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Tampa’s traditional ties to pirate life loom large at Raymond James Stadium, where the Buccaneers’ pirate ship is often the center of the action off the field. The Buccaneers joined the NFL in 1976, and Tampa Bay fans have been cheering for them ever since. This year, the covers for the Lawyer magazine will pay tribute to the sports teams and venues that make the Tampa Bay area such a great place to live, work, and play.
26 JUDGE JOHN BADALAMENTI JOINS THE SECOND DISTRICT
Appellate Practice Section
by Anthony J. Russo

28 THIS YEAR FOR THE COLLABORATIVE LAW SECTION
Collaborative Law Section
by Jeremy E. Gluckman and Christine A. Hearn

31 A DEFECT WITHOUT A DEFENSE:
CHAPTER 558 & CGL POLICIES
Construction Law Section
by Michael G. Rothfeldt

32 COVERING THE BASICS
ON CYBER INSURANCE
Corporate Counsel Section
by John W. Bencivenga

34 FIELD DRUG TESTS UNDER
HEAVY SCRUTINY
Criminal Law Section
by Matt Luka

38 NO PROBATE FOR VA
FIDUCIARY ACCOUNTS
Elder Law Section
by Jack M. Rosenkranz

39 EMINENT DOMAIN SECTION
WELCOMES ITS MEMBERS
Eminent Domain Section
by Blake Gaylord and Kenneth Pope

42 SHARING KNOWLEDGE AND
COLLABORATIVE NETWORKING
Environmental & Land Use Section
by Erin McCormick and Gordon Schiff

45 LESSON FROM TUOMEY:
SHOPPERS OF LEGAL
OPINIONS BEWARE
Health Care Law Section
by Thomas (T.J.) Ferrante

46 GIVING YOUR ALL
Immigration & Nationality Section
by Maria del Carmen Ramos

48 PATENT LAW BASICS SERIES:
TOP QUESTIONS ANSWERED, PART I
Intellectual Property Section
by Kristin Crall

50 2015 SCOTUS ACADEMY
NOMINEES (ROUND 1)
Labor & Employment Section
by Jamie Marcario

51 UNTIL DEATH DO US PART
Marital & Family Law Section
by Kristi McCart

58 TWO FEDERAL COURTS RULE ON
STATUTE OF LIMITATIONS
WHILE BARTRAM AWAITS DECISION
Real Property, Probate & Trust Law Section
by Jennifer Lima-Smith

60 PLAUSIBLE ALLEGATION
OF AMOUNT IN CONTROVERSY
IS SUFFICIENT FOR REMOVAL
Securities Law Section
by Daniel P. Dietrich

61 A BRIEF HISTORY OF
LEGAL ETHICS
Senior Counsel Section
by Thomas Newcomb Hyde

64 SOLO & SMALL FIRM
PRACTICE - LIVING SHINGLE
Solo & Small Firm Section
by Amanda M. Uliano

65 THE NEVER-ENDING STORY -
CIVIL AND CRIMINAL STATUTES
OF LIMITATIONS FOR TAX FRAUD
Tax Law Section
by Matt Mueller

70 TRIAL & LITIGATION SECTION
SCHOLARSHIP-WINNING ESSAY
Trial & Litigation Section
by Sienna Osta

72 BIG THINGS TO COME THIS YEAR
Workers’ Compensation Section
by Anthony V. Cortese

COMMITTEES

30 WILL YOU HELP US RAISE
THE BAR ON ADULT
CIVICS EDUCATION?
Community Services Committee
by Sacha Dyson

36 I HOPE YOU DANCE …
Diversity Committee
by Victoria Cruz-Garcia

52 WORKING TO ENHANCE AND
BUILD UPON MVAC’S MISSION
Military & Veterans Affairs Committee
by Matthew F. Hall and Colleen O’Brien

56 WHAT IS YOUR
PROFESSIONALISM QUOTIENT?
Professionalism & Ethics Committee
by Caroline Johnson Levine

68 YOUNG LAWYERS ADVOCATE
FOR TAMPA BAY’S
HOMELESS YOUTH
Thirteenth Judicial Circuit
Pro Bono Committee
by Cathy Kamm

IN EVERY ISSUE

17 100 CLUB
35 NEW HCBA MEMBERS
69 SAVE THE DATES
74 HCBA BENEFIT PROVIDERS
76 AROUND THE ASSOCIATION
78 CLASSIFIEDS
79 JURY TRIAL INFORMATION
79 ADVERTISING INDEX

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2 SEPT - OCT 2015 | HCBA LAWYER
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The Labor of Lawyers

[L]awyers do build things: We build up people, we help build communities, and we help build civil society.

Well, hopefully this issue of the Lawyer made it to you in time to read while you are relaxing over the Labor Day weekend. Weather permitting, I hope to get a chance to go to the beach, although with an energetic 3-year-old and a rambunctious 20-month-old, there won’t be a lot of reading (or relaxing for that matter). But the prospect of a relaxing three-day weekend did give me a chance to reflect on the Labor Day holiday.

Labor Day, of course, was created by the labor movement to pay tribute to the “contributions workers have made to the strength, prosperity, and well-being of our country.” (In case you’re interested, you can vote whether Matthew Maguire or Peter McGuire is the real “Father of Labor Day” on the Department of Labor website.) Probably because Labor Day was created by the labor movement, I’ve always thought it was a holiday for “blue-collar” workers or other non-professionals — not lawyers.

I’m not breaking news when I say lawyers rank near the bottom of various public opinion polls. Part of that, undoubtedly, is because lawyers — mostly thanks to a few “bad apples” — generally score poorly when it comes to trustworthiness. But I also think the public views the profession unfavorably because — in their minds — we don’t “build” things.

That’s why, until recently, I’ve never quite felt comfortable celebrating Labor Day. (Don’t get me wrong, I’ll take the day off.) After all, we don’t build cars, or roads, or bridges, or skyscrapers. To many, lawyers merely push paper. (I’ll confess to having felt that way from time to time.) In fact, not only do some people think lawyers don’t “build” things, I think there’s a sense that lawyers get in the way of things getting built. But one of the benefits of editing the Lawyer is it has exposed me to how we do, in fact, build things.

Take a look at the article by the Military & Veterans Affairs Committee, where you can read how we now have 17 areas of law where local lawyers have committed to support those who have served our nation. And new HCBA President Carter Andersen has a great message about how other lawyers have mentored him and the impact that has had on him. There’s also a great essay by Sienna Osta talking about how revolutionary lawyers constructed a set of rules for a government that has endured over 200 years. It doesn’t take long to realize lawyers do build things: We build up people, we help build communities, and we help build civil society.

According to the Department of Labor website, Labor Day was initially observed by a parade exhibiting “the strength and esprit de corps of the trade and labor organizations” to the public. I’m not holding out hope that we’ll one day have a parade exhibiting the HCBA’s strength and esprit de corps to the public. But I do hope that you get a well-deserved break from your work helping build the strength, prosperity, and well-being of the country.
As we start the 2015-2016 Bar year, we might spend a little time reflecting on our mentoring relationships. First, I humbly suggest we all find the time to thank our mentors. Second, perhaps give some thought to how you are paying that mentoring forward to others.

I recently had the pleasure of hearing Bonnie St. John talk about mentoring relationships. As an amputee (she had her right leg amputated at age 5), an Olympic athlete (silver and two bronze medals in the 1984 Paralympics), a Rhodes Scholar, a best-selling author, a White House official, and an entrepreneurial businesswoman, St. John uses her life experiences to provide leadership training and career advancement tools and techniques worldwide to businesses and individuals.

On mentoring, St. John encourages her audiences to do a simple exercise. On one page, list everyone who has mentored you and helped you achieve your life and business goals. On a separate page, list the people whom you have mentored or helped as they grew and developed. Then simply compare the lists. Are you giving back and making a difference for others the way that your mentors helped you? Are there things that you learned from your mentors that you have shared with others? If not, then it’s time to start. If so, then ask at least one more question. Do you and the people who mentored you look the same as or different from the people you are mentoring? If you and both your lists look the same — the same

Continued on page 7
Continued from page 6

gender, the same race, and other similarities — perhaps it is time to open up the club? Be purposeful in your mentoring — not only in paying it forward — but in giving others a chance who might not have access to the mentoring that you received.

Several years ago, then Allstate Corporation’s Executive Vice President and General Counsel Michele Coleman Mayes gave the keynote address at our member luncheon. Mayes, too, spoke about mentoring — and she advised that lawyers need mentors both inside and outside of their own law firms. Inside the firm, lawyers need substantive mentors to give them work and teach them how to practice law. Outside the firm, lawyers need a helping hand or sometimes a little confidential advice.

I recently noticed that several of my mentors — both inside and outside of my firm — all were included in the 2015 Florida Super Lawyers. I doubt that is a coincidence because I believe that most super lawyers are also super mentors. But I want to recognize and publicly thank just a few of those mentors.

First, I want to thank the lawyers who hired me at Bush Ross 13 years ago and have mentored me ever since — Jeff Warren, Ed Savitz, and John Giordano. They have each taught me so much about the law and lawyering, and I am grateful that in addition to helping me develop as a lawyer, they also taught me life and business lessons of leadership, faith, and service. I share with them the belief that it is a true blessing to get to know other people in this world, and to have them as mentors is a true blessing to me. It is no surprise to me that Jeff Warren’s leadership and mentoring of others landed him on the cover of 2015 Florida Super Lawyers.

Two lawyers outside my firm who are both Florida Super Lawyers and have been super mentors to me are Bill Schifino Jr. and Ben Hill IV. Bill has been that mentor to me outside the firm, who has given generously of his time to me with a helping hand and the career or practice advice I needed at important times. All Florida lawyers will get to see Bill’s great leadership these next two years as he serves as president-elect and then president of The Florida Bar!

And particularly in this last year, Ben Hill IV mentored me personally and by his example of lifting up others while serving as president of our Bar association. Ben accomplished so much from his focus on military and veterans issues to celebrating our judiciary in a time of great judges retiring and great new judges taking the bench and leading the Thirteenth Circuit! While leading our Bar to new levels of accomplishment in so many areas and inspiring so many of our members to do great things, Ben also took the time to teach and show me the things I needed for the year ahead. I am quite sure Ben has a strong future leadership role in our community, state, and profession, and I look forward to supporting him along the way!

So I do humbly suggest that we all might reflect on our mentoring relationships, thank our mentors, and make sure we are paying that mentoring forward to others.
The practice of law can be stressful; the hours are long, and clients are demanding. This is why your membership in the YLD is so important; it is an opportunity to establish and build relationships with other young lawyers and to simply smile, laugh, and have fun. We will continue to host quarterly happy hours and luncheons, in addition to promoting wellness and mindfulness to ease the demands of our profession.

This year, we already have fantastic programs scheduled, including the Judicial Shadowing Program, Coffee at the Courthouse, the annual YLD Golf Tournament, the HCBA 5K Pro Bono River Run & Judicial Pig Roast/Food Festival, and the State Court Trial Seminar. I strongly encourage all young lawyers — new and old members alike — to get involved and participate in the YLD programs.

We are fortunate to have more than 1,000 members in our section. It is amazing to think of everything we can accomplish.

The Young Lawyers Division will continue our tradition of community service and build upon the successes of last year’s programs, which included pro bono services through Attorney ad Litem, Wills for Heroes, and Family Forms Clinic, along with community outreach through Law Week, Judge Robert Simms High School Mock Trial Competition, and youth service projects.

Continued on page 9
Continued from page 8

For more information about the Young Lawyers Division, please check out our Facebook page, “Hillsborough County Bar Young Lawyers Division,” or the HCBA’s website, www.hillsbar.com/group/YLD, or please feel free to contact me at any time at dcooley@wilkesmchugh.com.

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YLD STATE COURT TRIAL

The Young Lawyers Division hosted the 2015 State Court Trial Seminar on June 12 at the George E. Edgecomb Courthouse. Speakers included Chris Knopik, Kevin McLaughlin, David Banker, Woody Isom, Marian P. McCulloch, Richard Gilbert, Joe Varner, James W. Clark, Elizabeth Tosh, Chief Judge Craig C. Villanti, Judge Lisa Campbell, Judge John Conrad, and Judge Caroline Tesche.

The YLD would like to thank the event’s sponsor: NorthStar Bank.
Carter Andersen Installed as HCBA President as Bar Groups Look to the Future

“We strive to serve each other and the profession, and we strive to serve the community.” — Carter Andersen

Carter Andersen’s enthusiasm for the law and for helping others is contagious.

And it’s Andersen’s enthusiasm — along with his leadership, professionalism, and ethics — that will help him carry on the “long and storied leadership” of the HCBA, said Jeff Warren, president of Bush Ross, P.A., as he introduced Andersen as the new president of the HCBA at the Installation of Officers & Directors in June.

“He’s one of those special people I call ‘direction changers,’” said Warren, referring to his law partner’s ability to positively influence and change the lives of others.

