THE NEXT GOVERNOR COULD APPOINT AT LEAST FOUR SUPREME COURT JUSTICES.

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PLEASE REACH OUT IN YOUR COMMUNITY AND ENCOURAGE ALL TO VOTE IN THIS HISTORIC MID-TERM ELECTION CYCLE.

ALL THE PEOPLE NEED TO PARTICIPATE IN ELECTING A GOVERNOR WHO IS FOR THE PEOPLE OF OUR STATE.

GET OUT AND VOTE
Red mangroves stand in the intertidal waters above an oyster bed in eastern Tampa Bay. Their abundance indicates a healthy ecosystem with their characteristic crop roots providing shelter for numerous fish species.

Photo courtesy of Carlton Ward Photography, www.carltonward.com

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Pictured left to right: W. Donald Cox, Burton W. Wiand, W. Reese Bader

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For more information about WGK-ADR, visit wiandlaw.com.
As a fan of traditional country music, I’ve always thought George Jones’ classic song “Who’s Gonna Fill Their Shoes” is vastly underappreciated. If you’ve never heard it, the song is a poignant tribute to the pioneers of traditional country music:

You know this old world is full of singers
But just a few were chosen
To tear your heart out when they sing
Imagine life without them
All your radio heroes

After lamenting there will never be another Johnny Cash, Merle Haggard, Willie Nelson, Elvis Presley, or Conway Twitty (to name a few), Jones implores others to carry on the legacy of those radio heroes: “Lord I wonder, who’s gonna fill their shoes.”

That song came to mind as I sat down to write the editor’s message for this year’s inaugural issue of the Lawyer.

This year, as you’ve seen from the issue cover, is the 25th anniversary of the Lawyer. In celebration of that milestone, each issue will feature a tribute to a person or event that has impacted the HCBA over the past 25 years. At the risk of sounding trite, it is hard to overstate the importance of having an appreciation for history. As historian David McCullough once observed, “History is who we are and why we are the way we are.”

Unfortunately, it didn’t occur to me how little I knew about who we are as a legal community or why until I sat down to write this message. While I could tell you all about the “radio heroes” Jones refers to in his song, I couldn’t have told you much about our community’s “legal heroes.” Sure, I’m familiar with the names George Edgecomb and Chester Ferguson. But sadly, I didn’t actually know anything about either of them; I’ve just been to the buildings that bear their names. So over the past couple of weeks, I’ve spent time researching the history of our legal community.

In doing so, I’ve read and heard fascinating stories about some remarkable people: pioneers who broke down barriers for women and people of color, paving the way for generations that followed; local lawyers who distinguished themselves as public servants — at the local, state, and national level; lawyers who used their limited time and remarkable talents to serve the needy in our community; lawyers who will be remembered far more for their professionalism than their immense legal talents.

After reading and hearing those stories, it’s clear to me that there will never be another Josephine Howard Stafford, Sam Gibbons, Cody Fowler, Arthenia Joyner, George Edgecomb, E.J. Salcines, Susan Bucklew, Charles Wilson, Chester Ferguson, Don Castor, Wm. Reece Smith Jr., Don Stichter, Ben Hill, Gwynne Young, to name only a few. It’s hard to imagine what our community would be today without our legal heroes.

Lord I wonder, who’s gonna fill their shoes.
A Salute to Our Mission of Respect and Service

Our mission is to inspire and promote respect for the law and the justice system through service to the legal profession and to the community.

Why are we here? Nothing like starting a new Bar year with a challenging question, huh? Attempting to answer that short yet deep question has produced endless answers, opinions, arguments, and even other questions over the years. Without getting too heavy, I simply want to pose the question in a less traditional frame. Specifically, I narrow the scope to our local Bar. Why are we — the Hillsborough County Bar Association — here?

I submit that the answer lies in an oft-overlooked, and perhaps even unknown, sentence within the “HCBA Purpose.” In planning for this year, I frequently found myself returning to this sentence to gauge whether an HCBA event or action was worthy or appropriately purposeful. Now that the year is underway, I continue to revisit it. As with any important sentence, I encourage you to not only read it, even aloud, but also to reflect on it as I believe each of us, as HCBA members, should. So here it is:

Our mission is to inspire and promote respect for the law and the justice system through service to the legal profession and to the community.

Perhaps you had similar takes. In any event, I want to lift up “respect” and “service” as our focal points for this year and hope that you will also embrace them as we strive to carry out our Bar’s mission. Further, because one of this year’s means to advance our mission will be to highlight military and veterans affairs, I hereby dub this year’s mission “Operation Respect and Service.”

Speaking of highlighting, I want to identify a few events during the first half of the Bar year in which we welcome your participation. First, as referenced, we are revamping our outreach efforts to our area military and veterans under the newly named Military and Veterans Affairs Committee. As reflected in the committee’s inaugural article in this issue, this group is already busy planning its success. If you would like to volunteer for this committee or simply learn more about it, please contact the co-chairs, Lt. Col. Chris Brown (christopher.brown.1@us.af.mil) or Bob Nader (rjn@naderlawfl.com).

On September 11, we will hold our first General Membership Luncheon at the Hilton. We are thrilled to have Brig. Gen. Dixie A. Morrow, commander of Air Force Legal Operations Agency at Bolling Air Force Base in Washington, D.C., as our guest speaker. Noted for her informative and inspirational speeches, she also

Continued on page 7
has a long and distinguished legal career within the service and multiple ties to Florida (a “double Gator” and service at MacDill AFB). Trust me, you will not want to miss this lunch.

On October 17, our Young Lawyers Division will host its annual YLD Golf Tournament. To be clear, you need not be a “young lawyer” — I remain in denial — to play. October 19-25 is the National Pro Bono Celebration, which we, along with the Thirteenth Judicial Circuit, will be supporting (see the HCBA website for details). Then, on October 30, we will host our 18th Annual Bench Bar Conference & Judicial Reception. Judges Caroline Tesche and Samantha Ward and their fabulous committee have worked hard on this event, so you will not want to miss it.

On November 7, in an effort to provide additional benefits to our members, we will be hosting the first HCBA Health & Wellness Expo. While we will provide further information on this soon, please save this date.

Finally, I pause to acknowledge how fortunate I am to have such a talented and diverse leadership team around me. Our board members are genuinely committed to representing the well-being of our nearly 4,000 members. The chairs of our multiple sections and committees are organized and energized to lead meaningful programming, pro bono and community service projects, and social and networking events. Our dedicated HCBA staff, led by our incomparable Executive Director John Kynes, continues to work hard daily to meet our membership’s needs and further our mission. In the spirit of Operation Respect and Service, I salute all of you and look forward to a great year together!

**Congratulations to the 2013-2014 HCBA Bar Leadership Institute Class**

The Hillsborough County Bar Association’s Bar Leadership Institute class held its closing reception on May 22 at the Chester H. Ferguson Law Center. The class appreciated the support of Jamie Meola, Dee Anna Hays and Carter Andersen, who led the group this year.

Congratulations to:

- Zachary L. Bayne
- Kimberly B. Cook
- T.J. Ferrante
- Melissa Gonzalez
- Ashley S. Grant
- Alexandra N. Haddad
- Lee Harang
- Maja Lacevic
- Tim Martin
- Karen Middlekauff
- Jason Montes
- Maria Obradovich
- Anthony J. Palermo
- Rinky S. Parwani
- Eliot Peace
- Jared Perez
- Camaria Pettis-Mackle
- Taylor Russo
- Anthony Severino
- Stathia Sferios
- Robert Stines
- John Trujillo Jr.

Thank you to the Bar Leadership Institute’s sponsor:

The Bank of Tampa
As president of the Young Lawyers Division, I would like to encourage all young lawyers to get more involved professionally and to help us make a difference in Hillsborough County. We have one of the largest and strongest young lawyers divisions in the state, which enables us to provide a wide array of opportunities to not only network with other lawyers and judges but to help the less fortunate in Hillsborough County.

If you are interested in the networking aspect of our Bar association, then I encourage you to attend the YLD’s Happy Hours, Quarterly Luncheons, Coffee at the Courthouse, Golf Tournament, Cornhole Tournament, and the YLD’s booth at the Judicial Pig Roast/Food Festival. Coffee at the Courthouse allows young lawyers an opportunity to interact with the judiciary from Hillsborough County in an informal setting, and the Cornhole Tournament is held annually in partnership with Big Brothers Big Sisters to raise funds and awareness for the group’s programs in the local community.

If you prefer programs designed to help you grow professionally, then you may be interested in our Judicial Shadowing Program, State Court Trial Seminar, or the 13th Circuit Mentoring Program. Judicial Shadowing provides the opportunity for young lawyers to shadow judges through trials and proceedings while receiving mentoring directly from the bench. The State Court Trial Seminar focuses on trial practice/skills and is presented by many top trial attorneys in Hillsborough County. The mentoring program provides young lawyers with meaningful access to experienced lawyers for guidance.

If you would like to give back to our community, then I recommend Wills for Heroes, the Attorney Ad Litem Program, Family Forms Clinic, Holidays in January, Steak and Sports Day, Luncheon Program at Rampello Downtown Partnership School, Law Week and the High School Mock Trial Competition. Holidays in January brings together foster children, foster parents, and young lawyers in the Tampa Bay area for a fun-filled day of activities and holiday gift-giving. During Law Week, the YLD offers tours of the courthouse, mock trials, and classroom speaking engagements for the children of Hillsborough County. Steak and Sports Day is a day of grilling and outdoor fun with local abandoned, abused, neglected, and orphaned children.

YLD members not only attend but help plan these projects and events, so if you would like to assist, please join one of our committees. Our events can always use more volunteers and new faces as we continue to
enhance our programming. For more information, go to the YLD link found at www.hillsbar.com or visit our Facebook page. We look forward to your involvement in the YLD as we continue our tradition of making a difference in Hillsborough County!

Please note the upcoming annual Golf Tournament in October. We expect a full field as we have had in the past, so make sure to get your registration in and take advantage of the early-bird discount. The tournament is open to lawyers and non-lawyers, so encourage your shareholders, colleagues, clients, and friends to join us on the course.

As the incoming president, I am excited to continue the YLD events that have defined our organization over the years, as well as enhance their reach. However, the extent of our reach is limited only by the participation of our members.
Ben Hill IV Sworn In as HCBA President; Bar Looks at Changing Legal Profession

“This is an association about ‘us.’ I’m reminded that the ‘us’ and ‘we’ far outweighs the ‘I’ and the ‘me.’ That attitude has made the HCBA one of the most highly regarded Bar associations around the country.”

— Ben Hill IV

Ben Hill III took a moment to reflect on his career, and understandably, he became a bit nostalgic. The occasion was the Hillsborough County Bar Association’s 2014-15 Installation of Officers and Directors event on June 5 at the Chester H. Ferguson Law Center.

You see, Hill III recalled a similar ceremony 33 years ago, in 1981, when he was sworn in as HCBA president. Ten years later, in 1991, Hill III was elected president of The Florida Bar. And in 1999, he was the recipient of the HCBA’s Outstanding Lawyer Award.

At this installation ceremony, however, Hill III was tasked with introducing his son, Ben Hill IV, as the incoming president of the HCBA. Hill III noted that his other son, Gordon, was being installed as a director on the HCBA board as well. All three work at Hill Ward Henderson, where Hill III was a founding member.

In his introduction, Hill III talked about his son’s personal background and professional experience. Hill IV attended Jesuit High School, went to Vanderbilt University, and is a Stetson Law School graduate. In addition, Hill IV is a past president of the HCBA’s Young Lawyers Division, and he is a recipient of the Stetson Lawyers Association’s Outstanding Alumni Representative Award.

“He brings to the table the culture that hopefully all of you have, and certainly we have in our firm, in that we believe very strongly in giving back to the community … and advancing our profession,” Hill III told those in attendance.

In his remarks, Hill IV talked about leading the HCBA this year. “It’s special to be a part, much less lead, this association of such great lawyers,” he said.

Hill IV discussed the HCBA’s strong relationship with the judiciary and efforts to increase professionalism and civility in the legal profession. “This is an association about ‘us.’ I’m

Continued on page 11

Check out more photos from the Installation of Officers and Directors event on pages 38 and 39, or view a full photo album at facebook.com/HCBA tampabay.
Continued from page 10

reminded that the ‘us’ and ‘we’ far outweighs the ‘I’ and the ‘me,’” Hill IV said. “That attitude has made the HCBA one of the most highly regarded Bar associations around the country.”

“I believe it’s our duty to maintain, and even enhance, the stellar reputation the Bar enjoys,” Hill IV added.

* * *

The fall season and a new Bar year also bring new opportunities for HCBA members. Opportunities to stay connected and forge new relationships with your colleagues in the legal profession. And opportunities to take advantage of the numerous educational and CLE programs made available throughout the year.

So consider joining the HCBA’s Lawyer Referral & Information Service and help grow your practice through case referrals.

Make it a point to attend the HCBA’s 18th Annual Bench Bar Conference & Judicial Reception scheduled for October 30 at the Hilton Tampa Downtown.

Also, stay tuned for information about a new HCBA health/wellness event later in the fall at the Ferguson Law Center. It will offer free health screenings and valuable personal health information for everyone.

At the same time, the HCBA and legal groups across the country must grapple with changes in the legal profession and evolve in order to stay relevant. That’s why I am pleased to be following the work of The Florida Bar’s Vision 2016 Commission.

Established by former Florida Bar President Eugene Pettis, this group is studying the future of the legal profession in the areas of legal education, technology, Bar admissions, and access to legal services.

