Medical Error is estimated to be the third leading cause of death in the U.S.

Accountability encourages safer patient care.

Fig 1 Most common causes of death in the United States, 2013

Fig 2 Model for reducing patient harm from individual and system errors in healthcare

Reproduced from Medical error—the third leading cause of death in the US, by Martin A. Makary, Michael Daniel, volume number 353, copyright 2016 with permission from BMJ Publishing Group Ltd.
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During this Bar year, we are highlighting national parks in honor of HCBA President Gordon Hill, who is an avid traveler and a visitor to many of the national parks. The National Park System celebrated its centennial last year, and we are celebrating the beautiful national resources protected for all the public to enjoy through the park system. In this issue, we highlight the world’s first national park, Yellowstone National Park, which was officially protected in 1872, with a photo of the famous Old Faithful Geyser.

Photo credit: National Park Service and Jim Peaco, October 2013
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The Partners of de Beaubien, Simmons, Knight, Mantzaris & Neal, LLP are proud to announce that after 40 years they have changed the name of the Firm to DSK Law.
Three years ago, I wrote my first Editor’s Message, titled *Who’s Gonna Fill Their Shoes*, for the inaugural issue of the 25th anniversary edition of the *Lawyer* magazine. My message was based on a George Jones song of the same name, in which Jones wondered who would replace country music legends like Hank Williams, Johnny Cash, Merle Haggard, and Elvis Presley, to name a few. After reminiscing in my message about the HCBA’s legal legends from the last 25 years, I wondered who would fill their shoes.

Well, we may find out soon enough. In his first President’s Message, new HCBA president, Gordon Hill, talked about an old “family tradition” of service, one handed down from his grandfather. Gordon explains that his grandfather, Ben Hill II, taught him that “civic responsibility was ‘paying the rent’ for the space you take up in this world.” To combat the negative reputation lawyers have, Gordon plans on telling the story of lawyers who are “paying their rent,” highlighting in each of his messages a lawyer who has been giving back to the community.

His first example is attorney Stephen Koch, who has served as the CEO of the local Big Brothers Big Sisters chapter. I hope you’ll read Gordon’s message to learn about the difference Stephen has made in the lives of kids in our community. What a worthy selection! And what a laudable goal of fostering respect for the legal professional by highlighting the great things HCBA lawyers are doing in our community. Fortunately, there’s no shortage of lawyers to choose from.

Just take a look at this issue. You can read about HCBA Lawyer Referral & Information Service members who volunteered for the Ask-a-Lawyer library series. Also, there’s a list of 38 lawyers who volunteered for Fox 13’s Ask-a-Lawyer series in June and July, alone. Community Services Committee Chair, Lara Lavoie, describes how HCBA lawyers adopted 350 seniors and raised $7,000 for the CSC’s Elves for Elders program. Perhaps even more touching is the Pirate Plunder Party the CSC put on at A Kid’s Place, which the CSC does every year. You can also read about the great work the Military & Veterans Affairs Committee is doing for veterans in our community, who have more than paid their rent. Last issue, the HCBA’s immediate past president, Kevin McLaughlin, talked about how more than 165 lawyers volunteered for his Read to Dream initiative.

In his President’s Message, Gordon notes the significant role HCBA legends — Reece Smith, Sam Gibbons, Chester Ferguson, Doyle Carlton, Cody Fowler, George Edgecomb, John Germany, etc. — had shaping our local community. I’m looking forward to reading stories about lawyers who are trying to fill the shoes of those who have already “paid their rent.”
Lawyers Pay Their Rent to Society

We need to change the narrative from lawyer jokes and snide remarks to one of respect for the profession and an understanding of all the great things lawyers have done and do every day in our society.

On June 8, 2017, I had the honor of being installed as President of this great Association. This event was made extra special by the fact that I am following in the footsteps of both my father and brother — Ben Hill III and Ben Hill IV — as President of the HCBA.

Many people have joked that being active in the HCBA must be a “family tradition.” I guess they are right, but few know why. Our commitment to service stems from the legacy handed down to us from my grandfather, Ben Hill, Jr. He taught us that civic responsibility is “paying the rent” for the space you take up in this

Continued on page 7

Gordon's brother, Ben Hill IV, and his father, Ben Hill III, joined Gordon for a family photo at the Installation on June 8.
“Cornhole for a Cause” benefiting Big Brothers Big Sisters of Tampa Bay. In short, our Association’s lawyers are definitely “paying their rent,” and the HCBA is playing an important role in helping them do so.

One of my goals as President is to tell that story, in order to combat the negative reputation our profession often has in society. We need to change the narrative from lawyer jokes and snide remarks to one of respect for the profession and an understanding of all the great things lawyers have done and do every day in our society.

As part of this initiative, in each of my articles, I will highlight lawyers who have been giving back to the community in abundance, starting with my friend and fellow attorney Stephen Koch. Stephen served as Chairman of the Board of the local Big Brothers Big Sisters chapter when the agency was desperately searching for its next CEO. In response, Stephen agreed to step in on a temporary basis. That was 15 years ago, and he has been serving since then. During his tenure, Stephen has been instrumental in expanding the agency’s outreach to thousands more underprivileged kids and has been named both the Florida and National “Big Brother of the Year” for the mentoring relationships he established with his “little brothers.” The Tampa Bay agency is now the fifth largest in the nation. Like so many lawyers in Hillsborough County, Stephen Koch has paid more than his fair share of rent.

Continued from page 6

world. In other words, it is our duty to give back to the society that has given us so much. He lived this motto by leading and serving our local community in a wide variety of ways, including serving as a member of the Hillsborough County School Board for over 20 years, leading the effort to change the Tampa City Charter, helping to establish the “Crime Commission” to fight gambling and organized crime, and helping to lead the City’s efforts to annex the Wellswood and Palma Ceia neighborhoods and much of North Tampa.

As I think of my grandfather’s words, it strikes me that lawyers as a profession definitely “pay their rent” — perhaps more than any other profession. Consider the historical impact that lawyers in our country have had, from John Adams to Abraham Lincoln to Franklin D. Roosevelt to Thurgood Marshall to Sandra Day O’Connor. And that legacy has continued right here in Hillsborough County with the likes of Reece Smith, Sam Gibbons, Chester Ferguson, Doyle Carlton, Cody Fowler, George Edgecomb, Josephine Stafford, Arthenia Joyner, E.J. Salcines, and John Germany — all of whom played (and some of whom continue to play) significant roles in shaping our local community.

That tradition carries on today with so many lawyers doing so much in our community. We provide countless hours of pro bono service each year; serve on virtually every charitable board in the area; are active in public service as judges, government attorneys, and military officers; and donate and raise millions of dollars for the Hillsborough County Bar Foundation and other charitable organizations.

I am particularly proud of the role the HCBA has played in facilitating community involvement. Through the HCBA, lawyers have launched and participated in several incredible programs, such as “Adopt A Veteran,” “Elves for Elders,” “Dining with Dignity” at the Trinity Café, the “Pirate Plunder Party” at A Kid’s Place, the many events related to Law Week, and of course last year’s “Read to Dream” program (just to name a few). And our next generation of lawyers — the Young Lawyers Division — also has many community service projects, such as “Steak & Sports Day,” “Holidays in January,” and

****

Please help me to tell our story by providing the names of other attorneys who have gone above and beyond in their civic involvement. I may not be able to include everyone in my articles, but I think it is important to recognize at least some of you who have done so much to make our community a better place for everyone. Thank you, and I look forward to a great Bar year!

****
Fall into the HCBA YLD

We all know that lawyers live busy lives, but it is very important to find time for professional growth and giving back to our community.

Fall is here, which means the HCBA YLD is full steam ahead planning for this upcoming Bar year. It also means cooler temperatures (I hope), football, the YLD Golf Tournament, and that my beloved pumpkin flavors are making their way back into stores and on shelves. It also means Bar results are forthcoming, and we have new lawyers joining the ranks.

I am privileged to serve as president of the YLD this year. I have been a member of the YLD since 2007, when I began my organizational involvement as a committee chair and before becoming a board member in 2008. My experience on the YLD has led to personal fulfillment, longstanding friendships, and professional networking. I look forward to serving you this year and will do my best to live up to the trust that you have placed in me.

As president, I am honored to serve beside several outstanding young lawyers who make up the YLD board. Each one of these individuals contributes to the success of the YLD, ensuring that we continue to be one of the largest and strongest Young Lawyers Divisions in Florida. In August, I had the pleasure of working with the YLD board members to plan this year’s events and make committee assignments. We appreciate those of you who have expressed interest in serving on our committees. Our committee chairs also play a key role in offering members of the YLD countless opportunities to lead and serve, whether it be in the legal community or our local community. Newly admitted lawyers, if you missed the opportunity to get involved with a YLD committee over the summer, please go to our webpage at www.hillsbar.com/?page=YLDcommitteeform and submit a form or contact me.

I encourage each YLD member to get more involved this year to help us make a difference in our community. The YLD is often referred to as the service arm of the

Continued on page 9
HCBA, because so many young lawyers are involved in a multitude of worthwhile projects and community service. The YLD’s mission is to support the HCBA’s initiatives and goals, promote professionalism and ethical conduct, provide guidance and support to new lawyers, provide educational opportunities for our members, organize programs and events of interest to young lawyers, and encourage community involvement. To meet our mission, we have our golf tournament (October 6 at the Temple Terrace Golf & Country Club), Wills for Heroes, Family Forms Clinic, youth projects, Steak and Sports Day and Holidays in the New Year programs, and many other initiatives that we participate in.

In addition to your involvement with the YLD, I also encourage you to get involved with the HCBA, often referred to as the “Big Bar.” The Big Bar hosts several networking opportunities each year. You never know; you may meet your next mentor there.

We all know that lawyers live busy lives, but it is very important to also find time for professional growth and giving back to our community. The YLD is here to support you and help you find opportunities to get involved in community groups, professional organizations, and projects that benefit the less fortunate. Start small, perhaps with a night volunteering at the Family Forms Clinic or an hour one afternoon reading to children. Remember, “No act of kindness, however small, is ever wasted.” — Aesop

I look forward to serving and meeting more of our YLD members at this year’s events.
Ben Hill III, local legal icon and community leader, was in a familiar situation.

He was talking to a group of lawyers about the importance of serving others and giving back to the community.

The occasion was the HCBA's 2017-18 Installation of Officers and Directors on June 8, where Hill III was introducing his youngest son, Gordon, as HCBA president.