In his introduction, Warren said Andersen’s background and experience will help him succeed as HCBA president.

Andersen was raised in Tampa and Alexandria, Va., and is a double Gator, with an undergraduate and a law degree from the University of Florida. He began his legal career with a large law firm in Washington, D.C., and four years later, he moved to Tampa and joined Bush Ross in 2003.

Andersen has served on the HCBA Board since 2009, and he served as chair of various HCBA and YLD committees over the years. In addition, Andersen is a past chair and continues to serve on the Thirteenth Circuit’s Judicial Nominating Commission, and he previously served on The Florida Bar’s Thirteenth Judicial Circuit Grievance Committee.

In his remarks, Warren highlighted Andersen’s commitment to his family — his wife, Dana, and their five children — as well as his commitment to community service beyond the legal community, including Tampa Bay Little League and Christ the King Catholic School.

Referring to Andersen’s passion for coaching youth sports and mentoring young people, Warren joked that he has met a lot of people over the years, but he hasn’t met many people whose children Andersen hasn’t coached in one sport or another at some point (I must say my son falls in this category).

In his remarks, Andersen talked about leading the HCBA this year and some lessons he has learned from Bar leaders before him. He said what helps set the HCBA apart is the relationships Bar members share with one another.

“We strive to serve each other and the profession, and we strive to serve the community,” Andersen said.

Concluding his remarks, he emphasized the importance of taking time to mentor other lawyers, and

Continued on page 11
he acknowledged some colleagues who have mentored him during his career. He cited Warren, retired Chief Judge Manual Menendez Jr., and longtime friend Bill Schifino Jr., among others, as examples.

Further, he praised Schifino for his past service to the Bar and congratulated him on becoming president-elect of The Florida Bar this year.

* * *

The fall season and a new Bar year also bring new opportunities for HCBA members. So stay connected with your colleagues, and take advantage of the numerous educational and CLE programs offered throughout the year. And consider joining the HCBA’s Lawyer Referral & Information Service to help grow your practice through case referrals.

Plus, make it a point to attend the HCBA’s 19th Annual Bench Bar Conference & Judicial Reception, which always is a highlight during the year.

Meanwhile, the HCBA and legal groups across the country must grapple with numerous changes in the legal profession and evolve in order to stay relevant. Newly installed Florida Bar President Ramón Abadin talked about the challenges facing the profession and also the work of the Vision 2016 Commission at The Florida Bar’s annual convention in June.

The commission is studying the future of legal education, technology, Bar admissions, and access to legal services. “We have to accept that we are no longer a monopoly. We are now part of a legal marketplace,” Abadin told convention attendees.

Looking to the future, this is something we all should follow closely.

See you around the Chet.

HCBA & YLD BOARDS PLAN FOR THE YEAR AHEAD

The Hillsborough County Bar Association Board of Directors and the Young Lawyers Division Board of Directors joined forces for a combined retreat on July 31 and August 1 at The Hotel Zamora in St. Pete Beach. Both boards discussed plans and programs for the upcoming Bar year, as well as ways to engage and recruit new members.
The Chain of Custody

These safeguards exist to protect the integrity of the evidence used to secure convictions.

When law enforcement collects evidence during the course of an investigation, that evidence must be secured prior to trial. Law enforcement agencies have procedures in place regarding the collection, storage, transfer, and testing of evidence. These safeguards exist to protect the integrity of the evidence used to secure convictions.

At trial, when the state introduces physical items into evidence that have been in the custody of law enforcement agencies, the state must lay a proper foundation to establish the admissibility of the evidence. In most cases, that foundation does not include the introduction of testimony by every witness in the chain of custody. “Relevant physical evidence is admissible unless there is an indication of probable tampering.” Although it is important that law enforcement agencies maintain a proper chain of custody, the state is not normally required to prove that complete chain of custody at trial.

In some cases, there may be a break in the chain of custody. “A mere break in the chain of custody is not in and of itself a basis for exclusion of physical evidence.” If defense shows that there has been a probability of tampering, the state must prove a complete chain of custody before evidence can be admitted. A probability of tampering is more than a bare allegation or a possibility. For example, the admission of evidence that has been repackaged, if explained by the testifying witness, is not an error. If the defense is able to meet their initial burden of showing a probability of tampering, the burden would then shift to the state to prove that tampering did not occur. At this point, the state may need to proceed with proving the complete chain of custody.

As your state attorney, I seek justice. Justice requires that convictions be based upon sound, reliable evidence. The integrity of our evidence supports the integrity of our convictions.

2. *See Dodd v. State*, 537 So. 2d 626 (Fla. 3d DCA 1988).
4. *See Floyd v. State*, 850 So. 2d 383 (Fla. 2002); *State v. Taplis*, 684 So. 2d 214 (Fla. 5th DCA 1996); *Hildwin v. State*, 141 So. 3d 1178 (Fla. 2014).
The Florida Bar Vision 2016 Commission, appointed in 2013, is performing an in-depth review of four general areas that will impact the future practice of law in Florida: legal education; technology; bar admissions; and access to legal services. This comprehensive study will provide the foundation to prepare today's lawyer for tomorrow's practice.

**Access to Legal Services**
- Limited Scope Representation

*The Access to Legal Services subgroup is currently inactive while the Florida Commission on Access to Civil Justice, created by the Supreme Court, conducts its work directly pertaining to access to justice issues. The Florida Commission on Access to Civil Justice website is www.flaccesstojustice.org.

**Bar Admissions**
- Licensing of Non-Lawyers to Perform Legal Tasks (displacement of lawyers caused by technological advances)
- Alternative Business Structures for Law Firms
- Multijurisdictional Practice/Reciprocity
- Multijurisdictional Practice/Reciprocity - International Focus
- Uniform Bar Examination

**Legal Education**
- Breaking the Existing Formula for Becoming a Lawyer (e.g., how law schools teach; how the Bar exam is given)
- Restructuring the Curriculum (e.g., substantive, practical, experiential, innovative, business of law, professionalism, and character formation)
- Shaping Education to Meet Market Needs and Needs of Consumers of Legal Services
- Interconnection of External Forces on Legal Education (e.g., Bar exam, technology)
- Competencies Needed for the Providing of Legal Services

**Technology**
- Technology that Performs Legal/Lawyer Work
- Integration of Technology into Law Offices
- Integration of Technology into the Courts
- E-Discovery
- Areas of Work/Employment Opportunities
- Target Minimum Technology Competency Requirements for Lawyers
- Online Legal Service Providers

Information on the areas of study, news articles covering the work of the commission, and contact emails to provide input to each subgroup are posted at www.floridabar.org/vision2016.
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Save the Date

October 27, 2015

Bench Bar Conference, Membership Luncheon & Judicial Reception

“Breaking Good: Prioritizing Professionalism in Advocacy”

Character, competence, commitment, and civility. According to The Florida Bar’s Standing Committee on Professionalism, these are the “essential ingredients of professionalism.” Although the opposite might make for good TV, those who uphold these standards are the real-life legal stars.

Thus, the Hillsborough County Bar Association and its Bench Bar Committee co-chairs, Judges Samantha Ward and Lisa Campbell, are proud to announce the theme for the 19th Annual Bench Bar Conference — Breaking Good: Prioritizing Professionalism in Advocacy. The focus of this year’s conference is on our duty to rise to the challenges we face in a profession that is inherently filled with drama and pressure.

We believe that the curriculum for this year’s conference is particularly timely and relevant, given the recent headlines shining a spotlight on professionalism issues in the legal field. After our traditional morning “ethics-themed” breakfast, the day’s break-out sessions promise to be both substantive and practical. In an effort to highlight progressive legal efforts outside the courtroom, we are adding sessions on collaborative law and alternative dispute resolution this year. In addition, we will feature a session on the LLC Revised Act.

Building on the success of our “View Toward the Bench” seminars, we are adding two “View from the Box” sessions, which will give attendees a chance to hear from former jury members on civil and criminal cases. Back by popular demand, the “View Toward the Bench” sessions will provide lawyers and judges the opportunity to candidly talk about practice-specific topics in round-table discussions, with segments focused on civil, criminal, appellate, federal, and family law.

For the first afternoon plenary session, our attention will turn to the U.S. Supreme Court with a review of the past term and preview of the term to come. And for our conference finale, we will wrap up our “Breaking Good” theme with a plenary session on professionalism. (For all you “Breaking Bad” fans, we did not ask Saul Goodman to speak at this one.)

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 27. Look for more information about specific course offerings and registration instructions in email blasts from the HCBA and on hillsbar.com. We look forward to seeing you!

Authors:
Judges Samantha Ward and Lisa Campbell, Thirteenth Judicial Circuit
Hillsborough County Bar Association 100 Club

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TO BE ADDED TO THIS LIST, PLEASE EMAIL A LIST OF ATTORNEYS IN YOUR FIRM TO CORRIE@HILLSBAR.COM.
The following is an edited excerpt of an interview with the Hon. Charlene E. Honeywell, United States District Court, Middle District of Florida, Tampa Division.

Q. Can you tell us a little about your background?
A. I am a native Floridian; I was born and raised in Broward County, Florida. I attended the public schools in Pompano Beach. ... I went to Howard University in Washington, D.C., on a full academic scholarship. I knew that I wanted to go to law school, and I knew that I would most likely end up practicing law here in Florida, so I came back

Continued on page 19
to Florida to attend the University of Florida. I received a full fellowship to attend the University of Florida. ...

I did well in school, in part, because I grew up in a single-family household. I am an only child. My parents divorced when I was young, and my mother was an educator; she was really strict about education. So I was one of those kids who always made straight A's. Although I knew my mother would send me to college, I didn’t know if she could afford to send me to a school that I would want to attend. And so my goal was to get a scholarship to attend college, and that’s what I did.

Q. I understand that you were bussed to another school in an effort to integrate schools in your area. What impact did that have on your later life and perhaps your career?

A. Well, it caused me to pay more attention to the legal profession. I started out attending an all-black school because the schools were segregated at that time, and...
Continued from page 19

that was first grade through sixth grade. From there, I went to the black high school, which was seventh through 12th. At the end of my seventh-grade year, the school board began to implement plans for desegregation. They closed the black high school I attended and bussed all of us over to what was and remained a predominantly white school. The first year was chaotic and tumultuous. Initially, kids threw rocks at the busses, and police officers manned the hallways at different times. When times got really bad, we even had police officers with dogs in the hallways. But the chaos didn’t last for a long period of time. It was the initial resistance to black students and white students going to school together. After a while, everyone was fine. Everybody got along. We sat in classes together, we interacted together, played on sports teams together; it was great. ... As a result of the impact of integration, I became more aware, more interested in the legal process. I didn’t have any role models who were judges, had never been in a courtroom, but I would hear news about how the federal courts had ruled “x, y, or z” as it related to desegregation and the fact that “separate but equal” was no longer the law of the land and that these schools needed to be integrated.

Q. So that experience spurred your interest in the law?
A. It absolutely spurred my interest in the law, along with suggestions from teachers. At that time, “Perry Mason” was one of my favorite television shows.

Q. You were a public defender for a number of years, then an assistant city attorney for the City of Tampa, and a shareholder in a large commercial law firm locally. Which of those non-judicial career practice experiences did you enjoy the most?
A. I had tremendous training, appellate, and trial court experience as an assistant public defender. But I enjoyed handling civil matters much better than criminal matters, and still do. As a federal judge, I preside over criminal and civil proceedings. I enjoy the civil proceedings more, perhaps because of the variety, novelty, and complexity of some of the issues presented in them. However, as I tell many of the criminal defendants appearing before me, sentencing is the toughest part of my job. I don’t take it lightly because I am making decisions that will impact people’s liberty and lives forever. These decisions are extremely tough. So as a practitioner, I enjoyed most my time at the city attorney’s office and Hill Ward.

Q. Governor Lawton Chiles appointed you as a county court judge in 1994, Governor Jeb Bush appointed you as a circuit court judge in 2000, and President Barack Obama nominated you to the federal bench in 2009. How gratifying was it to have received such strong bipartisan support?
A. It was tremendously gratifying; as judges, we are nonpartisan decision-makers. We don’t rule based upon a person’s political affiliations, their community status, or their socioeconomic status. None of those things are important to us. When you go before a tribunal and you demonstrate that you have cross-support from Republicans and Democrats, it’s symbolic of the kind of person you have been or the life you have lived. I really try to make sure that all individuals appearing before me feel that they have received fair and just treatment regardless of the outcome of the case or their position in society.

Q. You tell young people to be prepared for setbacks while pursuing their dreams, you know, “Get back up and keep on going!” Is that message a product of what you’ve experienced?
A. Absolutely, and I do preach that message. ... That is a part of my experience. As you know, when I was appointed to the state court bench in June 1994, I lost the judicial election that September, and that was a major setback. I went to law school because I wanted to be a judge, not because I wanted to be a lawyer. It was always a part of my plan to at some point start applying for or run for the judiciary, whichever opportunity first presented itself. And so once I received the appointment, to lose was devastating. In retrospect, I look back now and think about what was the purpose for that experience, and I can’t say that I know the purpose. It was a part of the plan for my life from which I learned, grew, and became a better person. As a result, I can share that experience and encourage others.