“We are at the crossroads of major evolutionary changes in our profession,” Pettis said in a recent column in The Florida Bar Journal. “We must acknowledge a changing world, driven largely by technological advancements, and be willing to adapt.”

As we look to the future, this is something we should all keep an eye on.

See you around the Chet.
Juvenile Drug Court

When a child becomes involved with drugs, it can have a ripple effect throughout many lives. School, friends, and family are all negatively impacted. The future of the child is at risk. The child may even be caught committing crimes. This can be an opportunity to intervene and make a positive impact.

There are currently over 2,600 drug courts operating in the United States. The first drug court was created in 1989. Drug courts combine drug treatment with court monitoring and intervention in an attempt to reduce recidivism. Although more than half of the drug courts are designed for adults, there are drug courts serving juveniles as well. Juvenile drug courts are based on the same model as adult drug courts. The drug court model combines treatment with court monitoring.

In 1996, Hillsborough County established a Juvenile Drug Court. This program was the first of its kind in Florida. It is a diversion program; if a juvenile successfully completes the program, the charges are dismissed. A juvenile may be eligible for drug court if he or she has committed a drug-related offense or if the juvenile has a history of substance abuse. Juveniles may be referred to Juvenile Drug Court by the Juvenile Assessment Center, the Hillsborough County School District, the Juvenile Arbitration Program, or when they appear before a regular juvenile division judge. Continued on page 13
The Juvenile Drug Court program is usually 12 months long, but this can vary based on the treatment needs of the juvenile. Upon entering drug court, the juvenile will complete a contract that sets forth the requirements expected of the juvenile while in drug court. The juvenile is required to participate in treatment, submit to random urine tests, and abstain from using drugs or alcohol. A juvenile participating in drug court is expected to work toward additional positive goals that will help sustain the juvenile’s sobriety. This includes attending school or maintaining full-time employment.

The court monitors ongoing compliance with regular court hearings. During those court hearings, the court is updated on the juvenile’s progress. The court provides positive feedback to those juveniles who are complying with the program. Although failure to comply with the requirements of drug court can result in the juvenile being terminated from the program, the court also has the option of imposing less severe and more immediate consequences, such as a finding of contempt. The use of these lesser sanctions is intended to hold the juvenile accountable and provide an incentive to make positive behavioral changes while in the program.9

The ultimate goal of the Juvenile Drug Court is to create a safer community. By combining drug treatment with a program of personal accountability, drug courts can reduce recidivism. As your state attorney, my goal is to protect the citizens of Hillsborough County.

---

3 Id.
5 Juvenile Drug Court, http://www.fjjud13.org/Portals/0/Forms/pdfs/JuvDrugCourt_brochure.pdf (last visited April 30).
6 Id.
7 Id.
8 Id.
I spoke to my senior staff the other day about changes — on so many fronts. I had just read an article on the “Economic Challenge: Creating Jobs,” by Lawrence H. Summers, former U.S. Treasury secretary and current Harvard University professor. He traced the changes in the American economy in the past 100 years, from primarily agrarian to the present, driven by technology, which seems to be upgraded constantly.

Professor Summers said there are many reasons to think that the software revolution will be even more profound than the agricultural revolution. This time around, he said, change will come faster and affect a much larger share of the economy.

In terms of the clerk’s office, technology continues to shape the way we do business — internally as well as externally. It is so radically different from the time I first took office in 2005. We are implementing new systems across the board as I write, and we will change even more when we complete the process.

You know from personal experience that this is a new clerk’s office. Our “revolution” actually began in 2009, when we set out to replace our multiple case maintenance systems with a single, unified system — to serve you far better and more efficiently.

Since we first implemented the Odyssey system, the clerk’s office has been working methodically through all of our areas. We have implemented Odyssey thus far in the following court divisions: probate/mental health; family law; circuit civil; county civil; circuit criminal; county criminal; and juvenile dependency and delinquency. We are also on target to implement Odyssey in our civil and criminal traffic departments, which should be up and running when you read this article.

This new system has been instrumental in allowing our office to move forward on multiple fronts. Internally, our processes are becoming more streamlined, with far less paper. Instead of so many clerical-based positions supporting our paper environment, our employees are learning more technical skills, which are necessary to manage electronic data and records.

For you, our system has facilitated the implementation of electronic filing through the Florida Courts e-Filing Portal. This opens the “virtual front doors” to our office 24/7/365, allowing attorneys and self-represented litigants to file documents at any time of the day or night.

“virtual front doors” to our office 24/7/365, allowing attorneys and self-represented litigants to file documents at any time of the day or night. Real-time confirmations are delivered to the filers, keeping them apprised of the filing status. The next benefit to the attorneys and general public will be the capability to access court documents online for many of the case files we maintain. These access levels have been established under the Florida Supreme Court Standards for Access to Electronic Records and will become available starting in the first half of 2015.

There are so many positive outcomes of our different world — for you and for our employees, who are learning new skills in the latest technology. Although it is a different world, my hope is that it is also a better world on all fronts.
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Bench Bar Conference, Membership Luncheon & Judicial Reception

The Future Is Now: Electronic Technology, Law, and Evidence

October 30, 2014

The Hillsborough County Bar Association and its Bench Bar Committee co-chairs, Judges Samantha Ward and Caroline Tesche, are proud to announce the 18th Annual Bench Bar Conference. The focus of this year’s conference is on the many practical, legal, and ethical considerations facing us all as we deal with the myriad of challenges brought about by the advancement of electronic communications technology. We will be considering the vast advancements in social media, electronic filing systems, and the expanded use of electronic evidence both pre-trial and at trial.

We believe that the curriculum for this year’s conference is particularly timely and relevant, given changes and potential challenges to the Florida evidence code and advancements in many areas of electronic technology. After our morning “ethics-themed” breakfast, the morning and afternoon break-out sessions promise to be both substantive and practical. We are adding a United States Supreme Court Update session this year, as well as a “Kids in the Court” practical session to discuss the myriad of issues facing children in the many divisions of our court system.

We are excited to continue our innovative “view to the bench” sessions, providing lawyers and judges the opportunity to candidly discuss practice-specific topics in round-table discussions. Breaking out by areas of practice, we seek to diverge from the typical “view from the bench” and get real-life practical input from the litigants to the judges. This year’s segments will add probate and appellate sessions to the civil, family, criminal, and federal/bankruptcy sessions already planned.

This year, we are honored to be joined by Professor Charles W. Ehrhardt, certainly one of our country’s premier authorities on evidence, for the afternoon plenary session. He, along with several other distinguished guests, will provide valuable insight into contemporary issues regarding the complex legal landscape of the capabilities and limitations of electronic technology in the practice of law.

The Bench Bar Conference is the premiere HCBA learning event of the year, and as always, the committee seeks to keep the channels of communication open between the bench and bar, with its primary focus on improving the justice system. Working together, we can make positive changes in our court system. Please join us as we continue to strengthen the bond between the bench and bar, and to prepare the system to best meet the coming external and internal challenges to our profession. In the spirit of collaboration between the bench and bar, we invite you to join us at the Judicial Reception, which will immediately follow the conference.

So please save the date for the Bench Bar Conference, Membership Luncheon & Judicial Reception on October 30. Look out for more information about specific course offerings and registration instructions in email blasts from the HCBA and on the HCBA website. We look forward to seeing you!

Authors: Judges Samantha Ward and Caroline Tesche, Thirteenth Judicial Circuit
The Birth of the Bench Bar

The year was 1997. Tom Elligett was kicking off his term as president of the Hillsborough County Bar Association, and Mike Hooker was leading the charge as editor of the Lawyer magazine, which was just entering its eighth year.

The magazine was already evolving, introducing photos from Bar events, making readers chuckle with lawyer-related cartoons, and launching a section called “Tell Us” in which lawyers and judges shared amusing experiences from both inside and outside the courtroom.

Among the substantive articles and notices for events such as the Doc Jocks Versus Court Sports competition and a seminar teaching “Basic Internet for Lawyers and Paralegals,” there was a short article by Jennie Tarr, co-chair of what was then the Judicial Liaison Committee. “On November 12, 1997, the Hillsborough County Bar Association will hold its first Bench Bar Conference. … My co-chair, Bob Warchola, along with our steering committee, Gordon Schiff, Rob Shimberg and David Rowland, met with Chief Judge Dennis Alvarez last spring who enthusiastically supported this project,” Tarr wrote in the September 1997 issue of the magazine.

The HCBA’s first Bench Bar Conference featured four hours of roundtable discussions, bringing together lawyers and judges to talk about common issues encountered in the courtroom. The conference, which ended up drawing about 200 people, offered breakout groups on civil, criminal, and family/juvenile topics, followed by a closing session and reception.

In the years since this initial endeavor, the Bench Bar has grown into one of the HCBA’s most well-attended signature events. The conference now offers a full day of continuing legal education classes and a Membership Luncheon, then wraps up with a popular Judicial Reception in the evening. The HCBA appreciates all of the judges and attorneys who have helped build this event over the years, and we look forward to a great Bench Bar in 2014!
The following is an edited excerpt of an interview with the Hon. Mary Stenson Scriven, United States District Court Middle District of Florida, Tampa Division, conducted by Michael S. Hooker.

Q. Your Honor, tell us about your background. Where did you grow up?

A. I was born in Atlanta, Ga., but grew up in Macon. My dad was a minister and pastored several churches in Macon over the course of his career, 44 years at St. Luke Baptist Church, and my mother was a nurse at the local hospital, first as a registered nurse on the floor and then as head of the education department for the school of nursing that was an arm of the hospital. I was educated in the public schools in Macon.

Q. Any particular challenges growing up as a “preacher’s daughter”?

A. Not really. More challenges external to my family than by my family. People had expectations that the “preacher’s daughter” would behave in a certain way. Dad never put those kind of restrictions on our behavior other than that he and my mom led by example and took us to church several times every Sunday and every Wednesday. My mom likes to joke that her kids were drugged. “Drug to church at every

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opportunity.” So we really didn’t have much time to get in trouble.

Q. Did you have any idea what you wanted to do when you grew up?

A. I wanted to be an elementary school teacher. I love teaching. My mother was an educator, and I thought I was suited for teaching. I taught high school right after I graduated college. I graduated a semester early, and one of my high school teachers then was having a baby. So she took the semester off, and I finished her high school English classes for the rest of the year. I had my fill of teaching after half a year.

Q. Actually, you did a lot more teaching. I noticed in your bio that you taught at Stetson College of Law in ’96 and ’97, you were a former faculty member at the National Institute of Trial Advocacy, serving as a guest faculty member in the Master’s Program for Trial Advocacy at Nottingham Law Institute in England!

A. (Laughs) Well, I guess I didn’t give up the teaching bug. I love teaching. My favorite job was being a law school professor at Stetson. I think that in the context of the idealistic American law student, it’s just a great place to educate. People are open to education; they challenge the norms; you can engage with students; they really want to get a good grade so they work hard; and I really enjoyed it. In fact, when I went once with my son to school, I was there for half a day after having taught a class and gone to lunch, and he asked, “Momma, when are you going to start working?” and I said, “This is my job!”

Q. Your bio says that you are an honors graduate at Duke and obtained a law degree with high honors from Florida State. What was your undergraduate major?

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A. Political science and religion. I had the notion, at least by my freshman year in college, that I was going to go into law. I took a survey of constitutional law seminar and picked up the law bug. In my junior year at Duke, I served as the chief judge on the Student Judiciary Council. We considered honors violations, such as plagiarism, or even some misdemeanor violations. I gradually moved into an interest in the law from there.

Q. And I understand that you practiced law for a decade or so at Carlton Fields with an emphasis in commercial litigation and trade regulation. What kind of cases did you handle?

A. My principal practice was commercial litigation. When I started practicing, the firm represented the Federal Deposit Insurance Corporation. Thus, by happenstance, my practice was almost exclusively federal. Even so, it was a broad-based practice to include commercial litigation over loans, legal malpractice, accountant malpractice, director malpractice. These weren’t the typical federal cases so to speak, but because the government was the plaintiff, all of the cases were litigated and tried in the federal court. That became the source of my introduction to federal court, where I have remained throughout my career.

Q. Now, you were a magistrate judge for about 10 years, and obviously you’ve been a federal district judge since 2008, so you have served on two different federal benches. What would you say are the biggest differences between the magistrate and the district benches?

A. I think that typically the work as magistrate judge is somewhat more controlled in the sense that you typically know what your day will look like, except in duty week when you don’t know what may come your way. But here in the Middle District, it tends to be more dynamic; because of the number of consents in our district, magistrate judges’ duties tend to run the gamut. The principal difference in district judge work is that a lot of what I do involves sentencing and trying of criminal cases, and it’s both the heavy heart work and heavy trial work in terms of work on the bench. It probably isn’t the heaviest cerebral work. That work is the desk work on the complicated civil cases.

Q. I know that judges typically don’t like to see lawyers embroiled in discovery disputes. But other than discovery disputes, what kind of issues are brought to you on a routine basis that you think lawyers ought to resolve on their own?

A. I don’t abhor discovery disputes like some people say they do. I think one of the functions of the court is to resolve discovery disputes — real, live, substantive discovery disputes — such as “Am I entitled to the assertion of the privilege over this set of documents?” and “Does the burden of producing this document or this set of documents outweigh its relevance such that my obligation to produce is eliminated or should the cost be shifted?” I think those are kinds of things judges are supposed to involve themselves in. The timing of and location of depositions, and whether to grant someone an extension of time because of extenuating circumstances that are not repeat extenuating circumstances, are the kinds of things, I think, professional, civil-minded lawyers ought to be able to work out, without resorting to the court.