It was just three years ago when he introduced his other son, Ben IV, as HCBA president as well.

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Chief Judge Ron Ficarotta and HCBA's new president, Gordon Hill, after his swearing-in on June 8.

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Hill III’s remarks about the HCBA and Bar service were especially meaningful because he served as HCBA president in 1981. And, ten years later, in 1991, he served as president of The Florida Bar.

The father and sons all work at Hill Ward Henderson, where Hill III was a founding member.

In his introduction, Hill III said Gordon’s background and professional experience will help him succeed as HCBA president.

“Gordon is a conscientious, hard-working lawyer, with a great sense of right and wrong,” Hill III said. “He will bring all these characteristics to the association.”

Gordon attended Jesuit High School, went to Vanderbilt University, and got his law degree from Wake Forest University.

In addition, Gordon served as president of the HCBA’s Young Lawyers Division in 2005.

Hill III also noted Gordon’s devotion to his family — his wife, Hayes, and their two daughters — as well as his service in the community, particularly his longtime association with Big Brothers Big Sisters of Tampa Bay.

After being sworn in by Chief Judge Ron Ficarrotta, Hill talked about how his parents and grandparents had been role models to him growing up.

Talking about leading the HCBA this year, he recalled a saying his grandfather, Ben Hill II, would repeat when talking about serving others.

“He said civic service is the rent we pay for the space we occupy here on Earth,” Hill said, referring to his grandfather. (See more about Gordon’s family legacy of service in his article on page 6.)

During the year, Hill said he intends to highlight the good work members of the HCBA are doing for others, and the positive impact they are having in the community as a whole.

Additionally, he talked about the outstanding relationship the HCBA enjoys with the judges of the Thirteenth Judicial Circuit, and he said he looks forward to working with them this year.

* * *

The new Bar year and the fall season also bring new opportunities for HCBA members.

Members can forge new relationships with their colleagues at the HCBA’s numerous events, and they can also take advantage of the many educational and CLE opportunities the HCBA makes available throughout the Bar year.

So consider joining the HCBA Lawyer Referral and Information Service and grow your practice through referrals.

Plus, make it a point to attend the HCBA’s 21st Annual Bench Bar Conference and Judicial Reception scheduled for Oct. 25 at the downtown Hilton.

The HCBA’s YLD, under the leadership of President Melissa Mora, also has a tremendous year planned with numerous events, including the annual YLD Golf Tournament, which is set for Oct. 6 at Temple Terrace Golf & Country Club.

Stay informed about all the HCBA’s programs and events through the HCBA’s various social media platforms, or just go to the HCBA’s website at www.hillsbar.com.

As the HCBA looks to the future — and continuing changes in the legal profession — we look forward to your continued input and involvement to help make the HCBA the best Bar association it can be for all its members.

See you around the Chet.
Capital punishment is the most serious and sobering component of our criminal justice system. The most important thing is that we, as a society, get it right. Until recently, Florida had gotten it wrong.

A brief history: In the landmark case of Furman v. Georgia in 1972, the U.S. Supreme Court struck down the death penalty across the country because, in part, its application was arbitrary and capricious. After Furman, Florida (like many other states) codified the aggravating and mitigating factors that need to be considered for capital punishment. In 2002, the Supreme Court held, in Ring v. Arizona, that the Sixth Amendment requires a jury to make factual findings regarding those factors. Despite Ring, Florida’s capital sentencing scheme provided that during the penalty phase — a second trial conducted after the initial guilt phase trial if the jury unanimously found the defendant guilty of a capital crime — the jury would recommend whether the death penalty was appropriate. The jury’s recommendation was just that — a recommendation — and the judge had great latitude in deciding whether to accept or disregard it. This was problem number one. Complicating matters further, the jury reached its recommendation based on a simple majority, even though the determination of guilt required unanimity. This was problem number two.

In January 2016, in Hurst v. Florida, the U.S. Supreme Court expressly applied Ring to Florida’s sentencing scheme and invalidated the state’s method of having juries make recommendations (as opposed to rendering a verdict) about whether capital punishment is warranted. In response, the Florida legislature, in March 2016, amended the law to make the jury’s decision binding and increased the standard from simple majority to requiring ten or more jurors to agree (out of twelve). Problem solved? Not quite. In October 2016, the Florida Supreme Court responded with a swift rebuke in Perry v. State, stating that only a death penalty statute that required unanimity would pass constitutional muster.

This past spring, our legislature and Governor Scott fixed the problem by requiring a unanimous verdict, bringing Florida’s statutory framework in line with constitutional requirements and the rest of the country. From a procedural standpoint, we finally got it right.

So where does that leave us going forward? The U.S. and Florida Supreme Courts have made it clear that capital punishment must be limited to the most aggravated and least mitigated offenses. Following that guidance, our use of the death penalty must be fair, objective, and rare. Fair means that not only should it be limited to the most egregious offenses, but that the threat of the death penalty should not be used as leverage to coerce a guilty plea; a person’s life is not a bargaining chip. Objective means that each case is thoroughly evaluated based on its particular facts and circumstances, while ensuring that similarly situated defendants are treated consistently. And rare means, well, rare. Although all capital offenses are horrible and inhuman, the law reserves capital punishment for those rare crimes so heinous, atrocious, and undeserving of mercy as to be the worst of the worst in our society. Guided by these principles, we must get it right.
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It’s Time for Bold Action to Support Court Clerks

I believe the money my office collects locally should be spent locally. The Legislature, however, diverts millions of dollars every year for things that have nothing to do with the court system.

Here’s a question I have pondered for months: What will it take to get legislators to adequately fund Florida court clerks? When the Florida Legislature wrapped up its regular session in early May, court clerks found themselves in a sad but familiar position.

More budget cuts.

Despite generating enough money to fund our operations through fines, fees, and costs, and despite the recommendations of a state agency the Legislature created to examine our needs, the Legislature once again reduced funding for all 67 Florida court clerks. As I have written before in this space, our budget has been cut every year for the past 10 years.

When the fiscal year begins Oct. 1, my office will be operating with 10 fewer positions than we had a year ago. We will be able to do so through attrition, not layoffs, thanks to our conservative approach to spending.

When I first took office twelve years ago, I inherited a staff of 850. We are now down to 689.

Lawmakers return to Tallahassee this month for committee meetings as they prepare for the 2018 regular session, which starts in January (it’s an election-year early session).

So here we go again.

I believe the money my office collects locally should be spent locally. But that is not the case. Although Florida court clerks collected $777 million, we kept only $409 million. About $120 million went to prosecutors, public defenders, and the courts. But here’s what most people don’t realize: $145 million went straight into the General Fund to pay for things unrelated to access to justice.

Which brings me back to my original question. What do we need to do to demonstrate to lawmakers that clerk's offices deserve adequate funding?

I and my judicial partners from the courts, the State Attorney’s office, and the Public Defender’s office spoke to the Hillsborough Legislative Delegation before the session to urge them to do all they could to help. I followed that with briefings for individual lawmakers and tours of our offices. I wrote emails, placed phone calls, and traveled to Tallahassee to meet with lawmakers in person.

While I appreciate the time and the interest every legislator showed, their hands were tied. Because the budget was finalized behind closed doors in the waning days of the session, there was little an individual lawmaker could do to influence the outcome.

One Florida clerk has already has filed a lawsuit against the Legislature for failing to meet its constitutional duty to provide court clerks with “adequate and appropriate” funding. There may be more lawsuits to come.

The ultimate answer to our dilemma is to change the state Constitution. When the Constitution Revision Commission met in Tampa in May, I urged its members to propose an amendment to Section 14(b) of Article V so that clerks and their judicial partners are placed in a first priority to receive the local fines, fees, and costs that we collect, based upon our documented needs.

As members of the Hillsborough Bar, you depend on my office to serve your needs. I ask that each of you support this effort.
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Lawyer Referral Service Makes a Difference in our Community

There is no better way to raise appreciation and awareness of the legal profession than to participate in the LRS program.

Few things are as rewarding as giving time to your local community. The HCBA’s Lawyer Referral Service (LRS) program is an excellent way for our profession to give back. The program is certified by the American Bar Association and is supported by The Florida Bar. The program would not be possible without the assistance of LRS Director Lupe Vasquez-Mitcham and her staff, who organize the lawyer volunteers and notify panel members that a member of the public is seeking advice in our specified areas of practice. Lawyers who specialize in unique areas are always needed to provide their counsel.

The program takes very little of your time and offers you an opportunity to make a big difference in the lives of community members who seek legal assistance. Most calls can be completed in less than thirty minutes.

The majority of callers need direction and guidance and are not candidates for litigation. But during the ten years that I have participated in the LRS program, about five or six calls have resulted in claims that were litigated. Overall, the calls generate goodwill for our profession, because we are willing to give advice to consumers.

Another great outreach opportunity that LRS members can participate in is the monthly Ask-A-Lawyer program at Fox 13 News, where telephone calls are taken at the station from the public. In addition, members have the opportunity to participate in occasional speaking engagements to local groups or at area libraries.

There is no better way to raise appreciation and awareness of the legal profession than to participate in the Hillsborough County LRS program. I hope you will consider joining us in the HCBA Lawyer Referral Service this year.

Author: Betsey T. Herd - Morgenstern & Herd, P.A.
Join the Hillsborough County Bar Association’s Lawyer Referral & Information Service

The Hillsborough County Bar Association’s Lawyer Referral & Information Service is now accepting attorney applications in a variety of practice areas. Our outstanding referral service receives an average of 75 calls/day, and is accredited by the American Bar Association and backed by The Florida Bar. Spanish-speaking attorneys are especially needed and encouraged to join the LRIS.

To join the HCBA’s Lawyer Referral & Information Service, please fill out this interest form and mail it to 1610 N. Tampa, St., Tampa FL 33602 or email it to LRIS@hillsbar.com. A representative will contact you to complete the application process.

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Attorneys must have $100,000-$300,000 in malpractice insurance to participate in this service.

For more information and an application, go to hillsbar.com or call (813) 221-7783.
LRS Members Volunteer at Ask-A-Lawyer Library Series

HCBA Lawyer Referral & Information Service members volunteered their time this summer to speak to residents at local libraries. Shamika Askew-Storay of The Storay Advocacy Group, P.A. spoke on family law issues and Ricardo Duarte of Duarte Law spoke on labor law issues at the Robert Saunders Library in June. In July, Haksoo Lee and Joseph Lee of Lee & Lazzara, PLLC spoke at the Temple Terrace Library about wills and trusts.
THANKS TO ALL OUR FOX 13 ASK-A-LAWYER VOLUNTEERS!

