees of WMNF Community Radio 88.5 FM Tampa.

Shumaker, Loop & Kendrick, LLP is pleased to announce that Brian C. Willis, associate in the firm’s Tampa office, spoke at the 17th Annual Downtown Development Forum on March 8, 2013. Willis gave an update on the status of transportation projects across the region as part of the Transportation Requires Innovative Partnerships portion of the forum. Willis represents individuals and corporations involved in business, contract, and real estate disputes.

Shumaker, Loop & Kendrick, LLP, is pleased to announce that Erin Smith Aebel, partner in the Tampa office, presented a webinar with attorney Ann Bittinger, of the Bittinger Law Firm, on Negotiating Physician Employment Agreements for The Florida Bar Health Law Section on March 12, 2013. Aebel is certified as a health law specialist by The Florida Bar.

Attorneys Dale Golden, Ken Scaz, and Ed Gagain announce the formation of Golden Scaz Gagain, PLLC. Dale Golden and Ken Scaz previously operated Golden & Scaz, PLLC., a litigation defense firm. Gagain was previously the managing shareholder of the Tampa office of Marshall, Dennehey, Warner, Coleman & Goggin, one of the nation’s largest litigation defense firms. Golden Scaz Gagain, PLLC will continue to provide its clients representation in civil claims throughout Florida in both state and federal courts.

Hill Ward Henderson is proud to sponsor The Founder Institute, the world’s largest startup accelerator with more than 750 graduate companies. Hill Ward Henderson is hosting the spring semester of the new Tampa chapter at its downtown offices and will teach the courses on legal issues.

Stuart C. Markman has been appointed to the City of Tampa Ethics Commission for a term ending July 2016. Markman is a founding member of Kynes, Markman & Felman, in Tampa, and concentrates on civil appeals and litigation support in state and federal courts.

Shumaker, Loop & Kendrick, LLP, is pleased to announce that Sarah M. Glaser has joined the Tampa office as an associate in the Bankruptcy, Insolvency and Creditors’ Rights department. Prior to joining Shumaker, Sarah was an associate at Saxon, Gilmore, Carraway & Gibbons, P.A., where she practiced creditors’ rights litigation.

Shumaker, Loop & Kendrick, LLP is pleased to announce that Steven M. Berman, partner in the Tampa office, was a panelist for the American Bankruptcy Institute’s Bankruptcy Battleground West Conference on March 22, 2013, at the Hyatt Regency Century Plaza in Los Angeles. This year’s conference focused on Current Topics in Bankruptcy Litigation (Trying cases in trying times without trying your Judge’s patience...). Berman has more than 23 years of experience and has focused his practice as a business bankruptcy litigator representing creditors, trustees, committees, and business entities litigating disputes in bankruptcy court.
Continued from page 61

Hill Ward Henderson shareholder Troy A. Fuhrman was recently elected to serve on the Board of Directors for Business Counsel, Inc.. The organization is a network of law firms based in the United States with member firms from around the world focused on providing high quality legal services to the business community. Fuhrman is a part of Hill Ward Henderson’s Litigation Group. His practice primarily involves the defense of products liability and complex mass tort claims.

Patrick Poff of Trenam Kemker and Stetson Law Professor Kirsten K. Davis were plenary session speakers at the 2013 Midwinter Meeting of the American Bar Association Forum on the Construction Industry, styled “Making Dollars & Sense of Construction Damages,” held in Naples recently. Poff and Davis spoke on “Ethics: Throwing in the Kitchen Sink — How Far Can You Go in Presenting Damages in Litigation, Mediation, and Negotiation?”

Tom Scarritt, a trial lawyer with Scarritt Law Group (Tampa), acted in a production that was awarded PBS Affiliate WEDU’s 2013 “Be More” Special Events Award for Entertainment in the Tampa Bay Area. Scarritt played three characters in staged readings of the Broadway success Sylvia, which raised more than $11,000 to benefit Hillsborough at-risk youth. The production, which was co-sponsored by Stageworks Theatre of Tampa and the Lazy Days Foundation, was selected based on its uniqueness and effectiveness.

The law firm of Thompson, Sizemore, Gonzalez & Hearing, P.A. is proud to announce that Deborah C. Brown has rejoined the firm. Brown is a graduate of Florida State University (B.A.) and Stetson College of Law (J.D.). She joined the firm initially in 1989, and represented employers in labor and employment related matters. She left the firm in 1996, then returned in 2000. From 2005 to 2013, Brown worked at Stetson University College of Law, then at Saint Leo University. This year, she rejoined Thompson, Sizemore, Gonzalez & Hearing, P.A. to again represent employers in labor and employment law, and also to build on the firm’s already significant representation of K-12 and higher education clients in education law matters. Brown is board certified in Education Law by The Florida Bar and also holds the Senior Professional in Human Resources certification.

Shumaker, Loop & Kendrick, LLP, is pleased to announce that Erin Smith Aebel, partner in the Tampa office, presented to the Hillsborough County Bar Association’s Health Law Section CLE luncheon on Health Care Clinic Licensure and Regulation on February 7, 2013. Aebel also presented “The Future of Healthcare Reform in Florida” to women executives at the University of South Florida CAMLS facility January 8, 2013.