Q. What do you see as the key issues in the Middle District of Florida over the next several years?

A. Funding and resources. I think we are statistically one of the fastest growing districts in the country. At least, historically we have been. I haven’t looked at the data in the last couple of weeks, but as our population grows and business grows, litigation ensues and crimes get committed, and so properly funding the federal courts is paramount and should be something the lawyers are really concerned about. I think that lawyers have to be mindful that if they want to continue to have high-minded litigation brought in the courts in the U.S. as opposed to somewhere else or brought in some alternative forum, they need to really be concerned about and work to ensure that the court is fully funded so that we can operate as a court should.

Q. I know you’re aware of the tremendous push recently by The Florida Bar under the leadership of Eugene Pettis to increase diversity on the state bench. Why is diversity in the judiciary so important?

A. Diversity in the judiciary is important because when people come to court they want to believe that the court is even-minded, and although I don’t know of a judge who looks at a case differently

Continued on page 21
You are married to a prominent local lawyer, Lanse Scriven. Does being married to a lawyer affect your role on the bench?

A. It does. It keeps me grounded in the practice of law, and I think as a judge one can tend over time to forget what it really feels like to practice law. It makes it less likely that I’ll just flippantly deny requests for extensions of time for reasons that are properly articulated to be important, even if they are personal. It makes it more important to me to really allow people to be heard on all sides of an issue. I think the constant reminder that there are litigants who are out there working on important, highly contested issues and they are spending enormous resources doing it and having that sort of paramount in my mind on a daily basis keeps me grounded and aware of how important it is for a judge to be tempered in his or her judgment and to allow everybody to be heard.

Judge, I understand from a particularly reliable source that you are an exceptional chef. What are your signature dishes?

A. Chicken Captiva, a dish of chicken, fresh shrimp, bacon, and a Dijon cream sauce topped with mozzarella cheese, which I stole from a lawyer named David Snyder, so I have to give attribution. It has become our family’s favorite. I love fresh seafood dishes like Florida grouper. I am a German chocolate cake queen. I would say quite confidently no one has had a better German chocolate cake than mine, ever! And my husband’s favorite probably is my New York-style cherry cheesecake.

And finally, on a sad note, I understand that your father, who you already mentioned today, passed away last December. What one attribute of his are you most proud of?

A. There are so many attributes my dad had, it’s hard to pin down one, but what comes to mind first is the famous Rudyard Kipling verse: “If you can walk among kings and not lose the common touch. ...” My dad was very well educated. He was biblically a genius in the sense that he could identify a verse in the Bible that could address any given concern on any given day, but he didn’t lord the Bible over people or lord his religious education over his parishioners or the people he encountered. And everyone considered him to be a friend, and he was...
able to maintain that persona. I think in the context of what we do as judges for a living, just being able to stay normal and remember that we put our pants on one leg at a time like everybody else is important to avoiding “robeitis,” as I think it used to be called back in the ‘90s, and it’s something that I try to aspire to as a judge.

Q. If you had it to do all over again, would you still be a judge?

A. Absolutely, I would. I love the work. It is rarely ever boring. I mean, there are some things that I do that aren’t particularly scintillating, but the work is almost always intellectually stimulating. I get to work with the brightest young minds in the country. When I hire law clerks, I get 100 to 200 applications for every job, and I get to choose the best, the brightest to work with. I still get to teach because those become my students. I am also a law junkie. I can do this work all day. I can go home and watch “Law and Order” and “Judge Judy” and then I can read a John Grisham novel and go to sleep. It’s what I really love and feel called to do. So, I would, if I could start all over again and knew I would wind up in the same place. There are things about my life I would change, obviously — I would try to take better care of my health, I would travel more with my husband, I would spend more time with my children when they were smaller and all of that. But ultimately I would hope to be in the same place that I am today. My vocation is truly my avocation.

Author: Michael S. Hooker - Phelps Dunbar LLP
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PROTECTING THE RULING ON YOUR MOTION IN LIMINE
Appellate Practice Section
Chairs: Dineen Wasylik - DPW Legal; Jared Krukar - Butler Pappas Wehmuller Katz Craig LLP

Whether you’re handling the entire trial or providing support, you know that motions in limine can shorten trial and simplify issues. Such motions can also relieve the pressure to object in the heat of trial, thanks to section 90.104, Florida Statutes, which deems objections preserved for appeal if the court already issued a definitive ruling. But a recent case clarifies that securing an early ruling is only the beginning of your work on that evidentiary issue.

In Boyles v. A & G Concrete Pools, Inc., 2014 WL 2957473 (Fla. 4th DCA July 2, 2014), the plaintiff moved in limine regarding 45 categories of evidence more than 18 months before trial, securing a ruling that granted the motion on some topics, denied it on others, and denied without prejudice on still more. The new judge presiding over trial noted that on many topics, the order indicated only “denied without prejudice to making contemporaneous objections.” Noting the difficulty of deciphering such an old order decided by a predecessor judge, the trial judge concluded, “You are going to have to raise your objections because I don’t know what has been done.” At trial, the defendant solicited testimony violating the previous order, but the plaintiff did not object.

The Boyles majority essentially concluded that the trial court’s admonition to “raise your objections” vacated the previous order, but the plaintiff did not object.

The Boyles majority essentially concluded that the trial court’s admonition to “raise your objections” vacated the previous order, requiring contemporaneous objections on all evidentiary issues. Id. at *4-5. The dissent argued the trial court’s statement had been taken out of context and would have held the issue preserved. Id. at *12. Regardless, Boyles raises two questions you must answer to ensure preservation.

Was the motion clearly ruled on? Get a definitive ruling on the motion in limine. If you don’t, and you don’t contemporaneously object at trial, then you have waived the objection. Tolbert v. State, 922 So. 2d 1013, 1017-18 (Fla. 5th DCA 2006). Also, Boyles shows that if the court later rules in such a way that part or all of its previous ruling might be vacated, then seek clarification immediately.

A recent case clarifies that securing an early ruling is only the beginning of your work on that evidentiary issue.

What has changed since the ruling? This means more than “is the ruling dated?” If the ruling was based on representations about how the evidence will unfold, then the ruling is definitive only as to the facts as represented to the court. Powell v. State, 79 So. 2d 1013, 1017-18 (Fla. 5th DCA 2006). If the evidence at trial paints a different picture than what you or opposing counsel drew before, then be ready to act. Id. Orders on motions in limine are subject to change during trial as the court better understands the evidence. Hawker v. State, 951 So. 2d 945, 950 (Fla. 4th DCA 2007).

Know the answers to both questions. Then, if opposing counsel violates the order and evidence slips in without a contemporaneous objection, you have increased the odds an appellate court will someday affirm sanctions for violating the order, Adams v. Barkman, 114 So. 3d 1021, 1024 (Fla. 5th DCA 2012), rather than explain how you waived the issue.

Author: Michael M. Giel - Swope, Rodante, P.A.
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Collaborative Law Section

I am pleased to be co-chairing the Collaborative Law Section of the Hillsborough County Bar Association for 2014-2015 with Jon Wax. The Collaborative Law Section has many goals for this year. We are developing networking opportunities, enhanced public awareness of the benefits of collaborative law, lawyer training, and continuing education, as well as providing education to the judiciary about the collaborative process as an alternative dispute method. We invite your participation!

There has been a cooperation developing between our collaborative community and the HCBA Collaborative Law Section, only beginning its third year, and it is gaining steam. One of our primary objectives is to expand the education of professionals and prospective clients to the alternative that is available through collaborative law.

Each year, more Tampa Bay family law attorneys, financial experts, and collaborative facilitators have been trained in the process and have developed the skills necessary to manage these cases effectively. Collaborative cases typically cost less, take less time, cause less stress, and open up possibilities that are not available in a traditional litigation-based setting. By taking a cooperative approach, rather than an adversarial one, parties can resolve difficult issues that would otherwise lead to expensive and time-consuming litigation.

We have courts that support the philosophy that the interdisciplinary collaborative practice model may be a suitable alternative to full-scale adversarial litigation in family law cases if the parties agree to such a model. Although the collaborative law bills introduced for Florida’s 2014 legislative session did not pass this year, the Family Law Section of The Florida Bar has a standing position supporting the statutory recognition of collaborative law as a form of alternative dispute resolution in family law cases and the establishment of a privilege regarding the disclosure of information related to collaborative proceedings.

One of the benefits of being a member of the Collaborative Law Section is sharing information, knowledge, and materials with other members. The synergy between our local and statewide collaborative practice groups and the state council creates an environment ripe for growth. We plan to work in partnership with the two collaborative groups in the Tampa Bay area: the Tampa Bay Collaborative Law Group and Next Generation Divorce. Many members of the Collaborative Law Section are members of both groups. We invite interested members of the HCBA to join the Collaborative Law Section for our luncheons on October 22, December 18, February 25, and April 22. There will be a charge for lunches, but there will be no section dues, so those interested in joining will not have to pay extra to participate. Non-lawyer affiliate members of the Bar interested in collaborative law are also encouraged to attend.

Author: Christine L. Derr - Law Office of Christine L. Derr, P.A.
The YLD would like to thank the retreat’s sponsor:

The HCBA Board of Directors Retreat

The HCBA Board of Directors kicked off planning for the Bar year during the annual retreat August 8 and 9 at the Sandpearl Resort in Clearwater Beach. Ex-officio board members Chief Judge Manuel Menendez Jr., Judge Mark Wolfe and HCBF President Bill Schifino Jr. joined the group, along with Programs Chair Victoria McCloskey and Military & Veterans Affairs Committee Co-Chair Bob Nader. The group covered a range of topics, from membership trends to upcoming HCBA events.

YLD BOARD RETREAT

The YLD would like to thank the retreat’s sponsor:

The HCBA Young Lawyers Division Board of Directors gathered for a retreat on August 1 and 2 at the Innisbrook Golf Resort. The board members discussed plans for the many YLD events the division expects to host this year, including the golf tournament coming up on October 17.
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Community Services Committee
Chairs: Lisa Esposito - Law Offices of Lisa Esposito, P.A.; and Lara M. LaVoie - LaVoie & Kaizer, P.A.

Lara and I can’t believe we’re in our second year of co-chairing the Community Services Committee. Last year was great, thanks to many enthusiastic volunteers, such as Mary Snyder at Hill Ward Henderson; Melissa N. Gonzalez at Florida Legal Group; Melissa Knight, a staff attorney for the Thirteenth Judicial Circuit; and Tom Curran at Shumaker Loop & Kendrick. In fact, we want to thank all our volunteers for their commitment and dedication.

We held a number of inspiring events, helped a lot of different people, and perhaps even changed someone’s life, but we couldn’t have done it without you. In fact, we look forward to continuing where we ended last year, with your support, of course! Can we count on you to help us change the negative perception many in the community have about attorneys? We’re doing it one charitable event at a time. It’s working, but we need your assistance.

This year, we also have more great events planned, and we hope to see many familiar faces back to help, whether it’s adopting needy veterans and making their day with a “We Care” visit, or becoming an elf for an elder, donning antlers, and singing a slightly off-key rendition of Rudolph. We need you!

We hope to see our local judiciary and courthouse staff come back for another week of Dining With Dignity at Trinity Café, where, with dignity and grace, we serve a sit-down meal to Hillsborough County’s working poor. We also hope to meet some new volunteers as we host another pirate plunder carnival for the children at A Kids’ Place, a nonprofit home for abused children. Join us as we put smiles on the faces of some very deserving kids, hear them giggle, and, most importantly, be a part of letting them just be kids for a day.

If those events don’t inspire you to get involved, well, we plan to add a few more projects to our agenda, more ways to help our community and reach out to those less fortunate. In fact, come to a meeting and help us decide what we’ll do this year. Will we help raise awareness for RVR Horse Rescue, a charity that saves horses from severe abuse? Perhaps we will volunteer with Special Olympics or paint a house for a needy family? Get involved and help us decide what cause we will add to an already exciting array of causes.

Get involved, give back to our community, and you might find you gain more than you give. You can volunteer for one event, like Elves for Elders, Make a Difference Day-Adopt a Veteran, Trinity Café, or A Kids’ Place, or you can volunteer for all of them. So come out, meet some new friends, make a difference in someone’s life, and you may just come away with a lasting feeling of appreciation for what you have and a better understanding for those less fortunate. Be the change you wish to see in our community. Be a volunteer.

Author: Lisa A. Esposito - Law Offices of Lisa Esposito, P.A.

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Award for Excellence in the Promotion of Board Certification

The Hillsborough County Attorney’s Office has received the 2014 Award for Excellence in the Promotion of Board Certification from The Florida Bar Board of Legal Specialization and Education. This award recognizes excellence and creativity by a Florida Bar board-certified lawyer or a law firm in advancing the public’s knowledge of and appreciation for legal board certification.

Nearly 50 percent of the attorneys in the Hillsborough County Attorney’s Office are board certified by The Florida Bar. Board certification is a capstone accomplishment of a legal career. To become board certified, an attorney must complete a peer review process, have extensive practical experience, and pass a test to demonstrate knowledge in a specialized area of law. Members of the Hillsborough County Attorney’s Office are certified in City, County, and Local Government Law; Labor and Employment Law; and State and Federal Government and Administrative Practice.
Arbitration provides litigants the opportunity to resolve disputes by arbitrators who are, theoretically, experts in their field, and in a cost-effective and streamlined environment. As a forum, however, arbitration is certainly not without a downside for some, particularly those dealing with unlicensed contractors, as recently highlighted by *The Village of Dolphin Commerce Center, LLC v. Construction Service Solutions, LLC*, 2014 WL 2116361, (Fla. 3d DCA May 21, 2014).