Q. Judge, you could be considered a trailblazer; for instance, you were the first African-American female partner at your prior law firm. You are also one of only a handful of African-American female federal district court judges in Florida. What advice

Continued on page 21
would you give to someone who wants to follow in your footsteps?

A. My advice would be to plan, prepare, to set goals, and to not give up. I just can’t emphasize that enough. So many people give up after one or two tries, particularly as it relates to becoming a judge. The first step is getting yourself ready, being prepared, and you do that by getting the experience needed to be a judge. It’s important to work in the community, legal and Hillsborough County; you especially want the legal community to know you. If you’ve prepared yourself, if you’ve been involved, then you start applying and you continue to apply or run for a judgeship.

Q. The current Florida Bar president has opined that our profession is at a crossroads — with the influx of so many new lawyers, increased competition from nontraditional providers of legal services, and technological changes in the way we practice law. Any thoughts on that?

A. I agree with the Florida Bar president’s position on that. ... The practice of law has changed tremendously from what it was when I started practicing in 1982. Ultimately, however, lawyers should still have as their number one goal and focus, the zealous representation of their clients. I have been surprised on more than one occasion by the quality of the written filings I’ve had to review in various cases. It has caused me to wonder if attorneys are practicing law for the wrong reasons. There was a time when the practice of law was an honored profession and lawyers were held in high regard. Lawyers have the best opportunity, perhaps aside from doctors, to help people — doctors help people who are sick; lawyers help people who are injured or have been wronged. Lawyers should always put forth their best effort in the representation of their clients. Some lawyers have forgotten to do this.

Q. Is there anything that you’d like to see changed about the way lawyers who come before you conduct themselves?

A. I would like for them to remember that they should always be prepared. As you know, in the Middle District, we don’t conduct hearings on many matters. If I schedule a hearing, I expect the lawyers to be prepared. Additionally, lawyers are welcome to use the electronics in the courtroom to aid in the presentation of their arguments.

Q. Switching topics, can you tell us something about your family and your children?

A. My daughter, who is 19, just finished her freshman year in college, where she’s pursuing a degree in industrial engineering; my son, who is 22, just graduated from college with a degree in broadcast journalism and a minor in marketing.

Q. How have you balanced the demands of family and career life?

A. It’s been difficult, but I had the support of family and close friends. I am a master at multitasking and delegating. It’s much easier now because my children don’t require as much guidance.

Q. What do you like to do to relax and have fun?

A. I want to travel abroad more. My bucket list includes trips to Italy, an African safari, the south of France, and others.

Q. You mentioned earlier that you thought it was important to be involved in the community. What organizations are you involved in?

A. I am in two Inns of Court: the Cheatwood Inn of Court and the Smith Litigation Inn of Court. I am also a member of the Board of Trustees for the University of Florida’s Levin College of Law. Also, I am a member of Delta Sigma Theta Sorority, the Tampa Alumnae Chapter, as well as the Tampa Chapter of The Links, Incorporated, a service organization. I am an associate member of Jack and Jill of America, the Greater Tampa chapter, and a member of the Executive Board of the Howard University Alumni Club.

Q. Obviously, you have a number of years left on the bench, but when it’s all said and done, how do you want to be remembered?

A. I’d most like to be remembered as a judge who was fair, and then as a judge who was always prepared. I want the lawyers and parties to know that when they come before me, I’m going to be prepared, and I want them to leave believing that they received a fair proceeding and an opportunity to be heard, regardless of the outcome.
Students’ Responsibilities for Improving Law Schools

Students are in a better position to understand what will be required of them upon graduation and to communicate those requirements to the faculty and administration. The students’ success is the school’s success.

There is an old assumption that academic leadership comes only from faculty and administrators. This assumption must change. Students, faculty, and administrators all must work together to improve law schools. The ultimate leadership must come from students, though, because they are the ones law schools serve and because they have a unique ability to recognize how changes in the legal profession are working out on the ground.

In both a business and institutional sense, law schools exist to serve their students. From a business perspective, law schools are enterprises selling an education, and students are their consumers. The institutional perspective is similar. Law schools are nonprofit organizations designed to serve a public good — the improvement of students’ lives and the development of a better legal profession.

Businesses enjoy their greatest success when they focus on meeting the needs, expectations, and preferences of their customers. For example, when Lou Gerstner turned around IBM in the 1990s, one of his first steps in reforming the company was to require his top executives to meet with a certain number of customers every week and file reports about customers’ needs, wants, and issues. Those executives soon got the message about the centrality of consumer needs and understood that “message” was a crucial part of turning IBM’s fortunes around. When businesses focus on their own internal expectations, giving customers what they think customers should want instead of what customers actually want, they drive customers to their competitors.

Like every other part of the university, law schools are businesses (which is especially true for the for-profit law schools). As Mark Taylor, chairman of the religion department at Columbia, has pointed out, “It is ludicrous not to acknowledge that colleges and universities are businesses, and higher education is one of the most important domestic and international industries.” They sell a product — an education — and they sell it at a high price. In 2012, the average annual tuition at a private law school was about $40,500; public law school tuition was $23,600. To cover both tuition and living expenses during law school, the average student will borrow about $140,000. Those prices not only reflect an extensive financial commitment, they also reflect an enormous personal commitment of time and energy.

Even if one disagrees that law schools should operate like businesses, there is still a reason for schools to put students’ interests first. Law schools have a moral, if not a legal, duty to do so. These schools profess to have expertise on preparing students for successful legal careers, and students have placed their trust in law schools for this purpose. The students’ reliance gives law schools a duty to repay that trust by putting student interests above the institution’s interest in prestige or rankings or in the professors’ interest in scholarship. At the very least, law schools must act as stewards of the students’ interests, and stewardship with a back-and-forth dialogue is paramount for everyone’s success.

Of course, it would be possible to put the students’ interests first while reserving the leadership role for faculty and administrators. There is an argument to be made that students should follow the lead of the faculty and administration, as the children in a family follow the lead of their parents/elders. This argument depends on the premise that students lack information and experience about what a legal career requires, the direction of their legal education, or the direction of the institution in which they will spend only three years. From this point of view, the students’ only role in shaping the direction of an institution seems to be filling out course evaluation forms.

Continued on page 23
Continued from page 22

But the 21st century legal profession faces challenges and changes that require something profoundly different from a legal education and the law schools that provide it. For one thing, practicing lawyers increasingly complain about a lack of personal satisfaction in their professional lives. In particular, they complain that law school did not prepare them to cope with the realities of practice or to learn how to make a meaningful social contribution through their legal careers. As a result, some law school graduates find their careers frustrating or pointless, and they wonder whether there was something they missed during law school.

Another problem for law students entering the profession in the 21st century is the changing economic realities of law practice. Despite a recent small upturn, private firms have been hiring fewer lawyers since the recession of 2008, leading to intense competition for employment. Moreover, even for those who do find employment, the prospects for advancement and long-term career security are much dimmer than they were even 10 years ago.

To respond to these emerging problems, law schools must make changes, and more student involvement in administrative decisions is one of the first steps. With the legal profession evolving so rapidly, faculty and administrators must appreciate the nature and extent of the changes. Students are in a better position to understand what will be required of them upon graduation and to communicate those requirements to the faculty and administration. The students’ success is the school’s success.

The faculty and administration must take an active role in shaping the information that comes from students, filtering it through their experience and adapting it to the needs of the institution. But the impetus must first come from the students. There is reason to think that the law schools’ duty to their students the option to take all classes on a pass/fail basis. Not only was this reform adopted, but it was the impetus for a long period of success for the university, in attracting better students, more donations, and in producing more illustrious graduates.

Student leadership can be, and should be, more than just putting notes in a suggestion box or coloring in circles on a course evaluation form. If given the opportunity, students can tell their schools what they want and need, and that communication can be the basis for profound changes that improve the institution in every respect.

A law school is entirely composed of the individuals who belong to it, including faculty, administrators, current students, and alumni. But the overwhelming majority of individuals associated with a law school are the current and former students. If the law school is conceived as a body, that body comprises the people who study and who have studied there. These are the people who truly have a concern for the school.

Thus, the students must take the first step in bringing about change for the better. Together, all parties can help their institutions develop in a way that is better for the schools, the legal profession, and the community they both serve.

6. There is some reason to think that the law schools’ duty to their students is akin to a fiduciary duty, which arises when one person relies on the special skills or expertise of another and therefore reposes trust and confidence in the other.

Continued on page 24
The New Hampshire Supreme Court held that a public university has a fiduciary duty to its students. See Schneider v. Plymouth State College, 744 A.2d 101, 105-06 (N.H. 1999).

7 Are They Students? Or “Customers”?, supra note 1.


9 Id.

10 See id.


17 Id.

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Roni A. Elias
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JUDGE JOHN BADALAMENTI JOINS THE SECOND DISTRICT
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In April, John L. Badalamenti was appointed to the Second District Court of Appeal by Governor Rick Scott, filling the seat vacated by retiring Judge Charles A. Davis Jr. Judge Badalamenti, 41, of Tampa, comes to the post from the Appellate Division of the Office of the Federal Public Defender, Middle District of Florida, where he had served since 2006. The appointment to the court is the culmination of a calling that he first heard long ago.

As a boy, Judge Badalamenti occasionally took the train from his home in Brooklyn to lunch with his mother, a bookkeeper working in the Southern District of New York courthouse. Afterward, he would sit in the courtrooms and watch criminal trials. That early fascination with the law eventually led him to the University of Florida law school.

After graduation, the U.S. Attorney General Honors Program called and awarded him a one-year counsel position with the Federal Bureau of Prisons at the Southeast Region Headquarters in Atlanta. There, he was an advocate and advisor to the bureau, handling a variety of constitutional and civil matters and post-conviction proceedings.

The Eleventh Circuit Court of Appeals was the next to call, offering a clerkship with the Hon. Frank Mays Hull. Working with Judge Hull in the grand Atlanta courthouse, Judge Badalamenti learned the intricacies of appellate practice. Judge Hull herself had been a law clerk to the Honorable Elbert P. Tuttle, for whom the historic courthouse is named.

To this young lawyer, Judge Hull passed on a tradition of mentorship that she herself had received from Judge Tuttle.

Following that clerkship, Judge Badalamenti returned to Florida and entered private practice. He found his professional home at the University of Florida law school.

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Following that clerkship, Judge Badalamenti returned to Florida and entered private practice. He found his professional home at the

Continued on page 27
St. Petersburg office of Carlton Fields. There, his practice included a mix of securities and class-action trial work and civil appeals. The firm’s offices were just a few floors away from the private office of the Hon. Paul H. Roney, judge at the Eleventh Circuit Court of Appeals. Judge Roney, needing an experienced law clerk temporarily to assist with a backlog of cases, reached out to his colleagues on the court. Judge Hull responded that such a candidate was working just a few floors away from him.

Judge Roney was the next to call on Judge Badalamenti. Judge Badalamenti’s firm was amenable to what was originally intended to be a six-month stint but turned into a three-year senior law clerk experience. Judge Badalamenti was struck by Judge Roney’s deep love of the judicial process, the respect he showed the parties, and the exquisite care he used in his legal writing.

His enthusiasm for appellate practice, now thoroughly whetted, led Judge Badalamenti to take a post with the Appellate Division of the Federal Public Defender’s Office in Tampa. His practice was not limited to appellate work, and he tried several cases in the federal courts of the Middle District. He observed that this firsthand experience taught him the challenges that trial lawyers face. And he saw that trial judges are called upon to make instant decisions and that they need discretion to act. He recognized that this discretion must be respected, and that only unreasonable decisions should be reversed by an appellate court. Judge Badalamenti has now answered the governor’s call to serve on the Second District Court of Appeal. Judge Badalamenti’s varied professional background, and his long love and deep respect for the law, will serve the citizens of the state well for years to come. The Hillsborough County Bar Association heartily welcomes Judge Badalamenti to the court.
The Collaborative Law Section begins this year with an invitation to all of our fellow Bar members to join the section and to start learning how to resolve legal disputes through the collaborative process. Our two local family law collaborative groups, the Tampa Bay Collaborative Divorce Group and Next Generation Divorce, have continued to thrive throughout the past year, and a third collaborative practice group, the Florida Civil Collaborative Practice Group, has been formed for civil practitioners in the Tampa Bay area. We encourage all of you to volunteer some of your time to develop the work of that committee and to give yourself opportunities to strengthen your professional skills in collaboration.

We hope to expand this work to family law clinics at our local law schools this year. Volunteers will also be sought for those clinics.