The attorneys from the Lawyer Referral & Information Service were at it once again in June and July, answering phones as part of Fox 13’s Ask-A-Lawyer program. We appreciate all those who volunteered to take calls and help out local residents!

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The HCBA’s Lawyer Referral & Information Service is accredited by the American Bar Association.

To join this program, call (813) 221-7780.
The issue of bias is not a new concept, but the issue of implicit (or unconscious) bias is a hot topic these days. From national news stories of discontent and demands for change to a recent series of news articles claiming to “expose” racial bias in the Florida criminal court system, we are almost daily required to reflect on the impact that implicit bias may have on one’s behavior.

Thus, the Hillsborough County Bar Association and its Bench Bar Committee chair, Judge Samantha Ward, are proud to announce the theme for the 21st Annual Bench Bar Conference — “Perception is Reality: Identifying the Hidden Dangers of Bias in our Profession.” The primary purpose of this year’s conference will be to explore how implicit bias can manifest itself inside and outside the courtroom. Bias can affect a lawyer’s representation of the client, or a judge’s or juror’s decisions about the party on trial or the credibility of witnesses.

It can influence how a deal is negotiated and whether it closes; whether a client wins his or her civil suit; and how a criminal case is prosecuted or defended. Because these decisions have far-reaching effects, it is critical that we understand these factors at play as we participate in our system of justice.

We will start out the morning breakfast session with a plenary session on implicit bias by German A. Gomez, assistant general counsel at Hogan Lovells, US LLC in Washington D.C. Before joining Hogan Lovells, Gomez was employed at the U.S. Department of Justice, where he was a member of the Diversity Committee. He frequently lectures on bias and diversity topics.

Following the opening session, we will hear the ever-popular review of the U.S. Supreme Court’s activities and a preview of the term to come, by Professor Louis Virelli.

Continued on page 22
from Stetson University College of Law. Back by popular demand, we also will hold our “View Toward the Bench” sessions, which will provide lawyers and judges the opportunity to candidly talk about practice-specific topics in roundtable discussions, each focused on civil, criminal, appellate, federal, and family law.

After the membership luncheon, we will hold a panel discussion by experienced litigators entitled “Jurors Say the Darndest Things: Inside Deliberations.” This enlightening session will explore juror bias through reviewing video examples of jury deliberations and discussing approaches for anticipating those situations during jury selection and trial. Mediator Mike Tonelli also will offer a concurrent session on “The Art of Negotiation” with defense attorney Greg Hearing and plaintiff’s attorney Web Brennan, discussing the finer points of negotiation practices.

We will round out the conference with two informative concurrent sessions: Local Professionalism Panel Co-Chair Bill Kalish and United States Magistrate Judge Julie Sneed will discuss ethics and professionalism, and criminal defense attorney Todd Foster and Professor Charles Rose from Stetson University College of Law will provide a session on witness bias and impeachment practical pointers.

The Bench Bar Conference is the HCBA’s signature educational 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.

In the spirit of collaboration between the bench and bar, we also invite you to join us at the Judicial Reception immediately following the conference.

So please save the date for the Bench Bar Conference, Membership Luncheon & Judicial Reception on October 25. Look for more information about specific course offerings and registration instructions in the mail, email blasts from the HCBA, and on hillsbar.com. We look forward to seeing you!

Author:
Judge Samantha Ward,
Thirteenth Judicial Circuit
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Congratulations to the 2016-17 Bar Leadership Institute Class

The Hillsborough County Bar Association’s Bar Leadership Institute Class held its closing reception on May 26 at the Chester H. Ferguson Law Center. Congratulations to the class for all of its achievements this year. The Bar looks forward to seeing great things from these future leaders. The HCBA would like to thank the Institute’s sponsor:

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Significantly, the Eleventh Circuit adopted several revisions to word and page limitations for filings.

Recent amendments to the Federal Rules of Appellate Procedure and the Eleventh Circuit Court of Appeals’ rules and internal operating procedures focus on shortening litigation timelines and brief length. This article highlights several of the rule changes impacting appellate practitioners.

The Federal Rules of Appellate Procedure eliminated the previous rule allowing three extra days of mail time for documents served electronically under Federal Rule of Appellate Procedure 26(c). This amendment, which became effective December 1, 2016, shortens response times, which are often already short.

Significantly, the Eleventh Circuit adopted several revisions to word and page limitations for filings. The recent amendment to Federal Rule of Appellate Procedure 32 reduced the word limit on opening briefs from 14,000 words to 13,000 words. The word limit for reply briefs was similarly reduced from 7,000 words to 6,500 words. The recent amendments also affect word and page limitations for petitions for rehearing, extraordinary writs, and motions. Leave to exceed page and word limits may be granted as appropriate.

The Eleventh Circuit revised the time period for filing the required certificate of interested persons and corporate disclosure statement under Eleventh Circuit Rule 26.1-1. Previously, appellees were required to file their disclosures 14 days after the appellant. Now, all parties to the case or appeal must file a certificate and disclosure statement within 28 days after the date the case or appeal is docketed. This appellee deadline applies even if the appellant or petitioner has not filed a certificate or disclosure.

Effective April 3, 2017, the Eleventh Circuit supplemented the December 2016 amendments to its rules and operating procedures.

The court changed the deadline for an amicus curiae to file its proposed brief. The proposed brief must now be filed within seven days (not 10) of the filing of the petition being supported. See Eleventh Circuit Rules 29-3 and 29-4. The rules regarding sealing oral arguments was also updated. The rule now requires that any motion to seal argument be filed at least five days before oral argument, unless the court extends the time for good cause. See Eleventh Circuit Rules 34-4(g).

These recent amendments include additional changes not covered in this article, including, among others, new requirements for withdrawing motions and certificates of compliance. While it is important to consult the updates rules for case-specific issues, hopefully this article provides a solid basis for understanding many of the recent changes to appellate practice.

Author: Heather Fesnak - Akerman LLP
Collaborative is coming. It may not be winter yet. But if you are a family law practitioner that initially judged the collaborative law process as faddish or fringe, you may want to rethink your first assessment if you want to keep up with the changing legal landscape. Like the mediation process that came before it, the collaborative process has grown from an unrecognized obscurity to a statewide alternative dispute resolution phenomenon. With growing memberships in local collaborative practice groups and a section of the Hillsborough County Bar Association dedicated specifically to collaborative law (aimed at all areas of civil practice, not just family law), it is clear the legal community in Hillsborough County is buying into collaborative.

Indeed, in 2012, the Thirteenth Judicial Circuit was one of the first judicial circuits in Florida to pass an Administrative Order (S-2012-041) that both endorsed and regulated the collaborative process in family law cases. Until recently, however, there were no state laws to standardize or support the collaborative process.

In 2016, the Florida legislature officially sanctioned the collaborative process by adopting the Collaborative Law Process Act (“the Act”), which aimed to provide a “uniform system of practice” for a collaborative process in family law to support the “peaceful resolution of disputes and the early settlement of pending litigation through voluntary settlement procedures.” The Florida Legislature provided that the Act would not take effect until 30 days after the Florida Supreme Court “adopt[ed] rules of procedure and professional responsibility consistent with this law.”

On May 18, 2017, the Florida Supreme Court adopted the required rules of procedure and professional responsibility (Florida Family Law Rule of Procedure 12.745 and Rule Regulating the Florida Bar 4-1.19), which went into effect on July 1, 2017. Rule 4-1.19, which is the rule of professional conduct, sets forth specific acts required for attorneys representing a party in the collaborative law process. Rule 12.745, which is the procedural rule, outlines steps for the collaborative process, such as how it begins, concludes, and terminates.

Because Rules 12.745 and 4-1.19 had been effective for 30 days as of July 31, 2017, the Act became effective on that day. So, collaborative practitioners should study the Act and the new rules in short order to fully understand the statewide regulation of the collaborative process, including how it starts and ends, and the rules of confidentiality within the process itself.

So regardless of whether you thought collaborative was going to snuff itself out, the flame is only growing stronger, and spreading (informally) into other areas of civil practice. Naysayers should take a second look at this flourishing area of law, or risk being left in the cold.

Author: Lexie Revord Larkin - Probasco Law, P.A.
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The Community Services Committee (CSC) enjoyed another amazing year last year thanks to the support and generosity of our wonderful volunteers and donors. The CSC is looking forward to continuing where we ended last year, with your support, of course!

After the success of the Adopt-a-Veteran event last October (led by Mary Snyder and Tristan Wolbers of Tajer Wolbers PLLC and co-chaired by Lara LaVoie of LaVoie & Kaizer, P.A. and Sacha Dyson of Thompson, Sizemore, Gonzalez & Hearing, P.A.) where volunteers gave their time and donations so generously to fulfill the wish lists of veterans in need, countless volunteers and donors stepped up once again to support the CSC’s Elves for Elders event in December (led by Lisa Esposito of the Law Offices of Lisa Esposito P.A., in her thirteenth year chairing this event, and co-chaired by James Giardina of The Consumer Rights Law Group and Lara LaVoie) to help make the holidays brighter for these inspiring seniors. We were able to get every one of the 350 elders adopted and raised an additional $7,000!

In March, the CSC hosted Dining with Dignity Week (led by Amy Bandow of Cooley Law School and co-chaired by Jeff Burns), where volunteers (including members of the Thirteenth Judicial Circuit) spent quality time at Trinity Café serving sit-down, three-course meals to Hillsborough County’s homeless and working poor. It was a rewarding experience for all!