In *Dolphin Commerce*, an owner hired a contractor to build a warehouse. At the time of the contract, the contractor was not properly licensed under Chapter 489, Florida Statutes. During construction of the warehouse, disputes arose, the contractor claimed to be unpaid, and a construction lien was ultimately recorded. The contractor also filed a demand for arbitration based on its contract. In response to the arbitration demand, the owner asserted the defense of section 489.128(1), Florida Statutes, which provides “contracts entered into ... by an unlicensed contractor shall be unenforceable in law or in equity by the unlicensed contractor.” Moreover, as raised by the owner, where “a contract is rendered unenforceable under this section, no lien or bond claim shall exist in favor of the unlicensed contractor.” § 489.128(2), Fla. Stat. In addition to the defenses asserted in arbitration, the owner concurrently filed suit in circuit court to dispense with the contractor’s claim based on the unlicensed status.

Because the contractor was unlicensed, the owner’s position was two-fold: (i) the contract and its arbitration provision were unenforceable; and (ii) the lien based on the contract was equally unenforceable. In response to the owner’s circuit court action, the contractor moved to compel arbitration, which was granted by the trial court. The parties then proceeded to arbitrate.

During arbitration, the owner asserted the contractor’s lack of licensure as a defense as set forth by section 489.128 but apparently failed to object to the arbitration panel’s jurisdiction to hear the issue. Under the Construction Industry Arbitration Rules of the American Arbitration Association, a party must object to the jurisdiction of the panel at the outset, or the panel is deemed to have jurisdiction. *See* Rule 9(c), AAA. The contractor prevailed at arbitration and sought to confirm its award in circuit court. The owner moved to vacate the award on several grounds, but namely because the underlying contract in light of section 489.128 was at least properly submitted to arbitration and decided upon by the panel. The Third District Court of Appeal noted the “very narrow” authority trial courts have in vacating arbitration awards and affirmed the trial court. Simply put, “[t]o ask the trial court to revisit this issue would require the trial court to step into an appellate position.” *Dolphin Commerce*, 2014 WL 2116361, at *3. But for narrow bases, trial courts lack authority to re-litigate the issues presented and decided in arbitration, and here, the enforceability of the contract despite licensure issues had already been decided by the arbitration panel.

*Dolphin Commerce* serves as a bright-line reminder for parties of the limited appealability of an arbitrator’s decision and that failing to object to the jurisdiction of the arbitrator may ultimately waive this defense (even if it was presented at arbitration).

Author:
J. Derek Kantaskas
- Carlton Fields Jorden Burt, P.A.
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BUSINESSES, BE CAREFUL

When using social media in your marketing activities. A single mouse click intended to appreciate a customer’s kind words could prompt a federal investigation.

This summer, a maker of natural cough syrups and sleep aids learned the Food and Drug Administration has been reviewing the company’s website and social media pages. In a “warning letter” the FDA scolded the company, Zarbee’s Inc., for a number of online statements. The FDA also faulted the company for “liking” its customers’ Facebook posts. One post said a Zarbee’s product gave a child with cerebral palsy the “best sleep she has had in years.” A Zarbee’s employee “liked” that comment and responded, “Thank you for writing this!! We love to hear that we have helped people.” Another customer posted that, after taking a Zarbee’s product, a 2-year-old’s colds and congestion cleared up in two days. Zarbee’s “liked” that post, too.

The company’s politeness, the FDA found, amounted to endorsing or promoting “personal testimonials” about its products “for the cure, mitigation, treatment or prevention of disease.” To the FDA, that meant the products were being marketed as “drugs,” as defined and regulated by the agency. This was a problem because the Zarbee’s products were not FDA-approved. Although the company website acknowledges the lack of FDA approval, the agency demanded that Zarbee’s identify “specific steps you have taken to correct the violations noted” in the FDA’s letter.

The FDA is not the only federal agency monitoring businesses on social media. The Federal Trade Commission investigated shoemaker Cole Haan’s activities on Pinterest, a social media site used to share and view images. According to the FTC, Cole Haan encouraged Pinterest users to display images of Cole Haan shoes and the users’ “favorite places to wander.” Cole Haan promised a $1,000 shopping spree for the user with the most creative entry. The FTC alleged that the displays amounted to product endorsements without adequate disclosures that the displays were part of a contest. In a letter this spring to a Cole Haan lawyer, the FTC said federal law “requires the disclosure of a material connection between a marketer and an endorser when their relationship is not otherwise apparent from the context of the communication.”

Entering the contest, the FTC wrote, “constitutes a material connection that would not reasonably be expected by viewers of the endorsement.”

Although the FTC decided not to bring an enforcement action against Cole Haan, the letter marked the FTC’s first public indication that a consumer’s entry into a contest amounts to a “material connection” that must be disclosed. The letter was also the FTC’s first explicit determination that a display on Pinterest is an endorsement. Therefore, the FTC letter — like the FDA’s letter to Zarbee’s — is a warning to businesses to consider federal law when encouraging or responding to social media posts about their products.


Author:
James B. Lake - Thomas & LoCicero
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**SEPTEMBER 11**
Membership Luncheon at Hilton Tampa Downtown

**OCTOBER 30**
Bench Bar Conference, Membership Luncheon & Judicial Reception at Hilton Tampa Downtown

**JANUARY 22**
Membership Luncheon at Hilton Tampa Downtown

**MARCH 21**
Judicial Pig Roast/Food Festival & 5K Pro Bono River Run

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To join this program, call (813) 221-7780.
When man bites dog, it’s news. See Bartlett’s Familiar Quotations 554 (Justin Kaplin ed., Boston, London, and Toronto: Little, Brown 16th ed.) When Justices Antonin Scalia and Clarence Thomas write opinions on opposite sides of an issue, that’s news, too.

In the recent case of Navarette v. California, 134 S. Ct. 1683 (2014), Justice Scalia dissented from Justice Thomas’ majority opinion upholding an anonymous tip as the basis for a traffic stop and search. Justice Scalia’s dissent — joined by Justices Ginsburg, Sotomayor, and Kagan — harshly criticized the majority’s decision, even referring to it, in classic Scalia-esque style, as a “freedom-destroying cocktail,” consisting of ... “patent falsity.” Id. at 1697.

Navarette arose from an anonymous tip — phoned in by a motorist via 911 — claiming that another car had run her off the road. The tipster provided a description of the car but otherwise remained anonymous. The California Highway Patrol responded to the tip but did not corroborate it before stopping the car for suspicion of driving under the influence. While conceding an “anonymous tip alone seldom demonstrates sufficient reliability,” id. at 1688 (quoting Alabama v. White, 496 U.S. 325, 330 (1990)), the court nevertheless upheld the anonymous tip by distinguishing its decision in Florida v. J.L., where the court held an anonymous bare-bones tip “that a young male in a plaid shirt standing at a bus stop was carrying a gun” was not sufficiently reliable to support a search. Id. (contrasting Florida v. J.L., 529 U.S. 266, 268 (2000)).

In his dissent, Justice Scalia principally focused on the fact that the anonymous tip was, in his view, completely uncorroborated by the arresting officer, rightly pointing out that if the officer had observed a single violation of the traffic laws, “this case would not be before us.” Id. at 1696 (citing Whren v. United States, 517 U.S. 806, 499 (1996)). But Justice Scalia saved perhaps his harshest criticism for the majority’s reasoning that the lack of additional suspicious conduct (i.e., corroboration) is “hardly surprising” — and thus “largely irrelevant” — because drunk drivers may drive “more carefully” to avoid detection: “That is not how I understand the influence of alcohol. I subscribe to the more traditional view that the dangers of intoxicated driving are the intoxicant’s impairing effects on the body — effects that no mere act of the will can resist.” Id. at 1697.

Scalia concluded: “To prevent and detect murder we do not allow searches without probable cause or targeted Terry stops. We should not do so for drunken driving either.” Id.

This case marks a potentially significant change in Fourth Amendment precedent in Florida. According to Scalia, Navarette lowers the justification necessary for police intrusion. And Florida Fourth Amendment decisions must confirm to Supreme Court pronouncements. Art. I, § 12, Fla. Const. see also Baptiste v. State, 995 So. 2d 285, 296-97 (Fla. 2008) (relying on Florida v. J.L., 529 U.S. 266 (2000) in holding that anonymous tip did not provide reasonable suspicion justifying investigative stop). Thomas and Scalia, however, rarely disagree on such issues, which makes Navarette very unusual and leads one to wonder who was right: Justice Thomas or Justice Scalia.

Author:
Joseph A. Eustace Jr. - Anthony J. LaSpada, P.A.
YOUR DREAM HOME DESERVES A DREAM MORTGAGE.

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HCBA Installation of 2014-2015 Officers & Directors

Hillsborough County Bar Association President Benjamin H. Hill IV and the 2014-15 Board of Directors were sworn in on June 5 at the Chester H. Ferguson Law Center. Hill’s father and former HCBA President Benjamin Hill III introduced him, while the rest of his family and many from his firm stood by in support.

Chief Judge Manuel Menendez Jr. administered the oath to the incoming HCBA board, as well as Young Lawyers Division President Anthony D. Martino and the YLD board.

Outgoing HCBA President Susan Johnson-Velez thanked all of those who had advised and supported her during her term, and she awarded President-Elect Carter Andersen with the James M. “Red” McEwen Award, which recognizes outstanding service and contributions to the president and the HCBA.

Outgoing YLD President Jacqueline Simms-Petredis also recognized those who had helped during her term and presented YLD board member Jason Whittemore with the YLD President’s Award.

The HCBA would like to thank C1 Bank for sponsoring the installation this year.
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THE BENEFITS OF PRO BONO WORK
Diversity Committee
Chairs: Amanda B. Buffinton - Bush Ross, P.A.; and Jessica Goodwin Costello - State Attorney’s Office

S
o many times we hear about how pro bono work gives us the benefit of feeling good about what we do and provides us with an opportunity to explore a new area of law. The truth of the matter is that very seldom do lawyers want to venture out of their comfort zone, preferring to take on pro bono cases in their areas of practice. Their reasoning makes sense. First, if they know what they are doing, they can obtain better results for the client. Second, if they are well versed in the area of law, the resolution of the case will take less time, which will allow the lawyer to get back to his or her billable work sooner. However, for those who take a chance and actually venture out of their comfort zone, the rewards are many.

Imagine that you are a 20-year-old single mom. When you were 14, you moved to another home to live with your mother and new stepfather. You were then raped repeatedly by your stepfather until you got pregnant. At 15, you gave birth to a boy as a result of this rape. Once the baby was born, DNA supported what you knew all along, that your stepfather was the child’s biological father. Your stepfather was arrested and took a plea deal. He was sentenced to serve five years in prison, but his parental rights were not terminated. You moved to another county, determined to put this behind you. Four years later, you learned that in less than a year, your stepfather is scheduled to be released and has already boasted to family members that, when he is released, he desires to come and visit his only son. He has told everyone in your family that he fully intends to exercise his parental rights. You are desperately seeking an attorney but cannot afford one. You need a legal advocate to come in and move to terminate the parental rights of your rapist so that you can move on and your son will never know how he was conceived, but instead how much you love him.

Sound extreme? Not really; this was one of my recent pro bono cases. Knowing very little about juvenile dependency, every document, hearing, and process was a challenge. One of the most satisfying days of my career was when I heard the judge state in open court that it was in the manifest best interests of the minor child to terminate the parental rights of my client’s rapist. As my client and I walked down the courthouse hall beaming, while others just casually looked at us, I thought: If every lawyer actually knew what a difference this decision made in my client’s life, everyone would take on a pro bono case today!

Not only will the work be satisfactory, but also through your work and dedication to causes that you believe in, you will have the opportunity to meet judges and lawyers in a different area of law who may assist with your own practice in the future.

Author:
Victoria Cruz-Garcia - Tampa Hispanic Bar Association

Start planning your own pro bono project in celebration of Pro Bono Week — October 19-25.
The Tampa Bay Catholic Lawyers Guild
cordially invites you to attend
THE RED MASS
For Lawyers, Judges, Legal Staff & Law Enforcement
To be celebrated on Thursday, October 23, 2014, 12:00 Noon – 1 PM
at Sacred Heart Catholic Church 509 N. Florida Avenue, Downtown Tampa, Florida

OPEN TO MEMBERS OF ALL FAITHS

CONCELEBRATED BY BISHOP ROBERT LYNCH
and FR. TIM CORCORAN, FORMER FLORIDA BANKRUPTCY JUDGE

The Red Mass for Lawyers, Judges and Legal Staff is an annual tradition with origins dating back to the 13th Century. It is a celebration that invokes the guidance of the Holy Spirit on the deliberation of the Courts and on the endeavors of all members of the legal profession. This tradition continues to this day as the United States Supreme Court celebrates this Mass annually prior to each new session.

The celebrant, Bishop Robert Lynch is inviting all judges of the Sixth and Thirteenth Judicial Circuits of Florida and the federal Middle District of Florida as guests of honor and to participate in procession with him in judicial robes at the start of the liturgy. Lunch for all Judges will follow the Red Mass.