This year, we also plan to gather resources and professionals to work with the very large percentage of middle-income people who file pro se actions in the family law division of our circuit court. Specifically, we hope to implement a new project for clients of “modest means” in an effort to produce more affordable collaborative services to a broader range of clients in our community.

On a statewide basis, many members of our section have been actively participating in efforts to pass the Uniform Collaborative Law Act in the Florida Legislature, as well as standards for Supreme Court certification in the area of collaborative law. Our section will continue to support that effort during the 2016 legislative session. With success, we will see collaboration become a common and everyday means of solving legal conflicts, and Florida will continue to be one of the leading states in the national and international collaborative movement.

You may already know something about how the collaborative process uses a full team of professionals — two lawyers, a mental health facilitator, and an experienced forensic financial expert — to prevent married partners from becoming adversaries. But did you also know that this same process can be used to resolve trust and estate issues, employment cases, or other litigation disputes? Join our section (without a fee), come to our luncheons, and become a member of one (or more) of our practice groups to find out more about collaboration as an alternative to battling as adversaries. It will be the first step toward helping clients move forward in a positive, less destructive direction.

Authors: Jeremy E. Gluckman - Jeremy E. Gluckman, P.A.; and Christine A. Hearn - Himes & Hearn, P.A.
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If you have ever watched “JayWalking” with Jay Leno, then you know there is a troubling deficiency in adult civics competency and a striking need for education. Person after person stumbles on questions that most elementary school children can answer. Last year, the Annenberg Public Policy Center surveyed 1,416 adults on this topic with astonishing results:

- 64 percent could not name the three branches of government.
- 35 percent could not name a single branch of government.
- 73 percent do not know that it takes a two-thirds vote of Congress to override a presidential veto.
- 21 percent believe that a 5-4 Supreme Court decision is sent back to Congress for a determination.

Similarly, a 2011 Annenberg survey found that nearly twice as many people could correctly name a judge on American Idol than those who could correctly identify the current chief justice of the United States Supreme Court. This same survey found that only 42 percent of respondents know that serving on a jury is a duty exclusively for United States citizens.

While the disapproval rating for Congress and the Supreme Court is increasing, the Annenberg surveys demonstrate that few people understand how these branches of government work. This is a problem for lawyers. Uninformed citizens are less likely to vote and, more importantly, less likely to support the judicial system. As lawyers, we have a duty to protect and support the independence of the judiciary.

One way to serve this responsibility is through education. Indeed, The Florida Bar has recognized that “an informed public is the best defense of a vigorous democracy, the rule of law, and a fair and impartial judiciary.”

In recognition of the important role that attorneys play in adult civics education, The Florida Bar created Benchmarks: Raising the Bar on Civics Education, which provides presentations and activities that attorneys can use to talk about the government and the courts to adult civic and community groups. Attorneys who are trained in providing these presentations are eligible to earn 1 CLE ethics credit hour for each presentation (up to a total of 3 hours per reporting period). Currently, there are 10 presentations available on the Constitution, the courts, and special topics, such as the citizenship test and voting rights. These presentations are easy to give, interactive, and fun for both the presenter and audience.

The Community Services Committee is launching the Benchmarks program in Tampa. It will be one of the five programs that the committee is hosting this year (others include Adopt a Veteran, Elves for Elders, Dining with Dignity, and a Pirate Plunder Party at A Kid’s Place). The committee will be planning a training session for attorneys interested in giving Benchmarks presentations, advertising these presentations to local civic and community groups, and helping to match attorney volunteers with these opportunities. Won't you come be a part of implementing this vital program? Our first meeting is September 2 at noon at the Chester H. Ferguson Law Center.

Author: Sacha Dyson - Thompson, Sizemore, Gonzalez & Hearing, P.A.
A contractor receives a letter in the mail, and his heart drops. Titled as a Notice of Claim for Construction Defect Pursuant to chapter 558, Florida Statutes, the letter alleges that the contractor’s work on a particular project is defective. The notice explains the contractor’s statutorily prescribed options for responding. No suit has been filed, though the nature of the letter suggests suit is imminent. Remembering the commercial general liability (CGL) policy he purchased, the contractor tenders the chapter 558 notice to his insurer and demands defense and indemnity. The insurer declines, stating that the case was “not in suit.” In response, the contractor sues the insurer for breach of contract and a declaration that insurer has a duty to defend the contractor. The Southern District of Florida recently considered this matter of first impression in Altman Contractors, Inc. v. Crum & Forster Specialty Ins. Co., 2015 WL 3539755 (S.D. Fla. June 4, 2015).

The insurer argued that the chapter 558 notice did not trigger the duty to defend under the pertinent CGL policy because the case was “not in suit.” On the contractor’s motion for partial summary judgment on the duty to defend, the court examined whether chapter 558 barred the insured’s claim and whether the policy provided coverage.

Rejecting the insurer’s argument, the court pointed to the statute’s language and concluded that chapter 558 did not bar the insured’s claim because section 558.004(13), Florida Statutes, provides that provision of the notice is not a claim — it does not say that the notice itself is not a claim. This language differed from that contained in other states’ construction-defect notice statutes that expressly precluded such a notice from triggering coverage.

The court turned next to the parties’ insurance policy to determine whether the chapter 558 notice was a “suit” that would trigger the insurer’s duty to defend. Because the policy defined “suit” as the undefined term “civil proceeding,” the parties and the court looked to dictionary definitions. Relying on definitions from the edition of Black’s Law Dictionary in publication when the policies were in effect, the court concluded that a “civil proceeding” requires a forum and a decision maker. Because chapter 558 provides neither, its alternative dispute resolution mechanism did not constitute a “civil proceeding” and thus was not a “suit” under the policy. The chapter 558 notice therefore did not trigger the insurer’s duty to defend, and the court accordingly granted summary judgment in favor of the insurer.

In sum, Altman teaches that while a notice pursuant to chapter 558 can constitute a claim for insurance, the alternative dispute resolution mechanism in chapter 558 is not a “civil proceeding” and thus does not trigger an insurer’s duty to defend under a typical CGL policy. Furthermore, when defining a policy’s terms, the dictionary edition in publication during the policy’s effective date should be used.

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Carlton Fields
Jorden Burt, PA.
It seems that a week does not pass without a story concerning some type of cyber attack grabbing the headlines. In July, the Office of Personnel Management disclosed that hackers stole sensitive information about 21.5 million people in a breach of the federal government’s background-check database. In March, Primera Blue Cross announced that up to 11 million customers could have been affected by a cyber attack in which hackers accessed members’ names, dates of birth, Social Security numbers, mailing and email addresses, phone numbers, and bank account information. In February, Anthem, one of the nation’s largest health insurers, said hackers breached a database that contained as many as 80 million records of current and former customers, as well as employees. As these stories continue to multiply, more companies are considering a cyber insurance policy needs to look carefully at the specific coverage offered, and because of the significant differences, comparison shopping by price may be difficult.

Continued on page 33
Purchasing insurance policies to protect confidential data. Here are some basics involving cyber insurance policies.

1. **Cyber insurance is a fairly new product.** The first policies did not appear until the late 1990s. The relative “newness” of these types of policies has at least two implications. First, there are significant coverage differences. A company considering a cyber insurance policy needs to look carefully at the specific coverage offered, and because of the significant differences, comparison shopping by price may be difficult. Second, the market is constantly changing. As new claims are reported, new risks are analyzed. So what seems like a decent policy one year may not even be offered the next.

2. **In general, there are two categories of risk and liability that cyber insurance covers.** There is “first-party risk/coverage,” which protects against loss or damages that your company incurs because of a cyber attack. This would include forensic investigation coverage, physical damage or data loss/restoration coverage, business interruption coverage for your computer network, and losses based on stolen/ransomed data based on a breach. There is also “third-party risk/coverage,” which covers losses or damages that occur to a third party as a result of a data breach. This would include litigation expenses, crisis management expenses, and credit monitoring and notification costs and expenses. Typically, when analyzing risks, companies will divide risk into first- and third-party coverage and then focus on the specific risks in each category.

3. **Next, a company must decide how much coverage is needed.** Unfortunately, there is no consensus on how much coverage to obtain, what is an appropriate deductible, or even how to determine coverage liability. Some basic benchmarking data exists. For example, some studies indicate that over the past few years, the average organizational cost of a data breach of 100,000 records (or less) was about $6 million dollars. One simple method in determining coverage limits is to focus on the amount of sensitive records a company possesses, then multiply this count by some average cost per record figure. So, if your company estimates that an average cost to respond to a data breach is $250 per record, and your company has 100,000 confidential records, a $25 million policy limit may be appropriate.

4. **Finally, do your homework before purchasing cyber insurance.** A breach may go unnoticed for some time before a claim is made. Counsel should consider requesting retroactive coverage to cover unknown breaches that occurred before the policy inception date. Your company may also have limited cyber coverage under your CGL policy, crime policy, or technology errors and omission policy. Coordinating these coverages is important. Finally, read the fine print. Certain exclusions may be written too broadly for your needs, and given the fact that these policies are still evolving, it is important to learn exactly what is covered to ensure your risks are properly mitigated.

Author: John W. Bencivenga - Helios
FIELD DRUG TESTS UNDER HEAVY SCRUTINY
Criminal Law Section
Chairs: Matt Luka - Trombley & Hanes; and Justin Petredis - Law Office of Justin Petredis

It is common in narcotics cases for police to field test a suspicious substance found during a pat-down or search. The United States Supreme Court has held that a chemical test that merely discloses whether a particular substance is a narcotic is not a “search” subject to Fourth Amendment protections. United States v. Jacobsen, 466 U.S. 109, 123-124 (1984). And a “seizure” of a small amount of the substance for testing is constitutionally reasonable. Id. at 125-26.

Locally, the reliability of field tests has been confronted in a series of reports by Gloria Gomez of Fox 13 News. Gomez recounts the stories of three citizens arrested on drug charges based on false field tests only to have lab results clear them months later. Scientists: Experiments show “dangerous” field drug test problems (Fox 13 News television broadcast May 14, 2005), available at http://www.myfoxtampabay.com. Although having the charges dropped may have been a relief, there are severe consequences associated with mere fact of an arrest. A person’s career and reputation can be irrevocably damaged, and an individual’s arrest information often lives online long after the case is closed.

Gomez observed a series of false positive field tests by Dr. Omar Bagasra, the top research scientist at Claflin University, a lab recognized by the International Association of Chiefs of Police for forensic science excellence. Id. In Dr. Bagasra’s experience, he doubts the accuracy of any field drug test. Id. Dr. Fredrik Whitehurst, an FBI forensic scientist for 16 years with a doctorate in chemistry, stated he has “no confidence at all in those test kits.” Id. Punk rocker Don Bolles was once arrested for possessing GHB after a field test. A state lab later determined it was soap. Id. Forensic Magazine published a similar article criticizing field drug tests titled Field Drug Tests Confuse Candy for Meth, Cause Serious Concern.

Field testing is used to support arrests, in probation revocation proceedings, in support of search warrants, and as evidence of guilt. In Smith v. State, 771 So. 2d 1189 (Fla. 5th DCA 2000), the defendant’s drug paraphernalia conviction was supported only by the arresting officer’s testimony that an item contained a residue that field tested positive and that the item was a device typically used as drug paraphernalia. Id. at 1192; see also Townsend v. State, 781 So. 2d 541, 542 (Fla. 5th DCA 2001).

The field test takes on greater importance when the field test uses up or destroys the sample during testing. The state must introduce the substance into evidence unless excused by its destruction during testing, Peterson v. State, 841 So. 2d 661, 662 (Fla. 4th DCA 2003) (citing G.E.G. v. State, 417 So. 2d 975, 977 n.2 (Fla. 1982)). However, in Peterson, the court found the state “introduced the cocaine into evidence” where the state introduced a pipe that exhibited a blue color, and the officer testified that the blue color resulted from his test of cocaine. Id. Even if the narcotic is unavailable, sufficient evidence exists for conviction on a possession charge if a chemist or expert testifies that he or she tested the substance and the test yielded positive results, Fleming v. State, 82 So. 3d 967, 970 (Fla. 4th DCA 2011). The testimony of an arresting officer and an expert to establish the reliability of a field test could potentially meet that standard.

If you would like to contact Gloria Gomez to discuss one of your cases or would like more information on this topic, she can be contacted at gloria.gomez@foxtv.com.