Trenam Kemker lawyers and staff recently traded in the law books for trash bags by taking part in a coastal cleanup with Tampa Bay Watch. More than 50 employees of the firm spent a recent Saturday picking up trash alongside the roads and mangroves of Tierra Verde.

Staff Associate - National multi-office specialty financial advisory and restructuring firm is seeking a financial professional for an Associate position in its Tampa office. The ideal candidate will have three to five years’ work experience with a public accounting firm. Experience in analyzing and critiquing financial models, reconstruction of financial activity, familiarity with bankruptcy and the related accounting issues, litigation support, knowledge of one or more common accounting software programs. Skills should include advanced Excel modeling techniques and database functionality. Said candidate must have either an undergraduate degree in accounting or be qualified for the CPA examination. Travel is required, sometimes on short notice. Compensation is commensurate with the individual candidate’s experience and qualifications. Email resume to appeal@glassratner.com.

Receptionist/Administrative Assistant - National multi-office specialty financial advisory and restructuring firm is seeking a receptionist/administrative assistant in Tampa office to perform a broad range of administrative and secretarial duties for the professionals in the company. Individual must have a bachelor’s degree or related office experience with strong organizational, administrative, and communication skills. Individual must be diligent, detail-oriented who excels at multi-tasking in a fast paced environment, completing projects within allotted timeframe and works well independently. Candidate must have computer skills that include at a minimum proficiency in Word, Excel, Outlook and Power Point. Email resume to appeal@glassratner.com.
ATTENTION HCBA MEMBERS: SEND US YOUR JURY TRIAL INFORMATION, EMAIL WENDY WHITT AT WENDY@HILLSBAR.COM.
Silver Springs, near Ocala, has attracted visitors since the mid-19th century. The Silver Springs Nature Theme Park opened in the 1920s and is known for its glass-bottom boat tours. Several other tourist attractions have come and gone in Silver Springs.

Roadside motels like this one in Jasper have mostly gone the way of many of the state’s old tourist attractions. But in the 1950s, they dotted the Florida landscape.

POSTCARDS COURTESY OF RAYMOND T. (TOM) ELLIGETT, JR.
ARE YOUR CLIENTS ELIGIBLE?

IT'S WORTH THE LOOK.

ERG IS A STATEWIDE LAW FIRM REPRESENTING BUSINESSES WITH THEIR BP CLAIMS

A Business and Consumer Law Firm

The BP Settlement Program represents an extraordinary effort to address the damage done to businesses as a result of the BP oil spill in a fair, objective and reasonable manner.

Many business owners assume that their losses have to be directly related to the oil spill to qualify for the class action settlement, but that’s simply not the case. Thanks to BP, billions of dollars will be coming directly back to businesses that felt the trickle-down effects and saw changes in their revenue. An average of 12,000 claims are being filed each month, with the average business economic loss claim value exceeding $200,000.

With more than 35 dedicated attorneys, CPAs and other professionals, ERG handles claims entirely in-house and with complete confidentiality.

Have you been evaluated yet?

VISIT ERGLAWFIRM.COM FOR MORE INFORMATION ABOUT HOW WE ARE HELPING FLORIDA RECOVER.

SERVING FLORIDA’S WEST COAST | Offices: Tampa • St. Petersburg • Sarasota • Cape Coral • Ft. Myers • Naples • Orlando
Direct Mail to: 1936 Lee Road, Suite 105 Winter Park, FL 32789 | Phone: (888) 270-6288 | info@ERGLawFirm.com
© 2013 Economic Recovery Group, LLC
Our Prime Home Equity Credit Line

A readily available resource with an annual percentage rate based on the prime rate.*

The Bank of Tampa Prime Home Equity Credit Line at a Glance

• Annual percentage rate based on the prime rate
• Minimum credit line is $10,000
• A maximum loan to value ratio of 80%
• Instant access to funds, just by writing a check for $100 or more
• 10-year draw period
• No application or membership fees
• No closing fees on credit lines … period

HCBA members are entitled to our premier Minaret Diamond relationship package with no monthly service charges and minimum requirements. Call for details.

*Subject to credit approval. The APR may change and is based on The Wall Street Journal prime, subject to a minimum APR of 3.75%. The Wall Street Journal prime is 3.25% as of March 13, 2013. The maximum APR is 18%. The Bank of Tampa will pay all bank-required closing fees on Prime Home Equity Credit Lines. Property and flood insurance may be required. Available to consumers living in the greater Tampa Bay area, which includes Hillsborough, Pinellas, Pasco, Manatee and Sarasota counties. The line of credit must be secured by a first or second mortgage on the borrower’s principal residence or their second/vacation home (excluding investment/rental property). Maximum loan to value ratio of 80% on first $1 million of home valuation; 70% maximum loan to value on amount of home valuation in excess of $1 million. An early payoff fee of up to $750 may be imposed if you terminate your home equity line within 12 months of opening.

You may be eligible for significant tax benefits, which we encourage you to discuss with your tax advisor.