Questions? Please call: Karl Stevens, President, Tampa Bay Catholic Lawyers Guild, at (813) 988-0824

YLD Holds Judicial Appreciation Luncheon

The HCBA Young Lawyers Division featured Chief Judge Manuel Menendez Jr. as the guest speaker at its Judicial Appreciation Luncheon on May 29. Many young attorneys and judges were in attendance as the chief gave a “State of the Courts” address. Also at the luncheon, the YLD awarded Jeff Wilcox with the HCBA’s Outstanding Young Lawyer Award, and Melanie Griffin, president of The Florida Bar YLD, discussed how HCBA YLD members could get more active at the state level. The YLD appreciates the support of the luncheon sponsor: C1 Bank!
As summer draws to a close, we wish to welcome you to another exciting year for the Hillsborough County Bar Association Elder Law Section. As co-chairs of the Elder Law Section this year, we wish to thank Jack Rosenkranz for the tremendous effort put forth by him resurrecting the Elder Law Section last year. He did a terrific job of lining up informative speakers who provided relevant and timely information.

We thank Jack for his efforts, and this year, we plan to continue providing you with exciting speakers who will address a number of topics that are near and dear to us as elder law attorneys. Elder law attorney Rebecca Bell will provide us with an update on Medicaid Managed Care implementation in Florida. Travis Finchum, a co-trustee of Guardian Pooled Trust, will present on the topic of special needs trusts and lesser-understood Medicaid programs such as QI-1, SLMB, and QMB. Dale Smrekar, a certified appraiser, will speak to us concerning probate estate appraisal and liquidation. Other speakers and topics we are lining up include a nursing home long-term care ombudsman to discuss rights and remedies available for nursing home residents; professors from Stetson Law School to address VA benefits update and advocacy skills in the administrative hearing context; an expert in Medicare benefits to speak on important information that all elder law attorneys should know; and past chair Jack Rosenkranz to provide tips and tricks for innovative elder law researching options.

In addition to informative speakers and the opportunity to obtain continuing legal education credits, the section meetings also provide a unique opportunity to discuss your difficult cases with other elder law attorneys and talk about recent and anticipated changes in rules and federal and state laws.

This year, we plan to continue providing you with exciting speakers who will address a number of topics that are near and dear to us as elder law attorneys.

We welcome suggestions for speakers or topics, and we also welcome submission of articles for publication in the Lawyer magazine. We appreciate your ideas and your participation. Please watch for upcoming announcements regarding the dates of our luncheon meetings and topics. Networking begins at 11:30 a.m. before each meeting, with luncheons beginning at noon. All luncheons will be held in the Chester H. Ferguson Law Center, 1610 N. Tampa St., Tampa FL 33602.

So please join us at our meetings, and if you have suggestions, please feel free to contact Elizabeth Allen at eallen@gibbelder.com or (813) 877-9222, or Debra L. Dandar at Debra.Dandar@TampaBayElderLawCenter.com or (813) 282-3390. We look forward to working with you to make 2014-2015 another outstanding year for the Elder Law Section.

Authors: Elizabeth P. Allen - Gibbons, Neuman, Bello, Segall, Allen & Halloran; and Debra L. Dandar - Tampa Bay Elder Law Center
FULL COMPENSATION VS. JUST COMPENSATION
Eminent Domain Section
Chair: Kenneth Pope - Hillsborough County Attorney’s Office

In contrast, Florida requires the payment of full compensation for governmental takings of property. The determination of full compensation “requires that courts take into account all facts and circumstances which bear a reasonable relationship to the loss occasioned an owner by virtue of his property being taken.” Behm v. Dep’t. of Transp., 383 So. 2d 216 (Fla. 1980) citing Jacksonville Expressway Auth. v. Henry G. DuPree Co., 108 So. 2d 289, 291 (Fla. 1959). Thus, Florida courts look at the value of the property and the associated cost of its loss. In addition to full compensation, Florida law requires additional types of compensation to be paid for takings as set out in section 73.071, Florida Statutes; Id.; see also Jamesson v. Downtown Dev. Auth., 322 So. 2d 510, 511 (Fla. 1975). Compensation must include the value of the property plus severance and/or business damages caused by loss of the property if less than the entire property is taken and certain statutory criteria are met. § 73.071, Fla. Stat.

Removal or relocation expenses incurred by mobile home owners may be required. Id. In addition, Florida law requires the payment of attorneys’ fees and costs in accordance with sections 73.015, 73.092, and 73.093, Florida Statutes.

Attorneys representing either landowners or condemning authorities in eminent domain settlement proceedings should be prepared to address the value of the specific property in terms of both its market value and the cost of its loss to the owner. Some factors may seem obvious, such as access, visibility, and easements. Other factors require anticipation of future consequences after the taking is completed. For example, property owners may not be able to rebuild accessory structures, such as storage sheds or signs, on the remainder due to a reduced lot size or changes in zoning or building regulations. Although not every item a creative attorney can imagine will be compensable, the most effective attorneys will be those most prepared to address potential damages requiring full compensation.

Author: Angela B. Rauber, Angela B. Rauber, P.A.
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On February 26, 2014, the U.S. Department of Justice (DOJ) issued a health care fraud/waste/abuse (FWA) news release outlining its record-breaking results for fiscal year 2013. The figure was $4.3 billion, and these results were attributed to multiple program integrity initiatives. Contained in the release was praise for the Health Care Fraud Prevention and Enforcement Action Teams (HEAT), as well as DOJ’s focus on False Claims Act (FCA) cases. Near the end of the announcement was a reference to “historic efforts with the private sector to bring innovation to the fight against health care fraud.”

This mention of innovation relies heavily on public-private collaboration with an emphasis on information and data sharing. Notably, there is no universal national database that includes all claims data. From a pure program integrity perspective, this presents a risk since most providers are conducting business with a mix of public-private payers. Thus, the true size and scope of many suspected FWA cases is initially difficult to assess.

The National Health Care Anti-Fraud Association (NHCAA) recognized this vulnerability and took the initiative to address this gap by creating a voluntary self-reporting program in November 2005 and named it the Special Investigation Resource Intelligence System (SIRIS). The concept behind SIRIS was to establish a forum where all interested parties, public and private, simply share basic case-related information. However, many private payers were reluctant to enter provider information into SIRIS. In fact, since its inception, only 40 percent of all private payers contribute information, but 95 percent review the database in an effort to gather intelligence on their cases.

Efforts to foster collaboration between all interested parties took another major step in July 2012, with the launch of the Healthcare Fraud Prevention Partnership (HFPP). HFPP is a joint program overseen by DOJ and the Department of Health & Human Services and takes the concept started with SIRIS and expands it significantly.

Louis Saccoccio, the chief executive officer of NHCAA, testified before a Senate committee in March in support of HFPP. During the hearing on “Preventing Medicare Fraud,” he defined the charter for this new program:

- “To engage in value-added data-exchange studies between the public and private sector partners.
- To leverage analytic tools and technologies against this more comprehensive data set.
- To provide a forum for business and government leaders and subject matter expert members to share successful anti-fraud practices and effective methodologies and strategies for detecting and preventing health care fraud.”

Saccoccio also addressed the issue on the reluctance of private payers to share information. He noted the existence of immunity statutes for reporting fraud to federal officials but none between private payers. Essentially, in his opinion, the lack of immunity inhibits program integrity objectives, and as a result, he urged lawmakers to pass new legislation to expand immunity to resolve this concern.

Ultimately, interested parties know the futility of relying primarily on a traditional fragmented pay-and-chase model. For example, $4.3 billion represents less than 5 percent of the total annual FWA, conservatively estimated at $90 billion. Instead, there is a recognition that an effective program integrity not only includes HEAT and FCA activities but also expands collaboration across public-private sectors. These efforts are centered on a data-driven approach where improper or fraudulent claims are either stopped pre-payment or quickly identified post-payment and recovered. As a result, this movement toward collaboration and data-driven program integrity will continue to expand into the foreseeable future.

Author: Clark J. Bolton - CJ Bolton & Associates
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As IP practitioners, we may be asked to assist our colleagues in navigating complex IP issues related to corporate transactions. The considerations summarized below are issues that we may be generally aware of but have never considered in connection with a corporate transaction.

In an asset sale, corporate attorneys need to analyze the assignability of a seller’s contracts, some of which may be IP licenses. If the contracts contain restrictions on assignment, the consent of the non-assigning party may be required. The “default” rules concerning assignment of IP licenses differ from the treatment of many other contracts. Unlike most other contracts, if an IP license is silent on assignability by the licensee, a majority of courts have held that a licensee’s rights are not assignable without the licensor’s consent.

In every corporate transaction, a buyer must consider whether a target company (in a stock sale or merger) or a seller (in an asset sale) actually owns the IP it purports to own. Unlike with tangible assets, this is a complicated issue with respect to IP. A combination of in-depth due diligence and strong representations and warranties in the contract will comfort the buyer on this issue. IP specialists may be asked to assist with both. The due diligence process depends in part on the type of IP at issue. If any IP has been created by independent contractors, it is crucial to identify and review the applicable contracts to ensure that the independent contractor properly assigned all rights to the seller or the target company. It is equally important to confirm that all IP created by the seller’s or target company’s founders has been properly assigned.

Proprietary software products present unique challenges in corporate transactions. Buyers need to understand the development process of the software and whether or not open-source software elements were used. As part of the diligence process, buyers may consider conducting a third-party audit of the seller’s or target company’s source code. However, depending on the size of the deal, the cost of doing this may be prohibitive. If an audit is not conducted, the buyer should understand all open-source software used in the business and review the corresponding licenses to understand what obligations may be imposed by such licenses.

Corporate transactions may be structured as a “carve-out,” which means a subsidiary or a business division is being sold — rather than an entire business enterprise. In those cases, it can be difficult to untangle the use of IP among the parties and ensure that the rights are properly conveyed. There may be a need for transition services between the target company/division and the selling entity. These services may flow in either direction depending on whether the IP at issue is conveyed or retained. These licenses and transition services arrangements are often the subject of intense negotiation.

As an IP specialist assisting in a corporate transaction, it is critical to understand the structure of the transaction and the totality of the situation to properly identify and address IP issues.

Author: Rachel Marks Feinman, Hill Ward Henderson
Congratulations to Abraham Lincoln Award Winner!

The Tampa Bay American Inn of Court honored A. Woodson Isom Jr. with the 2014 Abraham Lincoln Award, which is given annually to the member who best exemplifies the goals of the inn in promoting legal excellence, civility, professionalism, and ethics in the practice of law. Isom joined the Tampa Bay Inn of Court in 1990 and has held leadership roles with the inn as its parliamentarian (1994-1995) and secretary (1995-1996). Since his admittance to The Florida Bar in 1975, he has served in many leadership roles with the Hillsborough County Bar Association, including service on the board of directors, executive counsel for the Trial & Litigation Section, chairman of the Medical-Legal Committee, and chairman of The Florida Bar’s Grievance Committee for the Thirteenth Judicial Circuit. Isom is also a founding member and former president of the American Board of Trial Advocates, Tampa Chapter. He is a graduate of the University of Florida, where he was a member of the Tau Chapter of Theta Chi. He obtained his law degree from Florida State University, where he was an editor for law review. Aside from these accomplishments, he served as a captain and avionics officer in the United States Air Force.

Health Care Law Section’s Afternoon with the Rays

The HCBA’s Health Care Law Section rallied for the Tampa Bay Rays on June 22 as the Rays took on the Houston Astros. Don’t miss out on all the fun to come! Join the Health Care Law Section by calling (813) 221-7777.
As we all learned in law school, the Fourth Amendment protects “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.”1 Although the Supreme Court has indicated that the Fourth Amendment applies to drug screening by public-sector employers, many individuals are still told to report to the lab for testing either pre-employment, randomly, or after an accident.2 The question is: Are these tests “reasonable” within the meaning of the Fourth Amendment or unconstitutional?

As frequently occurs in our work, the short answer is “it depends,” particularly with respect to applicants and random testing. The courts have grappled with the concept of reasonableness in the public-sector employment context for years. As if the constitutional aspect of drug testing were not unwieldy enough, there are also Drug-Free Workplace Acts to contend with.3 Some public employers may confuse the statute’s approval of drug testing for some employees as a green light to test all employees and applicants randomly or without suspicion. As the United States Constitution trumps the state statute on this issue, this would be error.

The Supreme Court has issued five decisions on drug testing,4 giving some contours to the shapelessness of the Fourth Amendment’s reasonableness standard but stopping short of providing a bulletproof standard that employers could apply universally with certainty that their actions were constitutional. Rather, as the Eleventh Circuit recently articulated, the appropriate inquiry requires “a job-category-by-category balancing of the individual’s privacy expectations against the Government’s interests.”5 The Eleventh Circuit provided more guidance in 2013, in one case imposing an injunction on across-the-board drug testing of all applicants for welfare assistance6 and in another case rejecting a Florida Governor’s Executive Order requiring suspicionless testing of all current employees.7 Notably, the latter decision did not address applicants. Thus, public-sector employers may argue that there is no binding precedent squarely addressing suspicionless applicant testing, and they would be right.

As of this date, there is no Supreme Court or Eleventh Circuit decision that expressly rules on the constitutionality of suspicionless testing of all job applicants, although other courts have done so. In particular, two federal district court cases in Florida, relying on the Supreme Court cases referenced above, have held that across-the-board job applicant testing is unconstitutional.8 In these cases against the City of Hollywood and the City of Key West, the trial courts determined the employers’ generic goals in maintaining a drug-free workplace, minimizing on-the-job accidents, maximizing productivity, and maximizing public confidence in the provision of public services were insufficient to satisfy the Fourth Amendment. Similarly, other federal circuit courts and state courts have touched on the issue of drug testing job applicants, with similar outcomes.9 Ultimately, because the touchstone of lawful drug testing is the vague “reasonableness” standard, public employers would be wise to err on the side of caution when it comes to determining which applicants or employees should be required to participate in suspicionless drug testing.