Author: Matt Luka - Trombley & Hanes, PA.
HCBA WELCOMES NEW MEMBERS

JUNE AND JULY

Anisha Patel
Taylor Pierce
John Haas
Christopher Tumminia
Shirell Mosby
Barbara Wolodzko
Michelle Sabin
Marc Johnson
Lori Heim
Desiree Minder
Kristin Tormey
Sienna Osta
Christopher Paradies
Mark Howard
David Finlay
Kerry McGuinn
Andrea Keene
Patrick Rice
Martin Deptula
Michael Frijouf
Gretchen Yale
Christopher Marks
Danielle Welsch
Nicholas Gaffney
William Gillinan
Junior Ambeau
Ann Price
John Brewer
Marc Britt
John Wirthlin
Benjamin Kincer
Melissa Nerahoo-McCray
Javier Mesa
Nicole Dunlap
William Tinsley
Adam Bugg
Matt Mueller

Rebecca Goodall
Iden Sinai
Latasha Scott
Leonard Johnson
Sheada Madani
Thomas McDonnell
Colin Abbott
Alexander Cayer
Alexander Zesch
William Roberts
S. Jordan Miller
Jesse Groves
Thomas Farrior
Mercita Ramos
Charles Moore
Kimberly Gustafson
Chandler Bonanno
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Kevin Joyce
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Brett Owens
Omaira Dauta
Kevin Astl
Anthony Duran
Bradley Souders
Izabela Dobson
Elliott Wilcox
Kelsie Ackman

Zachary Karber
James Kannard
Amanda Hersem
Cristina Lemus
Bilal Faruqui
Susan Matchett
Adam Labonte
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Katharine Lawson
James Toombs
Joseph Franco
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Brendon De Souza
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Valerie Alou
Danielle Murray
Susan Mazuchowski
Andrew Tsunis
Amy Bergen
Shiobhan Olivero
Karen Fultz
Michael Finegan
Terry Kors
Brenda Holland
Nicola Brown
Christopher Hunter
Michael Simons
Anthony Gonzalez
I HOPE YOU DANCE …
Diversity Committee
Chairs: Jessica Costello - Office of the Attorney General; and Victoria Cruz-Garcia - Givens Givens Sparks

S
omeone once told me that diversity is being invited to the party and inclusion is being asked to dance. The members of the Hillsborough County Bar Association proudly dance together and quite often. We are proud to have a great many voluntary bar associations that represent the great diversity of our profession and community.

Our voluntary bar associations have often worked together for the greater good. Not too long ago, the HCBA, the Tampa Hispanic Bar Association (THBA), the Hillsborough Association for Women Lawyers (HAWL), and the George Edgecomb Bar Association (GEBA) came together to present a program titled “A Lesson on Modern Day Slavery.” This program focused on educating our members, attorneys, and the community at large about the devastating effects of human trafficking in our community. In June, we joined forces again to honor Latino and African-American veterans who fought during the World War II-Korean War-Vietnam War eras, when their service was undermined by societal prejudices and biases. And just recently, at the annual Salsa, Soul & Sass event, the THBA, GEBAs, and HAWL came together to not only have a good time and for fellowship but to also raise funds for Emanuel A.M.E Church in Charleston, S.C.

The number of voluntary bar associations continues to grow. For example, just recently, local attorneys came together to found the Hillsborough County Lesbian Gay Bisexual and Transgender (LGBT) Bar Association.

Recent events have proven our country to be the embodiment of the “quilt” ideal. A combination of traditions that come together like patchwork to rally behind a core set of values. Our diverse bar associations work toward this goal at a local level. At our best, we believe that our mission is in fact uniquely American. We have different skin colors. We have different ideas about religious faith. We look different, but at our core, we are all American.

Locally, our passion is for the law and our community. Certainly the tragic events that transpired in Charleston have reflected the worst and best of our humanity, but most importantly they have shown that there is hope as we move forward. Hope is shown through our lawyers and professionals who embrace diversity and who continue to fight, both in their individual and professional lives, for equality for all. We know that by supporting one another as voluntary bar associations, we learn from one another.

At the heart of bringing together these bar associations, values, and ideas is the HCBA Diversity Committee. This special committee works to improve and promote diversity in the legal profession. The committee focuses its work on retaining lawyers with diverse backgrounds and informing the broader legal community about issues surrounding diversity and inclusion.

So we invite you to join the HCBA Diversity Committee. We meet every month and collaborate together for unity and equality.

Author: Victoria Cruz-Garcia – Givens Givens Sparks PLLC
Tampa Bay: In the Heart of the Third Coast

Between the influx of healthcare companies, the financial services firms that have taken root, and the real estate development happening all over, the Tampa Bay area has become one of the most dynamic forces in the Gulf region. With four busy seaports, three international airports, and over $133 billion in exports, the commercial opportunities are many and varied. And as a law firm long embedded in the business culture of the “Third Coast,” we are perfectly positioned to help you seize those opportunities.

Lawrence Ingram
Office Managing Partner
813 472 7555 direct
lawrence.ingram@phelps.com
NO PROBATE FOR VA FIDUCIARY ACCOUNTS

Elder Law Section
Chairs: Debra Dandar - Tampa Bay Elder Law Center; and Susan Haubenstock - Law Office of Susan Haubenstock

A VA fiduciary account avoids probate despite standard thinking that the account requires probate since no beneficiary was named.

When a beneficiary is unable to manage his or her affairs due to injury, illness, or infirmities of age, the Veterans Administration will appoint a fiduciary. The fiduciary is bonded and reports to the VA how the funds are used. This appointment will occur despite existing powers of attorney or a guardianship order. The fiduciary role is to protect these funds on behalf the beneficiary.

For instance, federal law prohibits a fiduciary from assigning benefits to a third party, and those benefits cannot be seized by creditors.

Nonassignability and exempt status of benefits

(a)(1) Payments of benefits due ... under any law administered by the Secretary shall not be assignable except to the extent specifically authorized by law, and such payments made to, or on account of, a beneficiary ... shall be exempt from the claim of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever.

Be aware, the VA is increasing oversight of the actions of a veteran’s fiduciary, and lawyers giving advice in the area are at risk for malpractice claims.

Author:
Jack M.
Rosenkranz - Rosenkranz Law Firm

HAVE A COLLEAGUE WHO’S NOT A MEMBER OF THE HCBA? ENCOURAGE HIM OR HER TO JOIN!
As your section co-chairs, we are happy to welcome back past members and new members to our section. As the economy continues to pick up steam and leave behind the recession, members of our section are getting busier, which will only add to the excitement of our increasingly popular, yet niche field of eminent domain.

During the coming year, we plan to host four luncheons, two of which will offer opportunities to earn continuing legal education credits. Our section is composed of lawyers from both the private and public sectors, as well as members of the judiciary.

As such, we intend to reflect those perspectives in the luncheon topics. In addition to having the opportunity to listen to speakers address various topics in the field of eminent domain, our members will have opportunities to impart knowledge by publishing articles in the Lawyer magazine. We welcome your input on ideas, topics, and speakers for the luncheons. Also, we are seeking volunteers to author articles in the Lawyer magazine.

This year, we affirm our commitment to pro bono work. As such, we plan to increase our section’s pro bono participation by sponsoring pro bono projects; joining with pro bono projects sponsored by other Hillsborough County Bar Association sections; offering training in areas of need; and hosting speakers who will share information about volunteer opportunities. If you have any ideas, please feel free to share them with our Pro Bono Committee representative, Angela Rauber, angelabrauber@gmail.com.

Once again, welcome, and we look forward to sharing another year with you in the world of eminent domain.

Authors: Blake Gaylord - Gaylord, Merlin, Ludovici & Diaz; and Kenneth Pope - Hillsborough County Attorney’s Office

KEVIN D. JOHNSON RECOGNIZED BY FLORIDA BAR PRESIDENT

Kevin D. Johnson of the law firm of Thompson, Sizemore, Gonzalez & Hearing received a Florida Bar President’s Award of Merit at The Florida Bar’s 65th Annual Convention in Boca Raton. Gregory W. Coleman, the 2014-15 Florida Bar president, thanked Johnson for leading the creation of The Florida Bar’s new Practice Resource Institute (PRI), a website that features a toolbox of technology solutions for Bar members with practice information and assistance.

“This is an accomplishment that is unheard of in Bar years,” Coleman said. “The new PRI platform is one of the best member benefits we have ever created.”

Explore the PRI for yourself through The Florida Bar’s website: www.floridabar.org
HCBA INSTALLATION OF 2015-2016 OFFICERS & DIRECTORS

Hillsborough County Bar Association President Carter Andersen and the 2015-2016 Board of Directors were sworn in on June 17 during a ceremony at the Chester H. Ferguson Law Center. Andersen’s law partner and mentor Jeff Warren of Bush Ross, P.A., introduced him, and the new HCBA president took a moment to thank all of those who had served as mentors throughout his career.

Outgoing HCBA President Ben Hill IV also recognized some HCBA members who had supported him during his term. Hill presented Richard Martin with the James M. “Red” McEwen Award for his efforts in coordinating the Toast & Roast Retirement Reception for Chief Judge Menendez, and he recognized Bob Nader and Lt. Col. Chris Brown for their work in leading the revamped Military & Veterans Affairs Committee.

Chief Judge Ronald Ficarrotta administered the oath to the incoming HCBA as well as the Young Lawyers Division board and its president, Dara Cooley.

The HCBA would like to thank C1 Bank for sponsoring this great event.
We are excited to co-chair the Environmental & Land Use Section for a second year. Last year, the section undertook quarterly programs covering a wide range of topics relevant for attorneys, law students, and affiliate members with an interest in land use, environmental, state, and local government issues. We appreciated the positive response, enthusiasm, and interest members of our section showed for these programs. We also welcomed participation from members of some of the other sections, as well as law students and affiliate members in environmental/land use-related professions who joined us for these events.

Building upon last year’s events, we are looking forward to a new year of educational programs and luncheons, including providing CLE credits. We strive to make our section’s activities and events both fun and educational. We also intend to increase participation of our members in giving back to the community.

To recap last year’s programs, the section started the year with a CLE luncheon focusing on Port Tampa Bay (formerly known as the Tampa Port Authority), Charles Klug, chief legal officer for Port Tampa Bay, Florida’s largest and most cargo-diverse seaport, gave a fascinating presentation about the history of the port, its environmental permitting jurisdiction and structure, and the past, present, and future land uses and activities at Port Tampa Bay.

The next program featured Jim Shimberg, vice president and general counsel for the Tampa Bay Lightning. Shimberg is also the chief operating officer of Jeffrey Vinik’s real estate company, which is developing 25 acres of land in downtown Tampa, surrounding Amalie Arena. Shimberg shared the vision and tremendous progress that is occurring for this exciting project, which will transform and propel Tampa’s downtown and our community into the future.

In February, the section hosted a presentation and social at one of Tampa’s newest and most exciting projects, the Ulele restaurant. The program focused on the Ulele Springs restoration, the development of Water Works Park, and the next anticipated development for this area, known as Tampa Heights. The program presenters included Catherine Coyle, planning and urban design manager for the City of Tampa; Karla Price, project manager and landscape architect for the city; who oversaw the Water Works Park remediation and development; and Thomas Ries, biologist and president of Ecosphere Restoration Institute, Inc., which undertook the restoration of Ulele Springs. In addition to this tremendous program, members learned about how a vision of one of our city’s greatest leaders, Richard Gonzmart, came to fruition as the Ulele Restaurant. Our members enjoyed a unique, fun, and educational evening, including networking and socializing, within the beautiful beer garden and brewery at the restaurant.

The finale for last year was a timely legislative update recapping the Florida Legislature’s activities regarding environmental and growth management matters, as well as other legislative developments of interest to the section. This update was provided by Linda Loomis Shelley, an esteemed Tallahassee land-use attorney with Buchanan Ingersoll & Rooney, who has served in numerous top Florida government positions, including secretary of the former Florida Department of Community Affairs and general counsel to Governor Bob Graham. Shelley gave an overview of key legislation that passed and failed, and she discussed the 2015 special session.

While we are very appreciative of the enthusiasm and growing support for these programs, our goal for the upcoming year is to build on last year’s events and activities and to continue to provide programs featuring interesting speakers and educational and timely topics. We thank our existing members (we couldn’t do this without you!) and look forward to new members.

Continued on page 43
SHARING KNOWLEDGE AND COLLABORATIVE NETWORKING
Environmental & Land Use Section

Continued from page 42

joining our section. Finally, we will continue to promote pro bono work by our section members and encourage our members to give back to our community.

If you are interested in environmental and land-use issues or know someone who may want to join our section, we encourage you to get involved. Thank you for this honor of chairing the HCBA’s Environmental & Land Use Section, and we look forward to seeing you.

Authors: Erin McCormick - Buchanan Ingersoll & Rooney PC; and Gordon Schiff - Gordon J. Schiff, P.A.

CONGRATULATIONS TO THE 2014-15 HCBA BAR LEADERSHIP INSTITUTE CLASS

The Hillsborough County Bar Association’s Bar Leadership Institute Class held its closing reception on May 21 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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On July 2, the Fourth Circuit affirmed a $237,454,185 judgment against Tuomey Healthcare System, a small, nonprofit hospital in Sumter, S.C. The Fourth Circuit’s opinion may be the final chapter in the decade-long legal drama that addresses a number of significant issues arising under the Physician Self-Referral Law (Stark law) and the False Claims Act (FCA).