Our final event of the year took place in May at A Kid’s Place in Brandon, which is an incredible nonprofit center for abused and abandoned children. To help these amazing children feel like kids for a day, the CSC threw them another Pirate Plunder Party this year. Once again, it was a resounding success thanks to all who donated or came out to help. We had some fun activities, and everyone had a blast — the kids and the CSC’s volunteers included. We played pirate games and allowed every little scallywag to pick prizes out of our treasure chest. We dressed the little buccaneers as pirates and let them make their very own treasure chests. The generosity of BubbaQue’s, the Law Offices of Lisa Esposito, P.A. and South Tampa Dermatology allowed everyone to enjoy some very tasty grub. The unbelievable desserts were made possible by Petite Madelyn’s Bakery in Brandon (who supplied the delicious cupcakes); Nita Hospel (who donated yummy cookies) and Publix (who donated some lovely treats as well — thanks to the help of Tristan Wolbers). Due to the generosity of King of Bounce of Tampa, the kids were able to enjoy a pirate bounce house, snow cones, popcorn, and their very own candy-making machine! Many heartfelt thanks go to Stingray Chevrolet and its manager John Whaley, and all of their employees as they again stepped up to the plate as one of our major sponsors, allowing the CSC to have thousands of toys in the prize chest. Panther Medical, Advanced Diagnostic Group, Maria Miranda of Miranda Insurance (State Farm), and Go Junk’s incredible support allowed the CSC to provide every child with tickets to a movie and snacks at Goodrich Quality Theater in Riverview (due to its generous discount) and a full meal at DairyLand in Brandon (due to its generous discount).

At this year’s Pirate Party, the kids were lucky enough to enjoy some awesome music and dancing and fun photo time thanks to the generosity of Paul Gigante (of Gigante Productions), who was kind enough to donate both an incredible photo booth and his time and DJ talent. The children were also able to enjoy their very own petting zoo, courtesy of James Giardina.

The CSC is truly humbled and overwhelmed by the amount of donations and volunteer support that we received for this event. The CSC would like to thank all of our volunteers, the Hillsborough County Bar Association, as well as the following donors: Stingray Chevrolet; Law Offices of Lisa Esposito; South Tampa Dermatology; Cooley Law School; BubbaQue’s; Comet’s Drive-In; Little Devils; A Kid’s Place; DairyLand; Goodrich Quality Theater; Good Times; King of Bounce; Paul Gigante (Gigante Productions); Thompson, Sizemore, Gonzalez & Hearing, P.A.; The Consumer Rights Law Group; The Law Offices of Lisa Esposito P.A.; The Law Offices of Lisa Esposito, P.A.; Tampa Dermatology; BubbaQue’s; Petite Madelyn’s Bakery; Nita Hospel; Publix; and Tristan Wolbers, the Law Offices of Tajer Wolbers PLLC.

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Esposito, P.A.; LaVoie & Kaizer, P.A.; Hill Ward Henderson; Paul Gigante and Gigante Productions; BubbaQue’s; Tom Sciacca and King of Bounce of Tampa; Panther Medical; Advanced Diagnostic Group; Dr. Craig Baker; Dr. Siddiqui; South Tampa Dermatology; Amy Bandow and Western Michigan University - Cooley Law School; AJ’s Bikes and Boards; Anton Castro Law, LLC; Helen Ashley; Rodney Bailey and Go, Junk Florida; Catherine Barbarite; Black Rock Trial Lawyers, LLC; Linda Breen; Charter Insurance Group; Donna Chastain; Terri Dino; Fran Reiter; James Giardina and The Consumer Rights Law Group; Nita Hospel; Tishara Griffin; Jennifer Hamey; Brant and Pam Horgen; Teresa Jannarone; Michelle Link; Fernando Llop; Maria Maranda of Miranda Insurance (State Farm); Crystal Esposito; Jennifer Esposito; Caryn McDermott; Gigi Farrell; Kevin McLaughlin; Petite Madelyn’s Bakery; Sandra Puerta; David Randazzo; Damien Rodriguez; Patrick Santore; Stacy Sciarra; Harrison Standley; Tempus Business Strategists, LLC; Liz and Rick Tomlin; Kathryn Copeland and Valkenburg Law Group; Evolve Contracting, Inc.; Tom & Lisa Nales; The Notorious Krewe of the Peg Leg Pirates; Wenzel, Fenton, Cabassa, P.A.; William R. Demers and Co.; Reeves Audi - Tampa; Lee Everett; and the employees of Shutts & Bowen.

We sure hope that we didn’t forget anyone!

Finally, the CSC would like to provide a special thank you to Lisa Esposito for spearheading and chairing the CSC’s fourth annual Pirate Plunder Party, as well as a thank you to Lara LaVoie, Scott Strange, Cheryl Mosley and Stacy Sciarra for making this year’s event the best one yet!

We also have more great events planned for this upcoming year, and we hope to see many familiar faces back to help. You might just find that you gain more than you give.

For more information about joining the CSC and participating in one of our amazing events this year, please contact chair Lara LaVoie, (813) 898-6786 or lara@flinjuryadvocates.com.

Authors: Lara LaVoie - LaVoie & Kaizer, P.A. & Lisa Esposito - Law Offices of Lisa Esposito, P.A.
On June 14, 2017, House Bill 377 was signed into law, amending section 95.11(3)(c), Florida Statutes, to add a definition of “completion of the contract.” Completion of the contract is one of five trigger events that commence the ten-year statute of repose for an action founded on the design, planning, or construction of an improvement to real property: (i) the date of possession by the owner; (ii) the date of issuance of the certificate of occupancy; (iii) the date of abandonment of construction, if not completed; and (iv) the date of completion or termination of the contract between the engineer, architect, or licensed contractor and his or her employer, whichever date is latest.

The amendment’s focus on the “completion of the contract” trigger date stems from the Fifth District Court of Appeal’s decision in Cypress Fairway Condominium v. Bergeron Construction Co., 164 So. 3d 706 (Fla. 5th DCA 2015), where the determination of whether the plaintiff’s claims were timely filed turned on the “date of completion of the contract.” The two dates in question in that case were exceptionally close: January 31, 2001 (the date the general contractor submitted its final application for payment to the owner) and February 2, 2001 (the day the owner paid the contractor). The plaintiff sued February 2, 2011 — ten years to the day after the owner’s final payment to the contractor. The trial court dismissed the complaint as untimely under section 95.11(3)(c). The Fifth DCA disagreed with the trial court’s reliance on the statute’s preamble, as opposed to its plain language, in finding that the contractor’s submission of the payment application commenced the repose period. Siding with plaintiff, the Fifth DCA held that the repose period commenced as of the date of the owner’s final payment. Specifically, “[c]ompletion of the contract means completion of performance by both sides of the contract, not merely performance by the contractor.” Id. at 708. So the Fifth DCA reversed and remanded the trial court’s dismissal of the plaintiff’s suit.

In response to Cypress Fairway, the Florida Legislature amended section 95.11(3)(c), Florida Statutes, to ensure that the duration of a contractor’s liability will not be affected by the timing of a customer’s payments under the construction contract:

Completion of the contract means the later of the date of final performance ... or the date that final payment ... becomes due without regard to [when] final payment is made.

This amendment aims to address the decision in Cypress Fairway and attempts to avoid an open-ended window for the commencement of the repose period based on the completion of the contract. The amendment took effect on July 1, 2017.

Note: The author would like to thank Eman Lemu for her assistance in developing this article.

Construction Law Section CLE

The Construction Law Section received its popular annual construction case law update from Brian Stayton of The Stayton Law Group, P.A. on May 18. Thank you to Brian Stayton and the attendees for participating in this important CLE.

The section also appreciates its luncheon sponsor:
ABOTA Seminar

The American Board of Trial Advocates (ABOTA), Tampa Bay Chapter, joined with the HCBA, the Thirteenth Judicial Circuit Professionalism Committee, and the Sixth Judicial Circuit Professionalism Committee in hosting its annual CLE seminar on June 2. Held at the Stetson University College of Law and the Chester H. Ferguson Law Center, the half-day event focused on the theme of “Practicing with Ethics, Civility, and Professionalism.” The keynote speakers were Judge Steven D. Merryday, U.S. District Court/Middle District of Florida; Judge Henry L. Adams, Jr., U.S. District Court/Middle District of Florida; and HCBA member Thomas Newcomb Hyde.
Steve Brannock, Celene Humphries & Ceci Berman recognized among the Top 100 lawyers in Florida, and Top 50 lawyers in Tampa Bay.

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— Best Lawyers, 2017

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— U.S. News & World Report, 2017

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Maegen Luka, Tom Selder & Joe Eagleton noted as Rising Stars in appellate practice.

— Florida Super Lawyers, 2017

Celene Humphries & Ceci Berman recognized as among the Top 50 women lawyers in Florida.

— Florida Super Lawyers, 2017

Steve Brannock, Celene Humphries & Ceci Berman selected as Florida’s Legal Elite in appellate practice; Steve Brannock & Celene Humphries members of the Hall of Fame.

— Florida Trend, 2017

Ceci Berman chosen number one, with Celene Humphries named runner-up, for appellate practice in Tampa Bay.

— Tampa Magazine, 2017
HCBA Installation of 2017-18 Officers & Directors

Hillsborough County Bar Association President Gordon Hill and the 2017-18 Board of Directors were sworn in on June 8 during a ceremony at the Chester H. Ferguson Law Center. Ben Hill III, Gordon Hill’s father and former HCBA president, introduced him, before he was sworn in by Chief Judge Ronald Ficarrotta.

Outgoing HCBA President Kevin McLaughlin also recognized HCBA members and staff who supported him during his term, including Leonard Gilbert, whom he presented with the James M. “Red” McEwen Award. Melissa Mora, the incoming YLD president, also recognized last year’s YLD president Web Melton III, before she and the YLD Board of Directors also were sworn in by Judge Ficarrotta. Please see page 36 for additional photos.
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businesses — especially those with enough employees to warrant attention from plaintiffs’ lawyers — are increasingly finding themselves defending against collective-action complaints alleging violations of the Fair Labor Standards Act (FLSA). Under § 216(b) of the FLSA, an employee must give his consent in writing to become a party to a lawsuit alleging minimum wage or overtime violations. Unlike a class brought under Rule 23 of the Federal Rules of Civil Procedure, in which all class members remain part of the class unless they opt out, § 216(b) classes proceed on an “opt-in” basis.

It is important to consider several factors when determining how best to defend against a collective action, as the procedural nuance and variation in claims raised under § 216(b) do not lend themselves to a one-size-fits-all approach.

The vast majority of courts have adopted a two-step process for deciding whether an action may properly proceed as a collective action under the FLSA. “Conditional certification” — the first step in that process — determines whether notice will be sent by the court to potential class members. A plaintiff’s burden at this stage is two-fold: (1) showing that there is a factual nexus between the manner in which an employer’s policy affected the plaintiff and the manner in which the policy allegedly affected potential class members, and (2) interest by other potential class members joining the lawsuit. Because of the relatively lenient application of this standard, conditional certification is commonly granted.