1 U.S. Const. amend IV.
3 § 440.102, Fla. Stat. Participation in the Chapter 440 Drug-Free Workplace Act is voluntary, and
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Continued on page 55
compliance entitles the employer to a workers’ compensation policy discount. There is also a statute specifically applicable to public employers, and participation in that act is also voluntary. § 112.0455, Fla. Stat.


Lebron v. Dep’t of Child. & Fam., 710 F.3d 1202 (11th Cir. 2013).


Authors:
Brian Koji and Shaina Thorpe - Allen, Norton & Blue, PA.
As of September 16, 2013, the IRS has revised procedures for spouses who wish to request equitable relief from tax liability under the innocent spouse rules. Significant changes were made to previous guidance, mainly that the IRS will now give greater weight to proof of economic hardship and abuse in marital situations.

With these changes, more claims are being filed and taxpayers can move toward fitting into Rev. Proc. 2013-34’s more nuanced considerations of the facts and circumstances. It’s also likely that equitable relief will be granted more since the two-year limitation period has been lifted. Taxpayers may now consider whether the new criteria favor a filing or revising a previous request for innocent spouse relief.

When a couple file a joint return, each is jointly and severally liable for the full amount of tax on the couple’s combined income, including any tax deficiencies assessed after an audit. To redress this harshness of the joint/several liability rule, the code was implemented to allow an innocent spouse to request three types of relief provisions: (1) Relief to “innocent spouses” who were unaware of tax understatements attributable to the other spouse; (2) Allows joint return filers who are widowed, divorced, legally separated, or have lived apart for at least one year to limit their liability for deficiencies on the joint return; (3) Allows joint return filers to avoid liability for unpaid amounts of tax shown on joint returns as filed, but not paid, or allows joint return filers to avoid liability for a deficiency that does not qualify for relief under either Code Sec. 6015(b) — traditional innocent spouse relief — or Code Sec. 6015(c) — allocation of liability.

To be considered for relief, the requesting spouse must have filed a return for the year in which relief is sought, assets weren’t transferred between spouses as part of a fraudulent scheme, disqualified assets were transferred, the spouse seeking relief didn’t file a return with intent to defraud, and liability from which the requesting spouse seeks relief is attributable to an item or underpayment resulting from the nonrequesting spouse’s income. Generally, relief will be granted if the requesting spouse is no longer married or hasn’t been a member of same household at any time during a 12-month period ending the date relief was requested; if at the time the return was filed, the requesting spouse had reason to believe that tax would be paid by the other spouse; and if the innocent spouse would suffer economic hardship if relief wasn’t granted.

To obtain relief under these above provisions, make a timely election on IRS Form 8857 no later than two years after the IRS begins a collection process. Request for equitable relief of an unpaid liability must be made before the expiration of the period of limitations on collection of a tax liability, or generally within 10 years from assessment of the tax. When making claim for credit or refund, the request must be made the later of three years from the date the return was filed, or two years from the date the tax was paid.

Author: Connie Rossi and Briggs Stahl – Stahl Consulting Group, P.A.
An arbitration proceeding is within the statutory term “civil action or proceeding.”

Arbitration agreements can be considered to be a contractually advantageous alternative form of dispute resolution. Parties may enter into arbitration agreements to prevent lengthy civil litigation proceedings and reduce costs. However, an arbitration clause may subsequently be considered “fine print” by aggrieved parties who feel that they entered into a contract without understanding that they were agreeing to potentially limit the amount of their recovery, appellate review, discovery, fees, and enforcement of judgments.

Arbitration can reduce exposure to the realm of civil litigation; therefore, the Florida Supreme Court was recently required to address whether the civil statute of limitations applied to arbitration agreements. In Raymond James Financial Services v. Phillips, 126 So. 3d 186 (Fla. 2013), an office manager “invested his clients’ assets into allegedly non-diversified, high risk equities, which caused the investments to lose significant value.” Id. at 188. The clients’ contract stated that “[a]rbitration is final and binding on the parties. The parties are waiving the right to seek remedies in court, including the right to trial by jury.” Id. Additionally, the contract stated that the agreement between the parties would not “waive the application of any relevant state or federal statute of limitation” and that any claim “which is time barred for any reason shall not be eligible for arbitration.” Id. The allegedly harmful investments were made in 2000, and the clients filed a claim for arbitration for financial recovery in 2005.

Raymond James filed a motion to dismiss because the claim was filed outside the four-year statute of limitations provided for in section 95.11, Florida Statutes. The clients argued in response that the “statute of limitations does not apply to arbitration, but applies only to judicial actions.” Id. at 189. The Supreme Court engaged in statutory interpretation in order to determine whether the definition of “civil action or proceeding,” under section 95.011, included arbitration proceedings. Id. at 190. The court analyzed various statutory provisions and determined that arbitration should have the same value as a civil proceeding because “an arbitrator would fall under the definition of an adjudicator, which Black’s Law Dictionary defines as ‘[a] person whose job is to render binding decisions.’” Id. at 191.

Significantly, the court found that section 95.03 was an important factor in requiring that Florida’s statute of limitations cannot be contracted away or diminished because diminishing the statutory rights of aggrieved parties would cause a contract to be void. Additionally, allowing an indefinite period of time to pass prior to filing an arbitration claim would provide a plaintiff with “an opportunity to enforce an unfresh claim against a party who is left to shield himself from liability with nothing more than tattered or faded memories, misplaced or discarded records, and missing or deceased witnesses.” Id. at 192. Therefore, the Supreme Court held “that Florida’s statute of limitations applies to arbitration because an arbitration proceeding is within the statutory term ‘civil action or proceeding’ found in section 95.011.” Id. at 188.

Author: Caroline Johnson Levine - Office of the Attorney General
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In the recent past, the Hillsborough County Bar Association has strived to help veterans in the area through the Military Liaison Committee. The committee, which was reactivated in October 2001, attempted to provide some pro bono services to needy veterans in the area. Like most committees, its success depended on who was chairing the committee. As you know, we have a large veteran population in Hillsborough County, whether active-duty service members, military retirees, or those who previously served in the Armed Forces. Unfortunately, some in the last category are homeless, some suffer from service-connected illnesses such as post-traumatic stress disorder, and many are in dire need of legal services.

With that in mind, HCBA President Ben Hill asked us to co-chair and revamp the HCBA efforts to provide services and outreach to veterans under a revitalized and renamed working group, the Military & Veterans Affairs Committee. The initial goal is to develop a self-sustaining outreach program for needy veterans in the area through the establishment of three subcommittees: Pro Bono Services, Education, and Mentoring.

The focus of the Pro Bono Services Subcommittee is to provide free legal services to veterans who meet certain criteria, set up a legal aid clinic at the James A. Haley Veterans Hospital (ideally once a month), and develop liaisons with other local veteran entities, such as the Wounded Warrior Project and the MacDill Transition Assistance Program, in an effort to reach those most in need of services.

The function of the Education Subcommittee is to develop a cadre of subject-matter experts to teach classes or otherwise assist veterans on legal-related issues such as VA benefits and claims, elder law, credit and consumer counseling, landlord-tenant, and family law. Additionally, this subcommittee will offer at least one CLE class during the Bar year on topics such as the effects of post-traumatic stress disorder and how to navigate veterans through the VA claims process.

Finally, the Mentoring Subcommittee will liaison with the local Veterans Court and other veteran entities to link up a veteran in need of mentorship or guidance with a current or former service member in the area. To foster participation, the subcommittee intends to develop a list of potential mentors through local active-duty personnel, former or retired military personnel within the HCBA, and retired military members living in our community.

If you are interested in being a part of the team, please contact one of us. A roster of lawyers, judges, civic leaders, and other individuals within the region who hopefully will become involved with this transformed committee is being created. We are in the infancy of reestablishing this important committee and welcome not only your assistance but also ideas on how we can structure the committee to best serve our veterans. It is an honor for us to chair the committee, and we look forward to working with you.

Authors: Bob Nader - Nader Mediation Services; and Lt. Col. Christopher Brown - 6th Air Mobility Wing

The initial goal is to develop a self-sustaining outreach program for needy veterans in the area through the establishment of three subcommittees: Pro Bono Services, Education, and Mentoring.
PERIODICALLY UPDATING CLIENTS REGARDING THE STATUS OF THEIR CASES OR RESPONDING TO CLIENT REQUESTS FOR INFORMATION APPEARS TO BE A DECEPTIVELY SIMPLE TASK, HOWEVER, SOME LAWYERS HAVE DIFFICULTY MAINTAINING THIS NECESSARY ROUTINE. ADDITIONALLY, IF A CLIENT FILES A FLORIDA BAR COMPLAINT ASSERTING A LAWYER’S FAILURE TO MAINTAIN CONTACT, IT CAN BE A CRITICAL ERROR FOR A LAWYER TO PERSIST IN THE HABIT OF UNRESPONSIVENESS. IN FACT, THE FLORIDA SUPREME COURT RECENTLY DISBARRED AN ATTORNEY FOR FAILURE TO RESPOND TO REQUESTS FOR INFORMATION IN THE FLORIDA BAR V. DAVIS, 2014 WL 2609210 (FLA. 2014).

Kathleen Davis was retained by the guardian and sister of an Alzheimer’s patient to obtain a divorce on the basis of spousal abandonment. The client paid Davis $5,000. Initially, Davis indicated that she would complete the necessary divorce paperwork within one week and submit it to the client for review. However, Davis delayed the divorce petition for several months and subsequently submitted the documents to the client with several errors contained therein. The client corrected the errors and returned the documents to Davis. However, Davis failed to make any corrections and failed to file the documents and initiate the divorce proceedings with the clerk of court.

In the interim, the patient’s husband initiated the divorce and filed the necessary paperwork. The client attempted to contact Davis to draft a response to the divorce petition. However, Davis would not respond to the client, and the client was subsequently required to file a pro se response. The client filed a complaint with The Florida Bar, and Davis failed to respond to Bar inquiries and failed to attend her disciplinary hearing.

Several ethical rules require a lawyer to act with diligence and maintain communication with a client and The Florida Bar. The Supreme Court disbarred Davis because she failed to participate in her disciplinary proceedings, neglected a vulnerable client, and retained client funds to the client’s disadvantage. In the Davis decision, the Supreme Court restated its findings in The Florida Bar v. Bartlett, 509 So. 2d 287, 289 (Fla. 1987), which clarifies that “a lawyer’s willful refusal to participate at all in the disciplinary process when he is accused of misconduct calls into serious question the lawyer’s fitness for the practice of law.”

It is clear that it can be relatively easy for attorneys to make mistakes and find themselves in a disciplinary dilemma. Therefore, it is important to assist attorneys before they travel down the road of unprofessionalism and receive its resulting sanctions. The HCBA Professionalism and Ethics Committee is devoted to elevating the practice of law to its highest aspirations. This committee endeavors to promote professionalism and ethical behavior in the consciousness of all lawyers and members of the public and is invested in publicizing and participating in this circuit’s Local Professionalism Panel, continuing legal education presentations, and assisting the Thirteenth Judicial Circuit’s efforts to develop professionalism programs. Please consider joining this committee and connecting with its efforts to maintain the legal profession’s highest ideals.

Author: Caroline Johnson Levine – Office of the Attorney General
F
ollowing two recent Florida Supreme Court rulings, a tenant under a long-term lease of municipal land is now considered an owner and may be assessed ad valorem taxes on the land and improvements constructed thereon.

At issue in Accardo v. Brown and 1108 Ariola, LLC v. Jones was whether the land and improvements under long-term leases granted by Santa Rosa County and Escambia County were subject to ad valorem real property tax rather than intangible personal property tax.

The properties at issue consist largely of beachfront condominiums, single-family residences, and commercial parcels. The lands were conveyed in the 1940s and 1950s by the United States to Escambia County, which later leased some of the lands to Santa Rosa County pursuant to 99-year leases, generally providing for automatic 99-year renewals. Escambia and Santa Rosa then leased or subleased the properties under similar 99-year renewable terms (collectively, “leases”) to private-party tenants or subtenants (collectively, “tenants”) in order to develop the beachfront land. The leases require tenants to pay rent during the lease term but do not include an option to purchase the land or improvements at the end of the term. Each lease also provides that upon termination of the lease the improvements become county property.

By statute, property originally leased for a term of 100 or more years is considered to be owned by the lessee.

The Supreme Court affirmed the First District’s decisions in both cases, concluding that “[t]he interest of a lessee under a perpetually renewable lease is not materially different from the interest of a lessee under a lease for a term of years providing the right for the lessee to obtain title for nominal consideration upon the termination of the lease. In both circumstances, the lessee effectively has the right to exercise perpetual dominion over the property.” These rulings are likely to have an impact on long-term municipal leases throughout Florida, though neither opinion indicates whether the court would reach the same conclusion with respect to leases with substantially shorter terms but similar tenant rights and responsibilities. Other property appraisers may feel compelled to advance this right to tax land and improvements subject to such leases as real property rather than personal property in order to generate additional revenue for their respective counties.

1 Accardo v. Brown, 139 So. 3d 848 (Fla. 2014).
2 1108 Ariola, LLC v. Jones, 139 So. 3d 857 (Fla. 2014).
3 Accardo, 139 So. 3d at 849 at *1; 1108 Ariola, LLC, 139 So. 3d at 858.
4 Accardo, 139 So. 3d at 853 (citing Fla. Stat. § 196.199(7) (2005)).
5 Accardo, 139 So. 3d at 853; 1108 Ariola, LLC, 139 So. 3d at 859.
6 Accardo, 139 So. 3d at 849 (citing Accardo v. Brown, 63 So. 3d 798, 801-02 (Fla. 1st DCA 2011)); 1108 Ariola, LLC, 139 So. 3d at 859 (citing 1108 Ariola, LLC v. Jones, 71 So. 3d 892, 893 (Fla. 1st DCA 2011)).
7 Accardo, 139 So. 3d at 856.