Beginning in 2000, a number of local physicians were increasingly performing outpatient surgeries at their offices or at competing ambulatory surgery centers (ASCs), rather than as outpatient hospital surgeries. As a result, Tuomey was losing revenue it would otherwise receive from the facility fees generated by outpatient hospital services. To stem the loss of this revenue, Tuomey entered into part-time employment agreements with the 19 physicians.

After one of the physicians, Dr. Michael Drakeford, expressed compliance concerns about the structure of the proposed arrangements, Tuomey sought legal advice on the contracts from several attorneys — one of whom, Kevin McAnaney, indicated that the contracts raised “red flags” under the Stark law. Despite McAnaney’s concerns, Tuomey continued with the 19 part-time employment agreements, having obtained legal advice from other counsel and an FMV opinion from a consulting firm. Dr. Drakeford subsequently filed an action under the qui tam provisions of the FCA.

Tuomey argued that it did not knowingly violate the FCA because it reasonably relied on the advice of legal counsel. The court rejected this assertion, finding the record to be “replete with evidence indicating that Tuomey shopped for legal opinions approving of the employment contracts, while ignoring negative assessments.” The court found it was reasonable for the jury to conclude that Tuomey did not rely on legal counsel’s advice in good faith because the hospital refused “to give full consideration to McAnaney’s negative assessment of the part-time employment contracts and terminated his representation.” With respect to the more favorable legal opinions obtained from other legal counsel, the court observed that they were issued without knowledge of the concerns raised by McAnaney.

A key takeaway from this case is that obtaining a second legal opinion or valuation opinion must be done cautiously (if at all) because it might later be used as evidence of improper intent. For example, it would be prudent to consider sharing the first expert’s opinion with any second expert who is hired and then asking the second expert to explain the basis for reaching a different conclusion, e.g., changes in facts since the first expert’s review, information overlooked by the first expert, or other reasons the second opinion should be given greater weight.

While it is interesting to note that the concurring opinion found the result in Tuomey “troubling,” writing that the Stark law has become a “booby trap” for health care providers, the high penalty imposed on the hospital in this case likely will encourage both whistleblowers and the government to scrutinize and challenge the nature of financial relationships with physicians.

Author: Thomas (T.J.) Ferrante - Carlton Fields Jorden Burt, P.A.
W \nWhen I was young, someone once asked me who my sports hero was. Without hesitation, I responded: Roberto Clemente. Considering the fact that no other Puerto Rican athlete had achieved the same level of admiration, respect, and love, the answer was easily accepted.

Clemente, the youngest of seven siblings, grew up working in the same sugar fields as his father. At the time that he was drafted by the Pittsburgh Pirates, baseball was just breaking the color barrier, and Clemente spoke very little English. But none of that deterred Clemente. He went on to become the first Latin American/Caribbean player to win a World Series as a starter, receive a National League MVP Award, receive a World Series MVP Award, and be elected to the Hall of Fame. During his career, Clemente won 12 Gold Glove Awards, four National League batting titles, and two World Series Championships; was named to 12 All-Star Games; and reached the 3,000-hit milestone — something only 10 players in the history of the major leagues had ever done up to that point.

But what might be surprising to some is that the reason I admire Clemente has nothing to do with his professional accolades. As revered as Clemente was for all his professional achievements, I admire him more for his actions off the field than on the field. Indeed, it was the countless tales of Clemente’s generosity that turned a simple man (by all accounts) into a legend of fierce ethnic pride for me. Clemente spent most of his time during the off-season doing charitable works by helping people (especially children) and giving of himself. The countless schools, hospitals, public buildings, monuments, and statues that bear his name are a testament to his philanthropy. But his generosity was never calculated to gain public or private recognition. As Clemente once said, “I want to be remembered as a baseball player who gave all he had to give.” And giving his all he did. In response to a massive earthquake in Managua, Nicaragua, Clemente set out to arrange for emergency relief flights carrying aid. But when he learned the aid had not reached the victims because the government of Nicaragua had diverted the first three flights, Clemente decided to accompany the fourth relief flight in the hopes that his presence would ensure that the aid reached the earthquake victims. But as fate would have it, Clemente’s plane crashed shortly after takeoff with no survivors.

Clemente’s story is a reminder to me that as lawyers, much has been given to us, but much is also expected. It is impossible to ignore the different crises affecting us (most stemming simply from a lack of access to justice) and the need for legal professionals to lend a hand. In each story, there is an echo that reminds me that there must be more to our profession than simply billing hours or making money. This year, consider taking on a pro bono case. To paraphrase Clemente: We should strive to be lawyers who gave all we had to give.

Author: Maria del Carmen Ramos - Shumaker, Loop & Kendrick, LLP

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Even sophisticated companies and inventors have questions about basic patent issues, such as what rights a patent confers and how the patent system works. This Q&A series addresses some of the more frequently asked questions.

Q. What rights does a patent provide?
A. A patent concludes with a series of numbered paragraphs, called “claims.” The claims define the scope of protection the patent owner is entitled to, defining the boundaries of the invention. Patents confer exclusionary rights — a patent gives its owner the right to exclude others from making, using, selling, offering for sale, or importing the claimed invention anywhere in the United States for the life of the patent. To establish infringement of a patent, every element of a claim must be found in the accused device, product, or process, either literally or by a substantial equivalent. Instead of preventing others from practicing the patented invention in the United States, a patent owner may wish to license the patent to others by charging a royalty or licensing fee for allowing others to practice the invention. Patents may also be used as a bargaining tool, either when faced with a patent suit by a competitor or when entering negotiations.

Q. Is a prior art search required?
A. Although searching is recommended before preparing a patent application, it is not required. A prior art search can be useful to determine whether it is worth the time and expense of moving forward. If a patent application is prepared, review of the search results can help with crafting claims that are as broad as possible, while distinguishing over the art. There are professional searchers available, but it is also possible to search on your own, using basic Internet word searches and searching the patent office website (www.uspto.gov).

Q. How does the patent examination process work?
A. Once a patent application is filed, it is assigned to a patent examiner responsible for patents in a particular technology area. It is common for a patent application to remain pending for a year or more, awaiting its turn to be examined. The examiner conducts a search of the patent office’s databases, attempting to identify whether the same or a similar invention already exists. Communications between the patent examiner and applicant about what the examiner has found (called “prosecution”) ensue, with the applicant having the option to present arguments about why the examiner’s interpretation is incorrect and/or amending the claims to distinguish over the art. Once (and if) agreement is reached, the applicant pays the issue fee, and the patent office will issue a United States patent.

Q. Is there anything I can do to speed this up?
A. One option is to file a Track One request upon filing of the application. There are fees involved (which are currently...
Continued from page 48

about $4,000 in addition to the regular filing fees), and there are certain requirements and limitations to be met, but if granted, the Track One request can drastically expedite the examination process. The current patent office goal is to issue a final disposition within 12 months of prioritized examination being granted.

Author:  
Kristin Crall - Kilpatrick Townsend & Stockton LLP

ABRAHAM LINCOLN AWARD

J. Meredith Wester has received the 2015 Abraham Lincoln Award from the Tampa Bay American Inn of Court. The annual award honors the member who best exemplifies the goals of the inn in promoting legal excellence, civility, professionalism, and ethics in the practice of law. Wester was one of the founding members of the Tampa Bay Inn of Court in 1993. She is a shareholder at Mechanik, Nuccio, Hearne & Wester, P.A., where she concentrates her practice in commercial litigation.

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Primary Trainer: James Williams, Esq.

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Primary Trainer: Gregory Firestone, Ph.D.

Negotiating and Mediating Health Care Disputes  
May 18 & 19, 2016  
Primary Trainer: Gregory Firestone, Ph.D.

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So you thought you had seen it all when SCOTUS issued several blockbuster employment rulings in the 2014 term? Think again. In the 2015 term, SCOTUS will consider more “must watch” cases with potentially significant employment implications.

Of these, the nominee for “most classy” is *Tyson Foods Inc. v. Bouaphakeo*, no. 14-1146, which may prove to be an epic decision on the standards for class certification. In *Tyson*, the court will consider the requirements for class certification under Rule 23 and collective actions under Section 16(b) of the Fair Labor Standards Act. It will decide: (1) whether differences among class members may be ignored, and a class certified, when plaintiffs use statistical techniques that presume class members to be identical; and (2) whether a class that contains hundreds of members who suffered no injury and have no damages claims may be certified.

Those representing businesses that face class or collective actions should keep a close watch on this one. In an environment in which lower courts often permit class certification, regardless of class member differences, SCOTUS may use this case to reinstate the once-demanding standards for obtaining class certification.

The nominee for “most consequential” is *Campbell-Ewald Co. v. Gomez*, No. 14-857, which will consider “[w]hether a case becomes moot, and thus beyond the judicial power of Article III, when the plaintiff receives an offer of complete relief on her claim” under Rule 68 and, if so, whether a case remains moot when the plaintiff “has asserted a class claim under ... Rule 23, but receives an offer of complete relief before the class is certified.”

Although *Campbell-Ewald Co.* arises under the Telephone Consumer Protection Act, a decision could have serious ramifications for employment class actions. A ruling may settle a circuit split and a Supreme Court split over whether offers of judgment under Rule 68 that are equal to or greater than a plaintiff’s statutory damages moot her individual claim or whether her claim, along with the putative class action, survive the offer’s expiration. Given the prominent role mootness plays in the growing number of employment class actions, if the decision turns on this issue, lawyers must get up to speed quickly about its implications for employment clients.

If you would like to nominate other “must watch” decisions or emerging employment issues that should make the Labor & Employment Section’s list this year, please drop us a line. (Or better yet, offer to write an article.)

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1 Pun intended.
2 *See Gomez v. Campbell-Ewald Co.*, 768 F.3d 871 (9th Cir. 2014).

Author: Jamie Marcario - Greenberg Traurig, P.A.
A general rule is that when a person makes a will, he or she is able to direct who receives property after his or her death. However, in Florida, it is difficult to disinherit a spouse regardless of whether the parties are separated or dissolving their marriage at the time of death. If the dissolution has not been finalized with a judgment and a spouse dies, then the parties are treated as if they are still married. The surviving spouse is entitled to a percentage of the deceased spouse’s estate in what is known as the elective share. A person cannot unilaterally disinherit a spouse. The elective share provides a measure of financial protection for a surviving spouse who has been disinherited. Under current Florida law, a surviving spouse may elect to receive an amount of money that is equal to 30 percent of the decedent spouse’s estate, which includes nonprobate assets (such as life insurance, pensions and retirements, joint assets, and assets in revocable trusts). The elective share does not apply to irrevocable transfers that occurred prior to the date of marriage or before October 1, 1999.

To circumvent the elective share, the parties should execute a prenuptial or antenuptial agreement that specifically references a waiver of homestead and elective share rights. In addition, the antenuptial agreement requires a full and complete disclosure of the parties’ assets and financial statements. In the probate context for the waiver of homestead and elective share, no financial disclosure is required for agreements executed prior to the marriage. Further, no consideration other than the execution of the agreement or waiver is necessary for its validity, whether executed before or after the marriage.

If a married couple in the midst of a dissolution of marriage cannot agree to a marital settlement agreement, the couple will likely not agree to signing a reciprocal agreement waiving entitlement to each other’s estates. If the parties cannot reach an agreement and a spouse dies, the family law court loses its jurisdiction over the matter. At that time, the now estranged but still legal spouse may petition the probate court to be appointed as personal representative and make his or her election to take the elective share. Notwithstanding the elective share, the surviving spouse may also have an entitlement to the homestead protection and a family allowance of up to $18,000.

In total, a decedent may not successfully and completely disinherit a spouse without a valid agreement or waiver. Florida’s probate laws regarding elective shares are complex, and an experienced probate attorney should be used to determine the rights of both the estate and surviving spouse.

1 § 732.2065, Fla. Stat.
3 Id.

Author: Kristi McCart - Sosa Law Office, P.A.
As we seek to build on the outstanding work of the Military & Veterans Affairs Committee (MVAC), we would like to thank Bob Nader, Lt. Col. Christopher Brown, and Ben Hill IV for their guidance and leadership in transforming the former Military Liaison Committee into MVAC. We pledge to work hard to continue to connect our Bar association with our active-duty, reserve, guard, and veteran community in Tampa Bay.

By way of introduction, MVAC leadership is composed of our military liaison, Lt. Col. Brown, the staff judge advocate at MacDill Air Force Base. Our emeritus chair is Bob Nader. Bob is the son of a WWII veteran. He continues to provide the committee with heart, dedication, energy, and great ideas. Co-Chair Colleen O’Brien has several family members who served in the military. She is familiar with and has a deep respect for what it means to serve. Finally, Co-Chair Matthew Hall enlisted in the U.S. Army Infantry at 17 and deployed to Iraq in 2003. The diverse backgrounds of the MVAC leaders are representative of the diverse members of the MVAC who came together to make this committee strong, despite its young age.