Should the court grant conditional certification, notice of the lawsuit will be sent to all potential class members offering them a chance to opt in to the litigation. Once the notice period expires, the case enters the second stage, known as “decertification.” At the decertification stage, the plaintiffs bear the burden of showing that the opt-in plaintiffs are similarly situated for purposes of the FLSA and that the claims present common issues of law and fact worthy of trial collectively — a much higher burden than what is required at the first stage.

Because a motion for conditional certification is often difficult to defeat, the company will need to have the ability to tolerate the burdens (both financial and time) of discovery and the communication challenges created by class-wide notice if it hopes to have the case decertified at the second stage. To evaluate the likelihood of certification or decertification, and to weigh the
costs of collective litigation accurately, in-house counsel must get an assessment of several key questions from their outside litigation counsel:

- What is the potential liability of the claim?
- Is there an important underlying principle at stake (e.g., the company’s ability to treat a class of employees as exempt)? Or does the litigation involve a decision or set of facts that are unlikely to recur?
- What impact will claims have on the business, both in the media and with your employees?
- What is the potential scope of discovery and how costly will that be? Can the company meet the preservation or production burdens that will be expected of it? If not, is there an outside expert that could assist?
- What is the total expected cost of defense at each stage?
- What is the rate that employees will opt-in (both current and former) and what is the potential recovery for each employee that does opt in?
- If a settlement is desirable, should it be negotiated pre-suit? Before conditional certification? Or after the notice period has closed? What will the cost of administration be? How will unclaimed funds be handled?

Also, counsel will need to work with their accountants to quantify the risks and adjust their accruals throughout the litigation.

When analyzed together, this information will provide the company with a foundation for valuing the case and assessing its risks, which will help the company make strategy choices with outside counsel about how to defend the case.

Authors:
Christopher C. Johnson & Kevin D. Johnson – Johnson Jackson LLC

Continued from page 38
Timothy C. Martin and Victoria Oguntoye are excited to again chair the HCBA’s Diversity Committee for another year. After a very successful 2016-2017, the Diversity Committee is again seeking members and volunteers to help plan our events.

The Diversity Committee plans and assists with three major events each year: the Diversity Membership Luncheon (January 10, 2018); the Diversity Networking Social (February 10, 2018); and a Diversity CLE seminar (April 19, 2018).

Past guest speakers at the annual Diversity Membership Luncheon included the Honorable Bernice Donald, U.S. Court of Appeals, Sixth Circuit; retired General Ann E. Dunwoody; and Paulette Brown, immediate past president of the American Bar Association.


The Diversity Committee will continue its efforts to educate and bring awareness of diversity and inclusion to our members, the legal profession, and the community at large. As a professional organization comprising of members who live, work, and represent others within the community, the Bar embraces its responsibility to promote inclusion within our own organization.

Our goals are to: (i) support, coordinate, and implement programs that explore, highlight, and promote diversity issues for the Bar; (ii) continue to support and encourage the recognition of issues of equity and diversity as key components when organizing speakers, CLE programs, and similar activities; and (iii) participate and collaborate with other sections and committees with diversity issues.

HCBA members who are interested in participating in the Diversity Committee and helping with planning for our events this year are encouraged to contact the committee chairs, Tim Martin and Victoria Oguntoye, or Michele Revels, HCBA director of events.

Authors: Timothy C. Martin – Martin Law Office & Victoria Oguntoye – Buchanan Ingersoll & Rooney
The Young Lawyers Division hosted its annual State Court Trial Seminar on June 9 at the George E. Edgecomb Courthouse. Speakers included Chris Knopik, Kevin McLaughlin, David Banker, Jessica Goodwin Costello, John Schifino, Richard Gilbert, Howard Hunter, Michael Kenny, Dale Swope, Judge Berkowitz, Judge Barbas, Judge Gaylord Moe, Judge Perrone, and Judge Valkenburg.

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As the health care debate continues to rage in Washington, D.C., the HCBA’s Health Care Law Section is gearing up for another year of programming that (hopefully) will provide some helpful insight to its members during this turbulent time in the health law field. For the upcoming year, T.J. Ferrante will be joined by Kevin Rudolph as co-chairs of the Health Care Law Section, and together, they hope to organize events and activities that will be helpful to you in your day-to-day practice and, more importantly, that are enjoyable!

First, the Health Care Law Section owes a deep debt of gratitude to Sara Seifried for her outstanding service as the co-chair of the Section for the past three years. As for the new co-chair, Kevin only hopes that he can be a fraction as effective as Sara has been.

Kevin currently works as corporate counsel for Shriners Hospitals for Children at its headquarters here in Tampa. He focuses his practice on health care matters involving the twenty-two hospitals that SHC owns and operates throughout the United States, Canada, and Mexico. In addition to health care work, Kevin also deals with medical research and intellectual property matters for all of these SHC hospitals.

Before joining SHC, Kevin worked for the U.S. Department of Health and Human Services, Office of the General Counsel, in Washington, D.C. Before that, Kevin worked for the U.S. Food and Drug Administration on drug, device, and tobacco matters. He left Washington and moved to Tampa in the summer of 2015 to follow his now-wife back to her hometown (and, really, because he liked the weather).

Although Kevin enjoyed his time at HHS and the FDA, he is now, more than ever, quite happy to be out of the chaotic spiral that is D.C.! On the weekends, you can find him spending time outside, or trying to “train” his psychotic six-month-old labradoodle puppy, while his ornery eight-year old French bulldog judgingly watches the lack of progress.

We have an ambitious agenda for the coming year. Four CLE luncheon programs are scheduled for October 18, December 6, February 28, and April 25. We are always seeking contributing authors for the Lawyer magazine, as well as presenters for our CLE luncheon programs and other events. Your active participation in the Section further strengthens our efforts to bring important information to our members for use in their health care law practices, whether in private practice, government, or in-house.

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

Authors: T.J. Ferrante – Foley & Lardner LLP & Kevin Rudolph – Shriners Hospital for Children

Find out about upcoming HCBA events at hillsbar.com.
WELCOME TO NEW HCBA MEMBERS

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On May 22, 2017, the United States Supreme Court changed the landscape of patent litigation. Under 28 U.S.C. § 1400(b), the venue statute for patent cases, patent infringement actions may only be brought in the district (1) where the defendant resides; or (2) where the defendant infringed the plaintiff’s patent if the defendant has a regular and established place of business there. Sixty years ago, in *Fourco Glass Co. v. Transmirra Products Corp.*, 353 U.S. 222 (1957), the U.S. Supreme Court interpreted the first venue prong and held that “resides,” for purposes of the patent venue statute, meant the state where the defendant was incorporated. In 1990, however, the Federal Circuit held, in *VE Holding v. Johnson Gas Appliance Co.*, 917 F.2d 1574 (Fed. Cir. 1990), that changes to the general venue statute (28 U.S.C. § 1391) that expanded the definition of “resides” to include any district where the defendant would be subject to personal jurisdiction were incorporated into the specific patent venue statute. So for nearly 30 years, courts following *VE Holding* have interpreted the patent venue statute expansively.

But in an 8-0 decision in *TC Heartland, LLC v. Kraft Foods Group Brands, LLC*, Justice Thomas explained that the Supreme Court’s decision 60 years ago in *Fourco* was still the appropriate test for venue in patent cases. 137 S. Ct. 1514 (2017). While Justice Thomas recognized that the general venue statute was amended two years before *VE Holding* to provide a default rule “[f]or all venue purposes,” he noted the general venue statute in effect at the time of *Fourco* included similar language. Besides, the current general venue statute has a savings clause that states the general venue statute does not apply when “otherwise provided by law.” Under *TC Heartland*, plaintiffs seeking to enforce their rights now have two, and only two, choices of where to bring their claim: where the defendant is incorporated or where the defendant has “committed acts of infringement and has a regular and established place of business.” *TC Heartland*, 137 S. Ct. at 1520.

Since *TC Heartland* was decided, a number of defendants have attempted to transfer cases filed in a district other than in the

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defendant’s state of incorporation. The most popular district for transfer motions is the Eastern District of Texas, where defendants have sought to transfer out of the infamous patent litigation capital. Some district judges in the Eastern District of Texas have wrestled with methods of keeping cases in front of them. One method for doing so has been to focus on the second prong of the patent venue statute, which provides that venue is appropriate in the district where the defendant infringed the plaintiff’s patent if the defendant has a regular and established place of business there.

One judge, Judge Gilstrap from the Eastern District of Texas, fashioned a new four-part test for determining whether a defendant has a “regular and established place of business” within a district. Under the four-part test, the court considers: (1) the defendant’s physical presence in the district, (2) the defendant’s representations regarding its presence in the district, (3) the benefits the defendant has received from business in the district, and (4) whether there were any targeted interactions with the district. Raytheon Co. v. Cray, Inc., No. 2:15-cv-01554-JRG, 2017 WL 2813896, at *10 - 14 (E.D. Tex. June 29, 2017). None of the factors alone are dispositive; rather, the inquiry should focus on “whether a domestic business enterprise seeks to materially further its commercial goals within a specific district through ways and means that are ongoing and continuous.” Id. at 14.

Although the Supreme Court definitively decided the meaning of “resides,” the ultimate test regarding proper venue in patent cases is still being litigated. It remains to be seen whether district courts outside the Eastern District of Texas or the Federal Circuit will follow Judge Gilstrap’s expansive approach regarding venue and where a defendant does business. But one thing is for certain, TC Heartland changed the venue analysis that some courts had been following for almost 30 years.

Author: Cole Carlson - GrayRobinson, P.A.

The Eleventh Circuit’s decision comes at a time when the circuit courts have split on the proper scope of Title VII’s protection. Earlier this year, the Seventh Circuit, in Hively v. Ivy Tech Community College of Indiana, 853 F.3d 339 (7th Cir. 2017), decided to overrule its previous position on sexual orientation claims, holding that Title VII’s prohibition of sex discrimination encompasses discrimination based on sexual orientation. The Seventh Circuit’s decision marks the first time a federal appeals court has expanded Title VII to include sexual orientation. This circuit conflict ensures that the contentious issue ultimately will be decided by the United States Supreme Court.