Authors:
William J. Pokolsky
III and Derek Larsen Chaney - Phelps Dunbar
important exceptions, “any commitment of money or property principally induced by a representation that an economic benefit may be derived from such commitment.”

As such, commercial litigators and other business practitioners who do not specialize in securities litigation may nevertheless be interested in joining the Securities Section.

In addition, because of this state’s relatively high population of retirees and elderly people, Floridians are all too often the targets of investment scams like Ponzi schemes. Such scams tout consistent, market-beating returns through stocks, bonds, partnership interests, and more exotic revenue streams. The Securities Section plans to work with regulators and practitioners to develop content of interest to practitioners who serve these populations, including financial planners, elder law practitioners, and trusts and estates attorneys.

No matter your primary practice area, we hope you will take advantage of the opportunities offered by the Securities Section and welcome your ideas concerning how we may better serve you.

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TO JOIN THIS NEW SECTION, CALL (813) 221-7777.
EXPLOITING TECHNOLOGY
Solo & Small Firm Section
Chairs: Jack Rosenkranz - Rosenkranz Law Firm; and James A. Schmidt - James A. Schmidt, P.A.

Over breakfast at Le Meridian Hotel, James Schmidt and I sat in the historic former federal courthouse to plan our upcoming year as co-chairs of the Solo & Small Firm Section of the Hillsborough County Bar Association. We agreed that the goal this year will be to promote development of our section membership through educational opportunities, networking, and social events.

In the past, James revealed, educational opportunities for the year tended to focus on a connected theme. After significant discussion, we have decided that technology would be the unifying educational theme.

Marketing, web pages, newsletters, and presentations build your exposure. Your name is your brand. It has been built with years of hard work. Lawyers have always relied on word of mouth referrals from clients and colleagues to obtain new business. It is a very effective manner to grow your firm. Your reputation for excellent work resulted in a new client seeking advice from you.

In the 1980s, there were few meaningful guides to direct lawyers or their potential clients to other lawyers. Martindale Hubble ratings and inclusion in the Best Lawyers book were strong endorsements in an industry that traditionally shunned advertisements. Lawyers would purchase listings in these publications to build and manage the lawyer’s reputation. Very little information was readily available about the lawyer, which could not be controlled.

Today, however, it is likely that potential clients will know more about the lawyer before they walk in the law firm door, than the lawyer will learn from them in the first meeting. This is possible because of technology. Potential clients often run a Google search on the prospective attorney. What would your clients find?

How much control do you have on information posted? Lawyers.com, BestLawyers.com, SuperLawyers.com, and Avvo.com are all tools that potential clients may review prior to choosing legal counsel. When was the last time you reviewed the information on those sites? What can you post and not run afoul of The Florida Bar ethics rules?

Although this is one issue of technology, the section will be addressing many others. We are planning to have four lunch CLE meetings this year and monthly networking events. If you are a solo or small firm practitioner interested in fresh ideas, additional resources, and expanding your network, then consider joining our section. We look forward to hearing from you.

Author: Jack Rosenkranz - Rosenkranz Law Firm

RPPTL CLE
The Real Property Probate & Trust Law Section hosted a CLE luncheon on May 22 to go over regulatory and legislative updates. The guest speaker was James C. Russick, vice president and Florida state and governmental affairs counsel for Old Republic Title. The section would like to thank the luncheon sponsor:
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- Tampa Bay Trial Lawyers Association
- Law Week

- Tampa Bay Paralegal Association
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Most people probably do not need to consult an attorney to know that there can be criminal and civil penalties for omitting income from foreign financial accounts on their U.S. tax returns. There is also a separate reporting obligation for these foreign financial accounts apart from any information that must also be provided on a U.S. tax return. The Bank Secrecy Act requires that U.S. persons — a term that includes citizens and residents — must file a Report of Foreign Bank and Financial Accounts (FBAR) each year by June 30. The FBAR must be filed with the Financial Crimes Enforcement Network, which is part of the U.S. Department of Treasury, and it is generally required for all persons who have an interest in or signatory authority over a foreign financial account and where the aggregate value of these accounts exceeds $10,000.

In order to promote compliance and encourage the disclosure of foreign financial accounts, the IRS instituted an Offshore Voluntary Disclosure Program (OVDP). This program was first offered in 2009 with successive iterations in 2011 and 2012. The IRS recently modified the OVDP, which is primarily for taxpayers whose failure to report foreign financial accounts and pay taxes on income from those accounts was willful. Under these changes, taxpayers will be required to pay the offshore penalty at the time of their OVDP submission. Also, if before the taxpayer submits an OVDP pre-clearance request it becomes public that a financial institution where the taxpayer holds an account is under investigation by the IRS or Department of Justice, then the OVDP penalty will increase from 27.5 percent to 50 percent.

The IRS also expanded the streamline filing compliance procedures, which were previously only available to non-resident, non-filers. The streamline option now includes additional categories of U.S. taxpayers living outside and inside the United States. It also includes amended tax returns, and there is no longer a requirement that the taxpayer have $1,500 or less of unpaid tax per year. Taxpayers who are under civil or criminal investigation are not eligible for the streamline procedures, but taxpayers who have previously made a quiet disclosure are eligible.

Significantly, the streamline procedures require that the taxpayer certify under penalty of perjury that the taxpayer’s prior noncompliance was not willful. Attorneys will need to ensure that the taxpayer can make such a certification — something that is likely more difficult now given that the OVDP has been in place since 2009 and the amount of publicity that the IRS’s offshore enforcement efforts against UBS and other Swiss banks have received during this time. Eligible taxpayers who reside outside the United States will have to pay taxes and interest, but the IRS will waive all penalties. Eligible taxpayers who reside inside the United States will have to pay taxes and interest, and they will also have to pay a miscellaneous offshore penalty of 5 percent.

Author: Brian R. Harris - Akerman LLP
LETTER TO HCBA SECTION CHAIRS: WHY S-2014-038 MATTERS
Thirteenth Judicial Circuit Pro Bono Committee
Chair: Rosemary Armstrong - Crossroads for Florida Kids

Dear HCBA Section Chairs:

Do you know that Thirteenth Judicial Circuit Chief Judge Manuel Menendez Jr. has ordered almost all Hillsborough County Bar Association sections to appoint representatives to sit on the Thirteenth Judicial Circuit Pro Bono Committee (13th PBC)? The latest version of the order, Administrative Order S-2014-038, is effective July 1, 2014, and taps dozens of organizations to take a seat at the meeting table.

Besides not wanting to risk contempt of court by ignoring the order, your participation or the participation of a reliable and active designee is important to the wellness of your section members, as well as the wellness of the judicial system itself. Why?

First, I should explain what the 13th PBC is. The Florida Supreme Court requires the establishment of a pro bono committee in each judicial circuit in Florida. The 13th PBC serves three primary functions: First, to promote pro bono legal services and provide oversight and direction of such services in Hillsborough County; second, to collect data to assess attorney participation in pro bono programs in our county and report same to The Florida Bar Standing Committee on Pro Bono Legal Services; and third, to publicly recognize attorneys who undertake pro bono work.

Sections are tasked with providing a representative to attend meetings to help the 13th PBC meet its mission. That person could be you or someone you are confident will calendar and faithfully attend the quarterly committee meetings and annual award ceremony and follow up on tasks assigned at the meetings or in between meetings.

Each section is expected to either create its own pro bono project or participate as a group in some other entity’s, e.g., by scheduling a group outing to an evening intake clinic operated by a legal aid provider. The section’s rep on the 13th PBC reports the effort. The section members bond during the project, making for a robust section networking experience.

The section reps also report back to section members on what pro bono opportunities are available so members individually may choose from among many forms of pro bono service, both as to subject matter and time commitment. This helps section members fulfill their solemn oath to help the defenseless and oppressed (no one wants to be considered a reneger!).

And section reps report back on award opportunities. Trust me, the esteem of a lawyer who is publicly recognized for pro bono service goes way up in the eyes of the judges before whom he or she appears!

The system also benefits when the section reps actually follow through on committee duties. Pro bono needs are met in increasing numbers, which means more indigent parties obtain meaningful access to the courts. And when pro se parties get lawyered up, that translates into smoother case processing and more efficient hearing dockets for all cases (read: less expense and delay to paying clients).

So when you get an email from incoming 13th PBC Chair Rosemary Armstrong asking for the name and contact information of your section’s rep, please don’t ignore it. It’s your responsibility as a section leader to ensure compliance with Judge Menendez’s order and, ultimately, the success of the 13th PBC mission.

Sincerely yours,

Catherine Peek McEwen,
immediate past 13th PBC chair
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The Third District Court of Appeal has recently confirmed the serious consequences of violating a settlement agreement’s confidentiality provision. These provisions have become fairly routine in settlement documents, but their impact is material. Attorneys should exercise caution in negotiating these terms and ensuring their clients understand them.

In Gulliver Schools, Inc. v. Snay, 137 So. 3d 1045 (Fla. 3d DCA 2014), a former headmaster sued a school for age discrimination and retaliation. The parties settled, and the school agreed, among other things, to pay the plaintiff $80,000. The agreement contained a detailed confidentiality provision prohibiting the plaintiff from, directly or indirectly, disclosing or discussing the existence or terms of the settlement with anyone other than the plaintiff’s attorneys or spouse. Breach of the provision would result in disgorgement of payments to the plaintiff.

Several days later, the plaintiff’s adult daughter posted a comment on her Facebook page stating “Mama and Papa Snay won the case against Gulliver. Gulliver is now officially paying for my vacation to Europe this summer. SUCK IT.” Id. at 1046. This post went out to approximately 1,200 of the daughter’s Facebook friends, many of whom were former students of the school.

The daughter’s post apparently was false — the plaintiff never told her he won the case, nor did she plan to or go to Europe. At the evidentiary hearing, the trial court heard the plaintiff’s testimony that he felt he needed to tell his daughter something about the case due to her interest and involvement. He merely told her, however, that the case “was settled and we were happy with the results.” Id. at 1048. The trial court ruled that the plaintiff did not breach the confidentiality agreement.

The Third DCA reversed. Using standard contract principles, the appellate court found the confidentiality provision unambiguous. By telling his daughter that the case settled and he was happy with the result, the plaintiff violated the plain terms of the agreement by directly or indirectly disclosing information about the existence or terms of the settlement to an unauthorized person. The appellate court noted that the plaintiff never informed the school of any need to tell his daughter about the settlement, which might have led the parties to include a mutually acceptable arrangement in their agreement. His daughter then “did precisely what the confidentiality agreement was designed to prevent, advertising to the Gulliver community that Snay had been successful in his age discrimination and retaliation case against the school.” Id.

Ultimately, the plaintiff’s comment to his daughter cost him $80,000 in settlement proceeds, as well as liability for the school’s appellate attorney’s fees. The Third DCA also denied the plaintiff’s motion for rehearing.

The moral of the story is that if your client’s settlement agreement contains a confidentiality provision, you may want to take extra care to ensure your client understands what it prohibits and the potential consequences for violating it. As always, be careful what you post on Facebook!

Author: Beth M. Coleman - Beth M. Coleman, P.A.
UNAUTHORIZED WORKERS’ COMPENSATION DISCLOSURE VIOLATES THE ADA

Workers’ Compensation Section
Chairs: Anthony V. Cortese - Anthony V. Cortese, Attorney at Law; and Irene Rodriguez - Irene M. Rodriguez, P.A.

First, welcome back from summer breaks and vacations. This year we have appellate cases pending before the Florida Supreme Court that we will be watching that will dramatically affect everyone in the workers’ compensation arena. Our seminars will follow these cases, as well as other important developments in the field. An important federal court decision regarding application of ADA confidentiality provisions to workers’ compensation information was announced on June 23, with implications for all claimants, adjusters, and employers as will be addressed below.

In Shoun v. Best Formed Plastics, 2014 WL 2815483 (N.D. Ind. June 23, 2014), the claimant in a workers’ compensation case filed suit against his employer because the employer’s workers’ compensation processing person posted information on her Facebook page about his workers’ compensation and medical conditions that he asserted was injurious. The employer then argued that there was no proof of damages due to this Facebook post, and one requirement for such a suit is a tangible injury as a result of the disclosure. The court again did not agree, noting: “Mr. Shoun has alleged that as a result of Ms. Stewart’s actions, ‘prospective employers refused to hire him, and he suffered emotional injury,’ both of which have been recognized as tangible injuries under the Act.” Id. (citing Green v. Joy Cone Co., 278 F. Supp. 2d 526, 537 (W.D. Pa. 2003) (explaining “[i]njury-in-fact encompasses both actual damages in the form of emotional, pecuniary, compensative, or otherwise, as well as the presence of a continuing illegal practice”).

This means that not only the employer but also the carrier and its employees, agents, and representatives have a duty of confidentiality with regard to workers’ compensation information that is actionable if it is violated, in addition to and separate from the underlying workers’ compensation claim and any state employment law claim. It is an important decision for injured workers, employers, carriers, and their attorneys to be aware of with respect to these situations. We will update you on other important decisions as they are announced.