Last year, a significant MVAC project was creating the Veterans Legal Registry to connect veterans in need of legal assistance with lawyers wanting to assist them. We currently have 17 areas of law where local attorneys have committed to support those who have served our nation. The list is available at tinyurl.com/veteranslegalregistry. If you would like to be added to the registry, please contact us. Additionally, MVAC and other HCBA attorneys volunteered at community “Stand Downs” and similar events to respond to veterans’ legal questions and provide registry referrals.

Another way the MVAC assists veterans is through the Hillsborough County Veterans Treatment Court (VTC). The VTC recently expanded from misdemeanors and ordinance violations to also include felonies. That change resulted in the court going from about a dozen defendants to more than 40 in less than six months. A unique facet is the VTC’s mentoring system ably led by MVAC member and retired U.S. Army Col. D.J. Reyes. The defendant is assigned a battle buddy with military experience to support the veteran as he or she progresses through the VTC program. Several MVAC members serve as mentors in this rewarding program.

The MVAC also has an education component to its tripartite mission statement. Last year, we conducted three well-received CLEs, and we intend to continue providing CLE credits, including significant ethics credits.

This year, we look forward to working with the HCBA’s other committees and taking advantage of the MVAC’s diverse membership. We hope to capitalize on Colleen’s involvement in the YLD to connect young lawyers with more experienced lawyers to benefit both committees and to extend the MVAC’s reach into specific practice areas.

We invite you to attend an MVAC meeting or volunteer for an event. The MVAC is open to all attorneys, regardless of military experience. Our mission is to serve those who have served this great nation. We look forward to another great year of assisting veterans in our community. We welcome your ideas and hope you will join us on this important mission.

Authors: Matthew F. Hall - Hill Ward Henderson; and Colleen O’Brien - Thirteenth Judicial Circuit
HONORING AFRICAN-AMERICAN AND LATINO-AMERICAN VETERANS

Roughly 150 judges, attorneys, and community leaders gathered on June 16 for an event to pay tribute to African-American and Latino-American veterans who served their country during the World War II-Korean War-Vietnam War eras. The event, hosted by the Tampa Hispanic Bar Association and the George Edgecomb Bar Association, took place at the Sam Gibbons Federal Courthouse and was put on with generous support from the Tampa Bay Federal Bar Association, the Hillsborough Association for Women Lawyers, and the Trial & Litigation Section of the Hillsborough County Bar Association. Promotional support was also given by the HCBA’s Military & Veterans Affairs Committee. The intent of this program was to honor those brave and thoughtful patriots who represented the best of American values.
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A lack of professionalism can have wide-ranging consequences for an attorney, and disciplinary sanctions can be severe. Professionalism may be an easy concept in theory; however, it can become challenging in practice. Overwhelming caseloads, conflicts with distressed clients, and challenging communications from opposing counsel can sometimes create unexpected pitfalls for an attorney. Importantly, attorneys must consider that professionalism is intractably tied to the ethical rules regulating The Florida Bar.

Pursuant to its constitutional authority, the Florida Supreme Court routinely issues disciplinary decisions regarding unprofessional behaviors exhibited by some attorneys. See Art. V, § 15, Fla. Const. These decisions, which demonstrate the court’s authority to regulate the Bar, can be viewed on the Florida Supreme Court website at www.floridasupremecourt.org/decisions/opinions.shtml. A recently issued decision in The Florida Bar v. Dupee, 160 So. 3d 838 (Fla. 2015), elucidates how quickly a 20-year legal career, with the attainment of board certification in real estate law, can be dismantled over malfeasance in one single case.

Zana Dupee represented a wife in a dissolution of marriage proceeding. The wife owned a credit union account in her name only, which contained a large amount of funds. Dupee advised the wife that this account should be closed and a cashier’s check should be issued in the name of a non-existent charitable trust. “Because the named payee was fictitious and the check was never negotiated, the money represented by the cashier’s check remained the property of [Dupee’s] client.” Id. at 841; see also § 673.4041(2), Fla. Stat. (2014). During the course of litigation, Dupee submitted the wife’s false financial affidavit and did not timely or truthfully respond to discovery requests. Finally, Dupee personally secreted away the husband’s treasured coin collection, which the husband obtained in the final judgment. Dupee “did not disclose that she had the coins until she was ordered to produce them in a postjudgment contempt proceeding.” Id. at 843. Dupee was found guilty of violating several rules and was disbarred by the Florida Supreme Court for one year.

“Professionalism” is a word that is frequently extolled by attorneys. However, an attorney’s “professionalism quotient” (PQ) may be more important to cultivate in a profession that protects clients and the rule of law. Dupee clearly demonstrates that it is critical for attorneys to continually develop and guard their professionalism skill set. One of the best methods for attorneys to grow and improve their PQ is to join and actively participate in the Hillsborough County Bar Association! Participating in the HCBA’s various sections and committees can lead to service opportunities in unexpected ways and create exposure to countless examples of excellent leadership.

Author: Caroline Johnson Levine - Office of the Attorney General

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Florida’s appellate districts are currently split on this issue. The Fourth DCA takes the same view as Bartram. See Evergrene Partners, Inc. v. Citibank, N.A., 143 So. 3d 954 (Fla. 4th DCA 2014). The Third DCA, however, takes the opposite view. In Deutsche Bank Trust Co. Americas v. Beauvais, the Third DCA held that dismissal without prejudice of a foreclosure action in which a mortgagee sought to accelerate a loan does not function to decelerate the loan. That holding is significant because the statute of limitations continues to run on all payments accelerated (i.e., the entire loan amount), and the failure to bring suit within five years of acceleration will bar any subsequent suit unless the mortgagee has affirmatively decelerated the note. This conflict is concerning.

Recently, two federal courts have provided some insight into how the Florida Supreme Court may resolve the split among the

Continued on page 59
Two Federal Courts Rule on Statute of Limitations While Bartram Awaits Decision
Real Property, Probate & Trust Law Section

Continued from page 58

districts. In Summerlin, the Southern District of Florida, acknowledging the split among the Florida appellate districts, observed, after a careful review of the case law, that the “vast majority of state and federal courts in Florida have found” that a “mortgagee’s prior exercise of its right to accelerate all payments and bring a foreclosure action will not begin the limitations period as to the entire mortgage.” 2015 WL 4065372, at *5. In fact, the Summerlin court noted that Beauvais is essentially the lone exception to that rule. Stern likewise concluded that Beauvais is “contrary to the overwhelming weight of authority.” 2015 WL 4065372, at *3. And Stern, like Summerlin, relied on the Fourth DCA’s decision in Evergrene Partners for the proposition that where a prior foreclosure action was dismissed without prejudice, “any acts of default still within the statute of limitations may be raised in a subsequent suit.” Id. (quoting Evergrene Partners, 143 So. 3d at 965). Of course, the decisions in Summerlin and Stern are not binding, but they are enlightening and do provide some guidance until the Florida Supreme Court decides Bartram sometime after oral argument in November.

Author:
Jennifer Lima-Smith - Gilbert Garcia Group P.A.

‘Let’s Talk Law’ Radio Show Kicks Off

HCBA members learned a lot about creating a radio show from the professionals at MoneyTalk, 1010 AM. If you’re interested in being part of the “Let’s Talk Law” radio show, contact Renee Montefusco at (727) 365-4346, and be sure to tell her you’re an HCBA member!
In any state-court-filed matter, one of the first issues that defense counsel analyzes is whether the case can be removed to federal court. When removal is based on diversity jurisdiction, the amount in controversy becomes an issue and the defendant, as the party seeking removal, bears the burden of establishing jurisdiction. In the not-so-uncommon scenario where the plaintiff has not pled a specific amount of damages, what is the defendant to do? Does the defendant have to merely allege jurisdictional facts to support removal, or does the defendant have to submit evidence to support the amount in controversy?

The United States Supreme Court addressed the issue in *Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547 (2014). The underlying matter involved the Class Action Fairness Act of 2005 (CAFA), which outlines the federal courts’ diversity jurisdiction over class actions. To establish federal jurisdiction under the CAFA, three elements are required: (1) minimal diversity, meaning at least one plaintiff and one defendant must be citizens of different states, (2) the proposed class must have at least 100 members, and (3) the amount in controversy must exceed $5 million. 28 U.S.C. § 1332(d)(2), (6).

In *Dart Cherokee*, the defendant removed the action to federal court and alleged in the notice that the amount in controversy was over $8 million, well above the $5 million jurisdictional amount. The plaintiff moved to remand, which the district court granted since the notice of removal failed to provide any evidentiary support for the $8 million figure. Specifically, the district court explained that while a plaintiff cannot avoid removal merely by declining to allege the jurisdictional amount, the defendant must support the amount in controversy with factual evidence rather than mere assumption or speculation. For example, the defendant can use discovery methods or affidavits to support the jurisdictional amount. In *Dart Cherokee*, the defendant did not submit any evidence to support its notice of removal, and the district court explained that the defendants were obligated to allege all necessary jurisdictional facts in the notice of removal, not in response to a motion to remand.

The issue made its way to the United States Supreme Court, where the court held that, under 28 U.S.C. § 1446(a), a defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold. The notice need not contain evidentiary submissions. The court further explained that a plaintiff’s amount-in-controversy allegation invoking federal-court jurisdiction is accepted if made in good faith, and the amount-in-controversy allegation of a defendant seeking federal-court adjudication should be accepted when not contested by the plaintiff or questioned by the court. If the plaintiff does contest the allegation, the parties will be entitled to submit proof, and the court will decide. In the notice though, plausible allegations are sufficient.

Author: Daniel P. Dietrich - Burr & Forman, LLP

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Are you looking for a new job? Go to hillsbar.com to check out our Career Center.
Senior lawyers in the Hillsborough County Bar Association have the opportunity to provide an example for legal ethics and professionalism for other lawyers in the Thirteenth Judicial Circuit. For inspiration, experienced lawyers often look to the American Bar Association (ABA), which has provided leadership in legal ethics and professional responsibility for over 100 years, through the adoption of professional standards as models of appropriate conduct.1

In 1908, the ABA adopted the Canons of Professional Ethics based principally on the Code of Ethics that had been previously adopted by the Alabama Bar Association.2 The Preamble to the Canons sets the tone for the conduct of lawyers in the United States. “The future of the Republic ... depends upon our maintenance of Justice pure and unsullied.” “It cannot be so maintained unless the conduct and the motives of the members of our profession are such as to merit the approval of all just men.”3 The 32 canons, among other things, touched on: The Duty of Lawyers to the Courts (Canon 1); Adverse Influences and Conflicting Interests (Canon 6); Restraining Parties from Impropieties (Canon 16); Candor and Fairness (Canon 22); and Upholding the Honor of the Profession (Canon 29). These were eventually expanded to 47 canons, including Confidences of a Client (Canon 37).4 However, the Canons of Professional Ethics were not an effective teaching instrument and failed to give guidance to young lawyers beyond the language of the canons themselves.5 So in 1964, then ABA President and later Supreme Court Justice Lewis F. Powell Jr. created a special committee to evaluate ethical standards. That committee produced the Model Code of Professional Responsibility, which was adopted in 1969 and subsequently approved by the vast majority of state and federal jurisdictions.6 The code acquired the force of law only when it was adopted in a jurisdiction by a state authority, typically the state’s supreme court.7

The code had nine broad canons, including: A Lawyer Should Preserve the Confidences and Secrets of a Client (Canon 4); A Lawyer Should Exercise Independent Professional Judgment on Behalf of a Client (Canon 5); A Lawyer Should Represent a Client Competently (Canon 6); and A Lawyer Should Represent a Client Zealously within the Bounds of the Law (Canon 7). Following each canon were Ethical Considerations, which were aspirational, and Disciplinary Rules, which were binding.8

In 1983, the ABA approved the Model Rules of Professional Conduct, which were adopted in Florida in 1986. These Florida Rules of Professional Conduct, which closely follow the model rules, consist of approximately 60 rules each followed by a comment section.9 Thus, it is the Florida Rules of Professional Conduct that now provide lawyers with the essential guidelines for ethical behavior in Florida. Just as importantly, it is from the example of more senior lawyers that today’s younger, less experienced lawyers can create an ethical foundation for a legal profession which promotes civility and honesty among its members, as well as respect for the community at large.

2 Id.
3 Canons of Professional Ethics, at 1 (Am. Bar Ass’n 1908).
4 Id.
5 Model Code of Professional Responsibility, at x (Am. Bar Ass’n 1985).
7 Charles W. Wolfram, Modern Legal Ethics 56 (West 1986).
9 Rules Regulating the Florida Bar, Chapter 4 (2013).

Author: Thomas Newcomb Hyde, Attorney at Law
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Welcome to the start of a new year for the Solo & Small Firm Section of the Hillsborough County Bar Association. I am excited to be taking the helm this year, and I thank my predecessors, especially James Schmidt, for their dedication to our section and the HCBA as a whole.