By way of background, Title VII does not specifically include sexual orientation as a protected class. Since enacting Title VII in 1964, Congress has repeatedly rejected legislation that would extend Title VII to cover sexual orientation. As a result, federal courts across the country have routinely dismissed discrimination claims based on sexual orientation, because Title VII’s statutory language does not expressly mention sexual orientation. Because of recent shifts in societal norms, however, the Seventh

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The HCBA is pleased to introduce a new way to read the magazine — in digital format. While the magazine will still be mailed to members in print format, the new digital format also makes the magazine viewable on computers and mobile devices and can be easily shared via email and social media. Access the digital magazine at hillsbar.com.
Circuit in *Hively* concluded that Title VII’s prohibition against sex discrimination includes sexual orientation discrimination. The Seventh Circuit grounded its decision on the landmark Supreme Court case *Price Waterhouse v. Hopkins*, stating that “common-sense reality [makes it] actually impossible to discriminate on the basis of sexual orientation without discriminating on the basis of sex.” 853 F.3d at 350 - 51.

Despite the Seventh Circuit’s groundbreaking decision in *Hively*, the Eleventh Circuit, in *Evans*, adhered to binding precedent and held that claims based on sexual orientation are not actionable under Title VII. In that case, an employee filed a Title VII claim against her employer based on sexual orientation and gender nonconformity. The district court dismissed the sexual orientation claim, and the Eleventh Circuit affirmed. In support of its ruling, the Eleventh Circuit followed precedent holding that “discharge for homosexuality is not prohibited by Title VII.” *Evans*, 850 F.3d at 1255 (quoting *Blum v. Gulf Oil Corp.*, 597 F.2d 936, 938 (5th Cir. 1979)). Notably, the court recognized that gender nonconformity remained a viable claim under *Price Waterhouse* because such claims are based on sex.

After *Evans* was decided, the plaintiff moved the court to rehear the case *en banc*, citing the *Hively* decision. In July 2017, the Eleventh Circuit put the issue to rest when it denied the plaintiff’s petition to rehear the case *en banc*. As a result, the Eleventh Circuit has, for now, foreclosed claims of Title VII sexual orientation brought in Florida. The circuit split has set the stage for the Supreme Court to resolve the issue once and for all.

But, until then, *Evans* makes clear that Florida employees cannot bring Title VII claims based strictly on sexual orientation.

Author: Matthew S. Perez - Phelps Dunbar LLP
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At The Florida Bar’s annual convention in June, The Florida Bar Young Lawyers Division recognized two active HCBA members for their support of young lawyers.

- **Judge Claudia Isom**
  Thirteenth Judicial Circuit Judge Claudia Isom received the 2017 Florida Bar YLD Outstanding Jurist Award. This award is given to a jurist who has an excellent reputation for sound judicial decisions and an unblemished record of integrity as a lawyer and judge; is generally recognized by Bar members as highly qualified; is active in Bar-related activities open to the judiciary; and demonstrates concern for and a willingness to assist young lawyers and respects their abilities.

- **Katherine Yanes**
  Local attorney Katherine Yanes of Kynes, Markman & Felman, PA also was recognized with the 2017 Florida Bar YLD Outstanding Woman Lawyer of Achievement Award. This award recognizes and celebrates the achievements of a woman lawyer or judge who excels in her field, possesses an excellent reputation for integrity, exhibits dedication to her community and her profession through bar-related or similar activities, and who demonstrates a commitment to the success and advancement of young women lawyers.

  Congratulations to Judge Isom and Katherine Yanes for receiving these well-deserved awards!
With the new Bar year is upon us, I would like to give a warm welcome to all my colleagues, both old and new. I am inspired this year to work toward bringing you an exciting agenda for the Marital & Family Law Section. Before discussing our goals, I would like to introduce myself.

In addition to being a family law practitioner, I am also a Certified Family Mediator. While my practice is dedicated to all aspects of family law, my focus is on mediations and collaborative divorce. If you would like to learn more about me, please visit www.boleslawoffice.com.

The Marital & Family Law Section has been extremely productive over the last year. During this coming year, we aspire to continue those efforts in a number of ways. Our goals include expanding our pro bono initiatives in the community. To that end, the Family Law Section will host the Third Annual Pro Bono Day at the Hillsborough County Courthouse, inviting pro se individuals to meet with attorneys for one-on-one general family law advice.

In addition to expanding our community outreach, the Section will be looking within to find ways to increase our membership. With the growing number of practicing family law attorneys in Hillsborough County, participation and membership in the Section should be higher. One of the Section’s priorities will be to reach out to our colleagues, seeking input from them and appealing to them join the Section.

I am excited to share that our mentoring program will continue this year, stronger than ever. Participants have seen the invaluable benefits of receiving guidance on how to avoid or deal with the common pitfalls the more seasoned attorneys have experienced. With this in mind, sustaining this mentoring program will continue to benefit our members and the Section.

The Section also is planning several social events this year, including happy hours and our annual holiday party, all of which will benefit a charity. This is in keeping with the Section’s tradition of not only socializing with our members, but giving back to the community.

Our membership luncheons, as well as the Judicial Appreciation Lunch, provide an exceptional opportunity to meet and network with Section members. The presentations are well thought out and provide a wealth of information. Also, we will continue to host CLEs at our luncheons. Our hope is to see as many of you as possible at our luncheons and events.

In closing, I would like to encourage active participation in any one of the many opportunities available for members, including sponsorship opportunities that are critical to the Section’s ability to continue offering programming and social events throughout the year. But there are many committees that require participation from our members. If you are interested in sponsoring an event or participating on a committee, please contact me at amber@boleslawoffice.com.

I look forward to leading this remarkable Section. Please do not hesitate to contact me should you have any questions or comments.

Author: Amber Boles – Law Office of Amber Boles, P.A.
Marital & Family Law Section Judicial Roundtable

On May 24, the Marital & Family Law Section held their annual Judicial Roundtable, which gave section members an opportunity to ask questions of the local judiciary assigned to family law cases. The section would like to thank the attendees, participating judges and its luncheon sponsor:

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AFTER two years of dedicated and exceptional service as the Military and Veterans Affairs Committee (MVAC) co-chairs, Matt Hall and Colleen O’Brien have passed the torch. Their outstanding accomplishments building the MVAC into the spirited and engaged committee that we inherit sets a high bar and is certainly a tough act to follow.

As your incoming committee chairs, we look forward to furthering the committee’s efforts and continuing to find innovative ways to connect with our local active-duty, reserve, guard, and veteran community. New co-chair Alexandra (Alex) Srsic is an attorney at Bay Area Legal Services (BALS) and manages BALS’s veterans programs. She is committed to serving low-income and vulnerable populations, including the veterans among them. And co-chair David Veenstra, who served for 23 years in the Air Force before law school, is with Hunter Law, P.A. in Tampa, where he focuses his practice on family law with an eye towards assisting active-duty personnel, veterans, and military family members in this area.

Certain personnel are key to the success of the MVAC. For example, our military liaison, Roger A. McIllece, is the Staff Judge Advocate at MacDill Air Force Base and serves as an able point of contact for the active-duty and reserve components. Bob Nader continues to serve as our emeritus chair: his abundant network of contacts, coupled with his unparalleled enthusiasm and unfettered advice, are invaluable resources.

Holding the axiom “if it ain’t broke, don’t fix it” near and dear to our hearts, we plan to continue down the path, established by Matt and Colleen, of continuing to grow the Veterans Legal Assistance Registry (VLAR). The VLAR is a list of attorneys who are willing to assist veterans and active-duty members of our community, either on a pro bono basis or for reduced-fee. We currently have 17 areas of law, stocked with attorneys who have an interest in assisting military members with legal issues. If you would like to be included in the VLAR, please contact Alex or David. The list is available at tinyurl.com/veteranslegalregistry.

We also plan on continuing the established legacy of volunteering at local and regional “stand-down” events, including the annual Veterans Day stand-down held in Tampa, and the spring stand-down hosted by the Bay Pines VA Medical Center.

The newest initiative that the MVAC is actively involved in, and one that grows virtually daily, is the Hillsborough County Veterans Treatment Court (VTC), which involves veterans charged with criminal offenses. Spearheaded by MVAC member and retired U.S. Army Col. D.J. Reyes, and closely involving personnel from the James A. Haley Veterans’ Hospital in Tampa, the VTC provides a mentoring system by pairing defendants with a “battle buddy” who has similar military experience. This system provides the veteran with moral support while completing the VTC program. Several MVAC members serve as mentors in this capacity. The VTC, with the help of the mentors, provides a means to divert these veterans from adjudication into a “system” where they have the opportunity to get help in a variety of areas, including health, housing, and employment.

We look forward to providing relevant and engaging CLEs throughout the next year as well. Please feel free to join us for a meeting or event and share your ideas with us. The MVAC is committed to supporting equal access to justice for those who have served our country, and to the overall advancement of the rule of law. No military experience is required to join the committee, and we value the diverse culture of our membership.

Authors: Alexandra Srsic - Bay Area Legal Services, Inc. & David Veenstra - Hunter Law, P.A.
We hope that you will be able to make at least one of our luncheons to share in some networking time and CLE credit.

We hope you had a wonderful summer and got to enjoy some time with family and friends. We are very excited for our upcoming year and are honored to serve as your co-chairs again. In an effort to maximize everyone’s time and provide the best programming possible, we are changing up the schedule a bit from years past. This year we will have four luncheons, all of which will be for CLE credit. The luncheon dates are tentatively scheduled for:

• October 12, 2017
• January 11, 2018
• March 8, 2018
• May 10, 2018

We hope that you will be able to make at least one of these luncheons to share in some networking time and CLE credit. Thomas N. Hyde will be presenting on professionalism for the October 12, 2017 luncheon. If anyone is interested in presenting a CLE, please reach out to us.

In addition, like last year, we are always looking for opportunities to help the Tampa Bay community through pro-bono service. So if you know of any opportunities or any projects you would like our Section to consider adopting, please let us know.

We anticipate participating in Project H.E.L.P. again this year, but are open to any additional opportunities and ideas.

Finally, one of the best ways to keep each other apprised of relevant legal issues that may affect each of our practices is through this magazine. The Lawyer magazine offers members an opportunity to discuss various legal issues or interesting decisions that may affect how we practice, as well as the opportunity to be published. But, the Lawyer’s success is dependent on the members of the HCBA submitting articles, so we invite you to consider contributing an article. Please contact us if you are interested.

We look forward to a great year and seeing you at our Section’s various events this year!

Authors: Kristin Morris – Shutts & Bowen & Anthony Diecidue – Genders Alvarez Diecidue

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The most likely class member to “opt-out” of a securities fraud class is an institutional investor. The size of its investment loss helps the institutional investor absorb the risks and costs of going it alone. If an institutional investor is going to opt out, it usually does so at settlement, when the investor would file a separate action or attempt a separate peace.