Author: Anthony V. Cortese - Anthony V. Cortese, Attorney at Law

Find and share your favorite Lawyer magazine articles at hcbatampabay.blogspot.com.
Ed Armstrong, shareholder at Hill Ward Henderson, was recently appointed by Governor Rick Scott to the Southwest Florida Water Management District. The appointment is for a term ending March 1, 2018, and is subject to confirmation by the Florida Senate. The district encompasses roughly 10,000 square miles in 16 counties and serves a population of 4.7 million people. The mission is to manage water and related natural resources to ensure their continued availability while maximizing the benefits to the public.

Radha Bachman, a shareholder at Carlton Fields Jorden Burt, has been selected to serve on the American Health Lawyers Association Women’s Leadership Council for a one-year term. The council guides the activities of AHLA’s new Women’s Network. Bachman is in the firm’s national health care practice group.

Chris Brown of Trenam Kemker has been appointed to the Hillsborough Community College Foundation Board of Directors. Brown joined Trenam Kemker in October 2013 in the firm’s commercial litigation group.

Robert Chapman has joined Sivyer Barlow & Watson, P.A., as an associate. Chapman’s practice focuses on commercial litigation and real estate transactions.

Marina A. Choundas of Foley & Lardner LLP was elected to the board of directors of Seniors in Service Inc. Choundas is a member of the firm’s business law, tax and Latin-American practice groups.

Fentrice Driskell, a shareholder at Carlton Fields Jorden Burt, was elected president of the George Edgecomb Bar Association for a one-year term. As president, Driskell will be responsible for setting the strategic vision of the organization, which has more than 100 members, a 10-member board, and 10 standing committees. GEBA is a voluntary bar association in Hillsborough County that is dedicated to the advancement of African Americans in the legal profession. Driskell also was awarded GEBA’s President’s Award during the association’s annual scholarship banquet on April 28. This award is given to a Bar member who has gone above and beyond to carry out the association’s mission and who aids the president in leading the organization. Driskell has significant experience representing banks and other financial institutions in commercial business litigation and bankruptcy matters.

Nancy J. Faggianelli, chief diversity officer at Carlton Fields Jorden Burt, has been presented with the LGBT-Allies Leader Award by The Florida Diversity Council. Faggianelli received the award during the council’s LGBT-Allies Diversity Summit in Orlando. Faggianelli received the award based on her visibility in the LGBT community; ability to create awareness and increase communication and understanding of the LGBT community; ability to make significant contributions to the promotion of broadening civil adoption and/or acceptance of LGBT equality in the workplace and the community; support of the LGBT community in shaping a future where everyone can live authentically and completely; and reputation with colleagues and superiors.

T.J. Ferrante, an associate at Carlton Fields Jorden Burt, has been selected to serve on the American Health Lawyers Association Young Professionals Council for a one-year term. He also was selected into the Leadership Development Program of the AHLA’s Hospitals and Health Systems Practice Group for a one-year term. Ferrante is in the firm’s national health care practice group.


Michele Leo Hintson, partner in the Tampa office of Shumaker, Loop & Kendrick, LLP, has been named vice-chair of The Florida Bar’s Thirteenth Circuit Grievance Committee (“B”). This local grievance committee...

For more HCBA news, go to www.facebook.com/HCBAtampabay. To submit news for Around the Association, email Corrie Benfield at corrie@hillsbar.com.
committee is composed of lawyers and non-lawyers and is responsible for continuing the investigation of possible lawyer misconduct referred by Bar discipline attorneys. Hintson dedicates her practice to representing businesses, insurance companies, health care organizations, and individuals in all aspects of the dispute resolution process.

Lawrence P. Ingram, a partner with Phelps Dunbar, was presented with the Paul M. May Meritorious Service Award in June at The Florida Bar Annual Convention in Orlando. Stetson University College of Law Dean Christopher M. Pietruszkiewicz presented the award, which recognized Ingram’s years of service in support of Florida's first law school and its students. Since receiving his J.D. from Stetson University College of Law, Ingram has been engaged in a number of student and alumni-related events at the school. In the past several years, he has focused his efforts on encouraging planned giving to Stetson.

Jody Keeling and Michael Maguire have joined the law firm of Trenam Kemker. Maguire is an associate in the real estate and lending transactions practice group. His practice focuses on real estate lending, real property transactions and investments, asset-based lending, eminent domain, and property rights litigation. Keeling is an associate in the business transactions practice group. His practice focuses on corporate law, securities, mergers and acquisitions, and taxation.

Ken Mather has joined Gunster’s business litigation practice and will work out of the firm’s Tampa office. Mather joins the firm from Broad and Cassel in Tampa, where he was a member of the firm’s bankruptcy and creditors’ rights, special assets and banking, and institutional lending practice groups.

Victoria McCloskey, a shareholder at Bush Ross, was recently sworn-in as president-elect of the Hillsborough Association of Women Lawyers. Her term as president-elect began in May 2014 and will be followed by a yearlong term as president, to commence in May 2015. McCloskey also was recently awarded the 2014 HAWL President’s Award for outstanding service to the organization. The main objective of HAWL is to "promote and recognize the contributions of women in the legal profession and judiciary.” McCloskey’s practice focuses on health care defense litigation and general civil trial matters.

Erin M. McKenney, associate in the Tampa office of Shumaker, Loop & Kendrick, LLP, has been elected to the Board of Trustees for Keep Tampa Bay Beautiful, whose mission is to provide environmental education and volunteer opportunities that develop individual responsibility and environmental stewardship. McKenney primarily focuses her practice in health law.

Dennis A. Meyers has joined World Wide Medical Services Inc. in Tampa as corporate counsel. World Wide Medical Services is a provider of physician-prescribed home electrotherapy and orthotic devices for the effective treatment of non-narcotic pain management and rehabilitation.

Hal Mullis, president of Trenam Kemker, has been elected by the University of South Florida Board of Trustees as its chairman. The USF Board of Trustees is responsible for cost-effective policy decisions appropriate to the system mission and the implementation and maintenance of high-quality education programs within the laws and rules of the state. Mullis is a founding member of Trenam Kemker and is based in the firm’s Tampa office.

John Neukamm, a shareholder with the Mechanik Nuccio law firm, was recognized at The Florida Bar's Real Property, Probate & Trust Law Section 2014 Annual Convention for his contributions to Florida attorneys and the public in promoting the highest standards of ethics and professionalism with the William S. Belcher Lifetime Professionalism Award.

Kristin A. Norse has been named a shareholder of Kynes, Markman & Felman, P.A., and has been elected president-elect of the Florida Association for Women Lawyers. The mission of FAWL is to actively promote gender equality and the leadership roles of FAWL’s members in the legal profession, judiciary, and community at large. Norse has also been appointed the chair of the Criminal Practice Subcommittee for the Appellate Court Rules Committee of The Florida Bar. Norse concentrates her practice in the area of civil appeals.
and litigation support in state and federal courts.


Ronnell Robinzine was the first recipient of the George Edgecomb Bar Association Outstanding Young Lawyer’s Award. Robinzine was recognized for his outstanding work on behalf of GEBA, including his role in the formation of the Young Lawyers Committee and the acquisition of two key grants.

Hala Sandridge, co-managing shareholder of the Tampa office of Buchanan Ingersoll & Rooney | Fowler White Boggs, has been reappointed to a three-year term on the board of The Florida Bar Foundation, a statewide charitable organization whose mission is to provide greater access to justice. Sandridge practices in the area of appellate law.

Tom Scarritt of the Scarritt Law Group has joined the board of directors of Southern Legal Counsel Inc., a statewide not-for-profit public-interest law firm based in Gainesville that focuses on complex, multiyear litigation involving education, housing, homelessness, and discrimination. SLC represents individuals and groups without access to the justice system whose cases may bring about systematic reform.

Murray B. Silverstein has been appointed chair of the Florida Rules of Judicial Administration Committee for a one-year term that commenced July 1.

Jacqueline Simms-Petredis has joined Burr & Forman LLP as a Tampa-based associate in the firm’s financial services litigation practice group. She was previously with Akerman LLP. Simms-Petredis’ practice includes advising financial institutions, mortgage loan originators, loan servicers, and investors in contested foreclosures, bankruptcy adversary proceedings, compliance issues, and direct filed lawsuits.

Kenneth A. Tinkler, a shareholder in Carlton Fields Jorden Burt’s Tampa office, received the Paul S. Buchman Award from the City, County and Local Government Law Section of The Florida Bar. This annual award recognizes Tinkler’s “outstanding contribution in the area of Legal Public Service.” Tinkler also was recognized for his service to the section and its executive council, including his service as chair of the section, and other contributions to The Florida Bar and the legal profession.

Thomas E. Toner has joined Shumaker, Loop & Kendrick, LLP, as a partner. Toner focuses his practice on patent prosecution, copyright, trademark, trade secret, and related technology litigation.

Sylvia H. Walbolt, shareholder at Carlton Fields Jorden Burt, will serve as president of the Florida Supreme Court Historical Society. She was sworn in during The Florida Bar’s Annual Convention in June in Orlando. The historical society helps preserve the history of Florida’s judicial system and educates the public about the work of the courts in protecting personal rights and freedoms, as well as resolving the myriad disputes that arise within the state.

Brian C. Willis, an associate in the Tampa office of Shumaker, Loop & Kendrick, LLP, has been appointed by the Hillsborough County Aviation Authority to serve as its representative on the Citizen Advisory Committee for the Hillsborough County Metropolitan Planning Organization. The MPO is responsible for establishing a continuing, cooperative, and comprehensive transportation planning process for Hillsborough County. Willis represents individuals and corporations involved in business, contract, and real estate disputes.

Gwynne A. Young, shareholder at Carlton Fields Jorden Burt, received the Rosemary Barkett Outstanding Achievement Award.

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from the Florida Association for Women Lawyers during the Henry Latimer Diversity Luncheon at The Florida Bar Annual Meeting and Convention in June in Orlando. This award is given annually to a FAWL member who has demonstrated a commitment to the purpose and goals of FAWL; excelled to outstanding career achievement that charters new territory in our profession; helped to overcome traditional stereotypes associated with women by breaking barriers, molding a new reality and a new way of thinking about themselves, others and their place in the universe or has promoted the status of women within the profession; advanced the status of women in the state; and is an active member of FAWL.

Tampa Law Advocates has relocated to 620 E. Twiggs St., Suite 110, in Tampa. Attorneys Samantha L. Dammer and Daniel W. Hamilton practice in the areas of business and personal bankruptcy, foreclosure, family law/custody, civil litigation, and general business law.

JURY TRIAL INFORMATION

For the month of: November 2013
Judge: Honorable Sam D. Pendino
Parties: Marcela P. Cisternas-Pena vs. David H. Griner and The Travelers Indemnity Co.
Attorneys: For plaintiff: Robert T. Joyce and Lillian J. Reyes; for defendant: Roland Hermida
Nature of case: Automobile accident that involved surgery of the lumbar spine at L3-4 and L4-5.
Verdict: For the plaintiff in the amount of $789,226.81

For the month of: April 2014
Judge: Honorable Cynthia Cox
Parties: Elkins Constructors, Inc. v. Allied Building Products Corp. and Bradco Supply Corp.
Attorneys: For plaintiff: Peter Robinson and Erin Smith; for defendant: Peter P. Murnaghan and Jill K. Schmidt for Allied Building Products Corp. and Garry M. Glickman for Bradco Supply Corp.
Nature of case: Commercial construction case where plaintiff alleged defects in 160,000 square feet of metal roofing materials used in the construction of a senior living facility. Allied Building Products served a proposal for settlement.
Verdict: Defense verdict. Allied’s motion for fees and costs pending.

For the month of: April 2014
Judge: Honorable Joseph G. Foster
Parties: Ryan and Allison Fullerton vs. Royal Palms Insurance Company (Tower Hill)
Attorneys: For plaintiff: Matthew R. Danahy and Michael A. Giasi; for defendant: Daniel J. Elwin and Christopher Marone
Nature of case: Sinkhole claim denied by defendant.
Verdict: For the plaintiffs in the amount of $245,000

For the month of: April 2014
Judge: Honorable Claudia Isom
Parties: Mitchell v. Hill
Attorneys: For plaintiff: Brandon Scheele and Michael Bird
Nature of case: Admitted liability accident with four spine surgeries
Verdict: $24,000 awarded to the plaintiff

To submit news for Jury Trial Information, email rita@hillsbar.com.
For the month of: May 2014
Judge: Honorable Claudia Isom
Parties: Kendra G. Oro Osorio v. Estate of John Harold Peters
Attorneys: For plaintiff: Leticia L. Valdes and Luis Figueroa; for defendant: Emory Wood and Julian E. Wood
Nature of case: Motor vehicle accident
Verdict: For the plaintiff in the amount of $61,827.27

For the month of: May 2014
Judge: Honorable Ellen S. Masters
Parties: Jeff and Sarah Latimer v. Omega Insurance Company
Attorneys: For plaintiff: C. Robert Pickett; for defendant: Troy J. Seibert and Gerald T. Albrecht
Nature of case: Sinkhole denial
Verdict: Defense verdict

For the month of: June 2014
Judge: Honorable J. Dale Durrance
Parties: Jacqueline Ward v. Bruce Robinson
Attorneys: For plaintiff: Weldon E. Brennan and Gregory P. Abaray; for defendant: Michael L. Forte and Jessica A. Tetrick
Nature of case: Auto accident involving a 5-year-old girl, resulting in alleged brain damage
Verdict: $3,209 (47 percent of EMS and ER bills), reduced to $0 after PIP setoff. Brennan asked the jury for $1.2 million. Defendant’s motion for attorneys’ fees and costs is pending.
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