But a recent Supreme Court case, California Public Employees’ Retirement System v. ANZ Securities, Inc., 137 S. Ct. 2042 (2017), may force institutional investors and others to opt out sooner. The circuits have disagreed whether a pending securities fraud class action suit tolls the time to file an opt-out action. Under American Pipe tolling, named after a 1974 Supreme Court case, American Pipe & Construction Co. v. Utah, 414 U.S. 538, 550 (1974), the filing of a class action can suspend the applicable statute of limitations for all class members.

In June 2017, the ANZ Securities Court held that American Pipe’s equitable tolling did not extend the time for filing opt-out claims from a class action under Section 11 of the Securities Act of 1933, which is subject to a three-year statute of repose. 137 S. Ct. at 2055. An investor who opts out of a long-running class action — at settlement, for example — would be barred from proceeding with a new case if she files it more than three years after the securities issuance.

This holding might encourage “protective,” earlier opt-outs, by which the investor seeks to preserve her ability either to join or opt out of any later class settlement. This, in turn, could increase the cost and complexity of securities litigation.

But the consequences in those circuits have hardly had time to take root and bloom. Securities Act class actions are few, and they can take years to litigate. Although the ANZ Securities majority did not address it, one amicus brief stated that in the long-running Petrobras securities-fraud action in the Second Circuit, approximately 500 institutional investors filed or joined individual actions.

The ANZ dissent noted the impact on the least-sophisticated investors, who may lack the resources to monitor the class proceedings or to opt out: “Absent a protective claim . . . those members stand to forfeit their constitutionally shielded right to opt out of the class and thereby control the prosecution of their own claims for damages.” Id. at 2057 (Ginsburg, J., dissenting).

Late-stage opt-outs by investors are relatively infrequent, but ANZ might invite experimentation with earlier, protective opt-outs.

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Late-stage opt-outs by investors are relatively infrequent, but the Supreme Court’s recent decision in ANZ Securities might invite experimentation with earlier, protective opt-outs.

Author: John E. (Jack) Clabby – Carlton Fields
The Senior Counsel Section is fortunate to have such enthusiastic support from the lawyers and judges of our legal community. We are proud to have had interesting and informative speakers for the 2016–2017 Bar year and look forward to more in the coming year.

At our first luncheon last year, Second District Court of Appeal Judge John Badalamenti thrilled us with the tale of Captain John Yates, the fisherman who was charged under the Enron statute, which criminalized the destruction of “any record, document, or tangible object.” The story began with Captain Yates fishing for red grouper in the Gulf of Mexico about 100 miles west of Tampa Bay. Charged with destroying evidence because he threw undersized grouper back into the gulf, Captain Yates was ably represented before the United States Supreme Court by then public defender, John Badalamenti. The Court overturned Yates’ conviction and held that a “tangible object” under the Enron statute covers only objects used to record or preserve information—not a fish.

In November, we were grateful to Ed Waller, who arranged for Senior Counsel members to attend a luncheon and tour the Tampa Museum of Art. Michael Tomor, Ph.D., the museum’s executive director, briefed our members on the museum’s history, its permanent collection, and its current exhibits, before leading us on a marvelous tour of our own museum of art.

Paul Tash, the publisher of the Tampa Bay Times, was our March luncheon speaker. While Tash had experience as a reporter, an editor, and a bureau chief before becoming a publisher, he also has a background in the law with a bachelor of laws degree from Edinburgh University in Scotland. As the chairman and CEO of the Times Publishing Company, Tash described many of the legal and ethical concerns of publishing “leaked information.”

Leonard Gilbert secured our next speaker. His friend, Dennis Archer, is the former president of the National Bar Association, former president of the American Bar Association, and former mayor of Detroit. Archer shared with us some of his experiences in each of these roles. We were also honored to have as our special guest, the Honorable Bob Buckhorn, mayor of Tampa, to speak to us about his vision of Tampa and to welcome Archer.

Morgan Streetman, the president of the Tampa Bay Lawyers Chapter of the Federalist Society, was the speaker at our final luncheon in May. Streetman explained the Federalist Society’s core principles: the preservation of freedom, the separation of powers, and the duty of the judiciary to say what the law is, not what the law should be. Several members of the judiciary were present for Streetman’s presentation, including U.S. District Judge Elizabeth A. Kovachevich.

Finally, I wish give a special thank you to David Reith for serving as co-chair of the Senior Counsel Section last year; to Donald Cox for volunteering as the Section’s representative to the Thirteenth Judicial Circuit Pro Bono Committee; and to Leonard Gilbert for serving as the Section’s representative to the Thirteenth Judicial Circuit Professionalism Committee.

Author: Thomas Newcomb Hyde – Attorney at Law
Networking and getting our names out there are some of the most important things we must do as lawyers and business owners.

Welcome to another year for the Solo & Small Firm Section! I am honored to have been selected to co-chair the Section this year with Amanda Uliano. We are excited about the coming year and the opportunity to grow the Section, provide some outstanding educational opportunities, and create opportunities for our members to grow their practices.

As a group of solo and small firm practitioners, our Section includes members who are in the unique role of being lawyers, business owners, and maybe their own chief marketing officers. Of course, we all want to succeed in our practices and get new opportunities. To do that, we have to have a steady flow of clients. These clients may come to us directly through advertisements or social media marketing, or they might be referrals from colleagues, community connections, or our fellow HCBA or Solo & Small Firm Section members.

To be in a position to get high-quality — that is, profitable — referrals, you have to develop your referral sources through personal and professional connections with your colleagues, legal and otherwise. This is usually called “networking,” and for some, whether they are new to practicing law or are seasoned veterans, it can be a real chore. But all it means is getting your name out there by talking to people and forming relationships. The fact is that no one knows who you are or what you do unless you tell them. So networking and getting our names out there are some of the most important things we must do as lawyers and business owners.

But who says it has to be a chore or unpleasant? If you are at a networking event, there is no rule that says you have to “work the room” or hand out your card to everyone there. Just talk to someone and start a conversation. Get to know the other person and their practice area. Who knows? Maybe you will send that person a referral the next day, and they’ll return the favor the next week. Being active in the HCBA and in the Solo & Small Firm Section is a great way to do this.

We will have five lunch meetings this year, each with an informative CLE presentation: September 12, November 14, January 9, March 13, and May 8. In addition to getting CLE credits, these lunch meetings are great opportunities to talk to fellow lawyers and Section members, and grow your referral network.

Whether you are a current solo or small firm practitioner, or are thinking about taking your career in that direction, I hope you will join us this year. I look forward to working with you to grow and strengthen our businesses and the HCBA’s Solo & Small Firm Section.

Author: Matthew Crist - Crist Legal, P.A.
As “something of a legal oddity,” once pleaded by the defendant, standing must be proved by the plaintiff at trial.

The Second District Court of Appeal rendered an instructive opinion addressing the “legal oddity” of standing in Winchel v. PennyMac Corp., 42 Fla. L. Weekly D1517b, 2017 WL 2882711 (Fla. 2d DCA July 7, 2017). Trial lawyers should be aware of this decision and the issue of standing in litigation.

In Winchel v. PennyMac, PennyMac sought to enforce a note against Gregory Winchel and to foreclose on his mortgage. But the attachments to the complaint, which was originally filed by JPMorgan Chase, did not, “standing alone,” evidence JPMorgan Chase’s entitlement to enforce the note. And Winchel had asserted as an affirmative defense that JPMorgan Chase lacked standing when it filed the complaint — commonly called a defense of “no standing at inception.”

At trial, Winchel’s counsel failed to appear. PennyMac, which substituted in as the plaintiff, presented evidence but did not demonstrate that JPMorgan Chase could enforce the note. Nonetheless, the foreclosure magistrate found that PennyMac had proved its case. So the trial court entered a final judgment of foreclosure.

On appeal, Winchel argued for reversal because PennyMac failed to prove that standing existed at the inception of the foreclosure action. PennyMac countered that Winchel failed to object to standing during trial or in his exceptions to the magistrate’s report and recommendation, thereby failing to preserve this issue for appeal.

The Second DCA explained that standing is an affirmative defense; therefore “the defendant must put it in play.” Winchel, 2017 WL 2882711, at *2. But standing is “something of a legal oddity” because once it is pleaded by the defendant, standing must be proved by the plaintiff at trial. Id. And the Second DCA held PennyMac failed to meet its burden: “Having been set with the burden to prove standing at inception once Mr. Winchel pleaded it as an affirmative defense, PennyMac failed to carry it, and the final judgment must be reversed.” Id. at 3.

The Second DCA rejected PennyMac’s argument that Winchel could not raise standing on appeal. After Winchel raised standing in his answer, PennyMac became obligated to prove it. The issue thus went to the sufficiency of the evidence. So an “exception to the general rules of preservation” applied. Id. at *4 n.4. Under Florida Rule of Civil Procedure 1.530(e), after a nonjury trial, the sufficiency of the evidence to support a judgment can be raised on appeal regardless of whether a party objected at trial or made a post-trial motion.

The Court remanded the case for entry of judgment in Winchel’s favor, explaining that, “[w]e do not ordinarily give a party who has failed to prove its case at trial a do-over by remanding for retrial.” Id. at *5.

Winchel provides important lessons for trial lawyers on both sides of the aisle:

• If a good faith basis exists to challenge standing, defendant’s counsel must “put it in play.” Defendants should assert standing as an affirmative defense or risk waiving it.
• Plaintiffs’ counsel must prove standing if it is “in play.” Even if proceeding against an absent defendant, an earlier filed affirmative defense triggers plaintiff’s obligation of proof. This is especially important because an appellate court’s review of standing is de novo. Prevailing at trial without proving standing can prove to be a pyrrhic victory.

As of the date of writing, this opinion has not been released for publication in reports, and is subject to revision or withdrawal.

Author: Anthony J. Palermo – Holland & Knight, LLP
T he Workers’ Compensation Section is planning three seminars and a possible webinar this year. The dates for those events will come by separate correspondence to Section members. In the meantime, here are a handful of First District Court of Appeal decisions handed down this summer that you may want to take note of.

In Lewis v. Dollar Rent a Car, 2017 WL 2491550, at *5-4 (Fla. 1st DCA June 9, 2017), the First DCA held a claimant could not be compelled to attend a Functional Capacity Evaluation (FCE). In Lewis, the claimant was involved in a compensable accident in 1989. For more than 25 years, she received causally related medical care. In 2016, the employer/carrier moved to compel the claimant to attend an FCE.

The only issue was authorization of medication for the long-standing work injury. No occupational issue was involved. The authorized treating doctor signed a form saying an FCE was medically necessary. Finding that the FCE “will help the physicians in determining the future course of Claimant’s treatment,” the JCC compelled the claimant to attend the FCE. Id. at *2.

On a petition for writ of certiorari, the First DCA quashed the order compelling the FCE in an opinion that made and recognized developing law limiting use of FCEs. The First DCA recognized that the JCC could have ordered the employer/carrier to provide the FCE as a medical benefit. Id. But the First DCA noted that the claimant didn’t want the FCE. The First DCA went on to note that there was no basis to force unwanted medical care on a claimant:

There has never been any part of the workers’ compensation law that permits an E/C to force a claimant to submit to treatment, nor does any provision of law brought to our attention permit this court to bodily force an injured employee to undergo unwanted medical care.

Id.

The First District recognized that the JCC could order an IME in appropriate situations, but it recognized that an IME is performed by a duly qualified physician, while an FCE is not performed by a physician, nor does it fit into the statutory scheme. The First DCA also observed that an order granting a claimant’s motion for a court-ordered FCE had been reversed on appeal in West Coast Elevator v. Wood, 780 So. 2d 321 (Fla. 1st DCA 2001). Although the decision does not foreclose the possibility that an FCE could be ordered or awarded in a different cases, use of the FCE has been, and will continue to be, limited.

In Ft. Walton Beach Medical Center v. Tara Young, 1D16-2162 (Fla. 1st DCA July 14, 2017), the First DCA reversed the JCC’s award of permanent total disability benefits, which was based on a 104-week statutory MMI date, because it was contrary to the Florida Supreme Court’s decision in Westphal v. City of St. Petersburg, 194 So. 3d 311 (Fla. 2016).

In Delgado v. City Concrete Systems, Inc., 2017 WL 2438332 (Fla. 1st DCA June 6, 2017), the First DCA, relying on the Florida Supreme Court’s decision in Castellanos v. Next Door Co., 192 So. 3d 431 (Fla. 2016), held the JCC’s disapproval of an attorney fee stipulation without holding a hearing and allowing the parties to submit evidence denied the claimant due process.

An interesting case to watch is Jiminez v. United Parcel Service, 2017 WL 2625440 (Fla. 1st DCA June 6, 2017), where the First DCA reversed the JCC’s order dismissing the claimant’s petition for benefits, which sought to challenge the constitutionality of the statutory cap on the weekly compensation rate. We will follow that case and others at our upcoming seminar on developing caselaw.

Author: Anthony Cortese – Attorney at Law
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Brannock & Humphries - Steven L. Brannock, Celene H. Humphries, and Ceci Berman of Brannock & Humphries were ranked by the 2017 Chambers USA Guide as among the best business lawyers in Florida for appellate litigation. Additionally, Brannock, Humphries, and Berman were named among Florida Trend's Legal Elite for appellate practice.

Carlton Fields - Carlton Fields is pleased to announce that its White Collar Crime and Government Investigations practice was ranked number one nationally in the 2017 Chambers USA Guide to America's Leading Business Lawyers. Chambers also named Carlton Fields white collar crime attorneys—Adam P. Schwartz and Michael S. Pasano—as leading lawyers in the Guide.

Ronald A. Christaldi - The law firm of Shumaker, Loop & Kendrick, LLP, is pleased to announce that Tampa partner Ronald A. Christaldi has been appointed by Tampa Mayor Bob Buckhorn to the City of Tampa Charter Review Commission. The Charter Review Commission is a nine-person commission whose purpose is to review the Home Rule Charter and propose any amendments or revisions for placement on the ballot for consideration by voters. Christaldi also joins the Hillsborough Economic Development Corporation’s International Business Development Committee.

Leonardo M. Dosoretz - The law firm of Shumaker, Loop & Kendrick, LLP also is pleased to announce that Tampa associate Leonardo M. Dosoretz has been elected to the board of directors of the Hispanic Services Council. The Hispanic Services Council is a community-based organization working to improve the quality of life of all Hillsborough County residents by promoting academic success of children and youth, providing immigration legal services, supporting the development of healthy communities, and promoting leadership and engagement among Latinos.

Joseph T. Eagleton - Joseph T. Eagleton of Brannock & Humphries has been appointed chair of The Florida Bar’s Appellate Practice Section’s Pro Bono Committee, and as a member of the Section’s Executive Council.

Leonard H. Gilbert - Holland & Knight’s Leonard H. Gilbert, a partner in the firm’s Tampa office, was honored on June 19 at the International Insolvency Institute’s (III) Legendary Dinner, held at Middle Temple in London, England.

Hill Ward Henderson - Hill Ward Henderson received many high rankings and citations for its attorneys and practice groups for the 16th consecutive year in the recently published Chambers USA Guide. Six practice areas of the firm were highlighted and ranked in the publication for excellence in service - Construction; Corporate M&A and Private Equity; General Commercial Litigation; Real Estate; Real Estate: Land Use & Zoning; and Taxation.

Brad Hissing - Wetherington Hamilton, P.A. is pleased to announce that attorney Brad Hissing has joined their team. Hissing brings over 26 years of experience in representing creditors, trustees and other parties in bankruptcy cases.

Vivian Cortes Hodz - Vivian Cortes Hodz of Cortes Hodz Family Law & Mediation, P.A., was nominated by HAWL and recognized by the Florida Association of Women Lawyers as a 2017 Leader in the Law. Hodz also received the 2016-2017 Diversity Leadership Grant Outstanding Program Award from the Florida Bar Standing Committee on Diversity and Inclusion for the 2017 Tampa Bay Area Voluntary Bar Leaders’ Summit, a joint program of HCBA, GEBA and the Tampa Hispanic Bar Association.

Grant Kindrick - The Bleakley Bavol Law Firm is pleased to announce the promotion of Grant Kindrick from associate attorney to partner. Upon graduation from George Washington Law School in 2010, Kindrick joined the firm as an associate attorney.

Catherine Peek McEwen - The Honorable Catherine Peek McEwen

Continued on page 66
SAM D. PENDINO
CERTIFIED CIRCUIT CIVIL MEDIATOR

RESOLUTION
BY FOCUSING ON THE ISSUES

I am a retired Circuit Court Judge of the 13th Judicial Circuit now serving as a Certified Circuit Civil Mediator.

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McEwen, a United States Bankruptcy Judge for the Middle District of Florida, has been appointed by Chief Justice John Roberts, Jr. to serve a two-year term as the non-voting bankruptcy judge observer to the Judicial Conference of the United States, beginning October 1, 2017. The JCUS is the national policy-making body for the federal courts.

Thomas J. Seider - Thomas J. Seider of Brannock & Humphries was selected to serve as chair-elect of the Florida Justice Association’s Appellate Practice Section.

Mark Sessums - Mark Sessums, president of Sessums Law Group, presented and spoke on direct and cross examination of experts at the Trial Advocacy Workshop of the Family Law Section of The Florida Bar in St. Petersburg. Sessums is the only lawyer in the state with the following combination of credentials: certification by The Florida Bar of Legal Specialization in both civil trial law and marital and family law, along with certification by the National Board of Trial Advocacy.

Shumaker, Loop & Kendrick, LLP - The law firm of Shumaker, Loop & Kendrick, LLP, is pleased to announce that its internal foundation, Leadership Shumaker, has presented donations to several local charities: Bay Area Legal Services, Bay Area Legal Services Veterans Legal Initiative Fund, VSA Florida, Meals on Wheels of Tampa, Make a Wish Foundation, Tampa Heights Civic Association, and High Risk Hope, Inc. All monies provided were donated by Shumaker’s staff and attorneys.

Tori Simmons - Tori C. Simmons, attorney at Hill Ward Henderson, was recently commended for her pro bono efforts with Project H.E.L.P. (Homeless Experience Legal Protection), a nonprofit program that offers free weekly legal clinics at Metropolitan Ministries. At the program’s second annual reception, she was applauded for her dedicated service, tireless volunteer work, and leadership. Through her efforts, Hill Ward Henderson staffs the H.E.L.P. Clinic two months out of every year.

Dale Swope - Swope, Rodante, P.A. is proud to announce that founding partner Dale Swope was sworn in as the 58th president of the Florida Justice Association (FJA) on June 16 during the FJA Annual Convention in St. Petersburg. Swope also was recently recognized with the Tampa Bay Trial Lawyers Association’s prestigious Champion of Justice Award.

Lowell J. Walters - Carlton Fields is pleased to announce that Lowell J. Walters has joined the firm as of counsel in its Tampa office. Walters will practice in the firm’s Business Transactions practice group.

Gregory C. Yadley - Shumaker, Loop & Kendrick, LLP is pleased to announce that Tampa partner Gregory C. Yadley participated in the “Business Law Boot Camp” sponsored by the National Business Law Institute in Orlando on July 24. Yadley’s presentation focused on preparing common business contracts.

Harold W. Youmans - Retired attorney Colonel Harold W. Youmans was honored with the acceptance of his life-work on military and martial law into the repository at the U.S. Army Heritage and Education Center at Carlisle, Pennsylvania. The Colonel, a trained practitioner in unconventional warfare, is a graduate of the U.S. Army War College and retired in 1994 from U.S Special Operations Command.

To submit news for Around the Association or Jury Trial Information, please email Stacy@hillsbar.com.

To view additional HCBA news and events, go to www.facebook.com/HCBAtampabay.
NEW LAW FIRM BUILDING IN USF AREA has 2 attorney-size offices, 1 with window, and assistant-size office for rent. Opportunity for referrals. Conference room space available on as-needed basis for attorneys with virtual/remote practice for reasonable fee. Call Liz Miller at 813-340-9569.

*ATTENTION - MISSING WILL* - Trying to locate attorney who drew up the will for Mary Frances Hall of Temple Terrace (Tampa), who was visually impaired. Created either Spring of 2012 and/or Spring of 2017. Please contact her brother at jrooney160@comcast.net or 508-866-9696.

DO YOU HAVE OFFICE SPACE AVAILABLE FOR SALE OR RENT OR WANT TO PUBLICIZE OTHER SERVICES? Place a classified advertisement in the HCBA Lawyer magazine for only $100 for 50 words or less. Contact Stacy at stacy@hillsbar.com for more information.

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