Unlike other sections and committees of the HCBA, the Solo & Small Firm Section encompasses a truly diverse membership, with practitioners in a variety of substantive law areas and practice settings. Although this can sometimes present a challenge when defining ourselves, our diversity affords us a unique opportunity to grow our businesses in new and unexpected ways through collaboration and education. As solo and small firm practitioners, we are sometimes expected to be a jack of all trades — even if it takes us out of our preferred comfort zones. With that in mind, the overarching theme for this year’s Solo & Small Firm Section will be focused on those practice management and substantive issues that every solo and small firm lawyer should have working knowledge of.

We will have five lunch meetings this year, each with an informative CLE presentation. As technology changes, so does the practice of law, and we will explore practice management issues in this new age, including the ins and outs of a virtual law practice. With changing times, however, come evolving issues in ethics and professional responsibility, and we will discuss those most pressing concerns facing our practice today. We will also look at substantive issues affecting our clients, and perhaps ourselves, including bankruptcy and judgment collection, intellectual property, and estate planning.

Beyond education, our meetings will provide us the opportunity to get to know each other and build that imperative network of competent and trustworthy colleagues that every lawyer needs — a social setting to learn from and with each other so we are not really traveling this road “solo.” We will also explore ways to work as a section to support our community and the Thirteenth Judicial Circuit’s pro bono initiatives. I welcome your thoughts and suggestions as to how our section can work best to accomplish our group and individual goals.

Whether you are a current solo or small firm practitioner or are contemplating making that step, I hope you will join us this year. I look forward to working with all of you to grow and strengthen our businesses and our Solo & Small Firm Section of the HCBA.

Author: Amanda M. Uliano – Law Office of Amanda M. Uliano, P.A.

ARE YOU YOUR OWN PR PERSON?

Share your achievements in the Lawyer magazine’s Around the Association column by emailing corrie@hillsbar.com.
When is it safe? Clients with concerns about possible fraud on their tax returns from a prior year need to be aware of the pertinent statutes of limitations. This article provides a basic discussion of select civil and criminal statutes of limitations for tax fraud. On the civil side, the IRS may have three years, six years, or forever to assess a tax liability, along with corresponding penalties and interest, on a given tax return.

The general rule is that any tax “shall be assessed within 3 years after the return was filed.” I.R.C. § 6501(a). Under Section 6501(e), if the taxpayer omitted certain items from the return, such as more than 25 percent of gross income, the IRS has up to six years to assess the tax. An even more generous extension applies in cases of a “false or fraudulent return with the intent to evade taxes, the taxpayer’s complaints about an unlimited period for assessment might ring hollow. A less intuitive and more problematic scenario arises when the tax return filed was fraudulent but the taxpayer did not personally know of the fraud. This could arise if a return preparer includes fraudulent items on a tax return without the explicit knowledge or consent of the taxpayer. It also could arise where a taxpayer, relying on advice from a tax professional, used a tax reduction strategy that was later determined by the IRS to be fraudulent.

Whether the IRS will be entitled to use the unlimited statute where the “fraud on the return” was perpetrated by a third party is currently unsettled. The government has taken the position in different forums that the unlimited statute should apply even where the fraud was committed by a third party. The government has prevailed with variations of this argument in Tax Court, Allen v. Commissioner, 128 T.C. 37 (2007), and in the Second Circuit, City Wide Transit, Inc. v. Commissioner, 709 F.3d 102 (2d Cir. 2013). Conversely, this argument has been rejected by the Court of Federal Claims, BASR Partnership v. United States, 113 Fed. Cl. 181 (Fed. Cl. 2013).

From a criminal standpoint, the most common federal tax crimes have a six-year statute of limitations. I.R.C. § 6531. However, there are several events that could arguably extend the criminal statute well beyond six years after filing of the return. Those events include post-filing acts of evasion by the taxpayer or a conspirator, summons enforcement proceedings, government requests for foreign evidence, and, in some cases, acts of Congress declaring war or authorizing the use of military force.

Author: Matt Mueller - Wiand Guerra King P.A.

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In May, hundreds of young lawyers from across the country descended upon the Tampa Bay area for the American Bar Association Young Lawyers Division’s Annual Spring Conference. As part of the conference, many of those attorneys planned and implemented an outreach project that left a lasting impact on the Tampa Bay community. Homeless and transitional youth benefitted from two free legal clinics through Project Street Youth — one at Metropolitan Ministries and the other at Seminole Heights Charter School.

Homelessness affects more than 1.7 million youth in the United States, and that number is growing with each passing year. Almost 40 percent of the homeless population in the United States is younger than 18. Project Street Youth is a project of the ABA YLD’s Public Service Team in partnership with the Center on Children and the Law and the Commission on Homelessness and Poverty. The program’s goal is to provide access to justice for homeless and transitional youth by educating and raising awareness of the issue, promoting effective legislation, and providing free legal clinics.

At the clinics here in the Tampa Bay area, more than 15 young lawyers volunteered and provided free legal advice to approximately 45 homeless and transitional youth, helping them with a range of challenges. Clinic volunteers addressed issues including questions about public assistance and government benefits, landlord and tenant issues, credit questions, domestic violence, custody matters, education concerns, expungement of criminal records, taxes, small business loans, employment discrimination, labor violations, personal injury claims, and emancipation — just to name a few! Each of the homeless or transitional youths was also given a backpack with necessities such as toiletries and other personal items.

Bobby Smith, principal of Seminole Heights Charter School, reported that “our students greatly enjoyed and certainly benefitted from the legal clinic.” We could not have held one clinic — much less two — without the amazing support of the ABA YLD Tampa Bay Host Committee and the Florida Bar Young Lawyers Division, which donated $1,000 to the clinics.

In conjunction with the Project Street Youth clinics, the ABA YLD conference held a luncheon program, “The Faces of Homeless and Transitional Youth: A Call to Action,” which opened with the screening of a short documentary featuring homeless and transitional youth followed by a panel discussion led by advocates for homeless youth who shared their experiences and described some of the many ways young lawyers can take action to help.

For those interested in learning more, visit: www.ambar.org/projectstreetyouth.

For information on ways you can get involved with Tampa Bay pro bono opportunities, contact Rosemary Armstrong, chair of the Thirteenth Judicial Circuit Pro Bono Committee, at rosemary@crossroadsfloridakids.org, or visit www.hillsbar.com/?page=ProBono for more information on volunteer legal organizations.

Author: Cathy Kamm – Shook, Hardy & Bacon
JUDICIAL PRO BONO SUMMIT PLANNED FOR OCTOBER

The Thirteenth Judicial Circuit Pro Bono Committee will host a Judicial Pro Bono Summit to coincide with and kick off local pro bono events during National Celebrate Pro Bono Week, which runs October 25-31. The summit will be held at the Chester Ferguson Law Center on October 26 at noon. The summit’s format is simple and designed to take no more than one hour. Over a boxed lunch (or bring your own brown bag) in a meeting room away from the courthouses, state and federal judges will hear several five-minute presentations from pro bono providers/coordinators on what population those organizations serve and in what subject matters. The judges will also hear a brief presentation on behalf of The Florida Bar Foundation on how to become a Foundation “Fellow.” And the judges will get some tips on special accommodations they may make for pro bono attorneys. Once the presentations are concluded, the guest presenters will be excused, and then the judges will end with an open brainstorming session on other ways judges can be involved in pro bono activities. The committee will distribute to the judges a handbook-style compilation of useful resources, including referral information for legal services providers in the area, so that these resources will be within arm’s reach on the bench. The materials will also include ways a judge may participate in pro bono.

SEPTEMBER 16
Membership Luncheon featuring Ramon Abadin, president of The Florida Bar
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OCTOBER 16
YLD Golf Tournament, Temple Terrace Golf & Country Club

OCTOBER 27
Bench Bar Conference, Membership Luncheon & Judicial Reception, Hilton Tampa Downtown

DECEMBER 3
Holiday Open House, Chester H. Ferguson Law Center

JANUARY 19
Diversity Membership Luncheon, Hilton Tampa Downtown

FEBRUARY 13
Diversity Networking Social, Chester H. Ferguson Law Center

MARCH 5
Judicial Pig Roast/Food Festival & 5K Pro Bono River Run
On the grounds of Stetson Law Tampa Campus

Learn more about HCBA events at www.hillsbar.com.
Stay Connected
Each year, the Trial & Litigation Section awards a scholarship to the law student who submits an article that best addresses an important issue facing our adversary system. This year, we asked students to answer the following: “I believe that jury trials are important to American jurisprudence because ...” We’re pleased to present a very thoughtful article by Sienna Osta, a third-year law student at Cooley Law School and our 2014-2015 scholarship winner.

* * *

Jury trials are important to American jurisprudence because they are so rare. Readers of the Lawyer magazine will not be surprised by the following trends:

- During the 1970s, about 15 percent of criminal and 8 percent of civil cases went to trial. In 2010, trials accounted for only 2 percent of criminal and 1 percent of civil dispositions.
- From 1991 to 2010, the number of civil jury trials declined by almost 60 percent.
- Among U.S. district courts in 2010, trials accounted for less than 3 percent of all tort, contract, and intellectual property dispositions.

The rarity of trials reveals two important things about American jurisprudence. First, that trials, and jury trials in particular, are inefficient, unpredictable, and expensive. Second, the factors that make jury trials rare also explain why they still exist — jury trials are the best way to solve our most intractable disputes.

In 1787 — a time when physicians treated illnesses by bleeding their patients, physicists argued about aether, and information traveled only as fast as horses could carry it — a handful of American lawyers helped draft the fundamental rules for the most powerful government in history.

Only revolutionary lawyers could have founded a government made of equal parts radical political theory and traditional common law. The protection of jury trials by the Bill of Rights is among the most illustrative examples of our Constitution’s synthesis of egalitarianism and establishmentarianism.

Yet the ideology of trial avoidance has become institutionalized throughout the legal community. Legislators, judges, attorneys, and even clients seem to share the same mentality — trials are just too risky. But the laudable desire for increased economy, predictability, and uniformity can be taken a step too far. The risks inherent in a fair trial are a feature, not a bug.

As the most democratic element of an increasingly stratified and bureaucratic system, trials lend credibility to adjudicative decisions in a way that mechanical determinations cannot. Just as a fair election is unpredictable, a fair trial must be unpredictable. All the frustratingly incalculable variables — the biases, the emotions, the sensitivity to initial conditions — meld together into the emergent property called legitimacy.

Jury trials are important because they are sometimes at odds with the will of those in power. And yet, jury trials serve to vindicate just authority. A government that can enforce any edict it desires, without limitation, is a tyranny. A government that must convince a statistical sample of the community that its laws are just, both in theory and in application, is constitutional.

In civil matters, a public jury trial can actually be a powerful panacea for future litigation. A corporation that can foist operational costs and liabilities on society is a parasite. A corporation that successfully defends against allegations of negligence, corruption, and greed is a citizen.

Jury trials are important to American jurisprudence because they are the difference between democracy and totalitarianism. They are important because we have yet to devise a fairer way to resolve our disputes. They are important because they are not yet dead.

Author:
Sienna Osta -
Western Michigan University -
Cooley Law School, Class of 2015
ASK-A-LAWYER SET UNDER CONSTRUCTION

The panelists from our Lawyer Referral & Information Service took a break from their early-morning Fox 13 appearances over the summer while the TV set was being remodeled, but the camaraderie continued with a collegial breakfast at the Bar. LRIS Director Lupe Mitcham cooked a homemade breakfast for the group, and everyone took some time away from the phones to get to know each other a little better.

If you’d like to join LRIS, call Lupe at (813) 221-7780.
This year, we will have speakers presenting seminars addressing dramatic changes and issues in state workers’ compensation law, on immunity issues, on methods of medical treatment, and on unprecedented changes to the rules governing the Longshore and Harbor Workers’ Compensation Act and Defense Base Act. Watch your email, this magazine, and the HCBA Weekly Update for dates and times. In the meantime, discovery limits have been hot topics.

The most recent relevant discovery decision came from the Second District in *Mueller v. Wal-Mart Stores*, 164 So. 3d 164 So. 3d 164 So. 3d 164 So. 3d 164 So. 3d (Fla. 2d DCA 2015). The claimant, who was hit by a truck, filed a negligence claim in 2012 and objected to a discovery order compelling release of his entire military file after an honorable discharge in 1993. The claimant argued this was an invasion of his right to privacy and requested at a minimum that the court conduct an in-camera inspection of the file before requiring disclosure. The Second District agreed and directed that the lower court conduct an in-camera inspection and segregate any private documents that were not relevant to Mueller’s negligence action from the relevant documents.

An earlier decision on social media was announced in *Root v. Balfour Beatty Construction*, 132 So. 3d 132 So. 3d 132 So. 3d 132 So. 3d 132 So. 3d 132 So. 3d (Fla. 2d DCA 2014). In that case, a 3-year-old child was struck by a vehicle. During discovery, the trial court ordered the child’s mother to produce Facebook material relating to her relationship with all of her children, not just the injured 3-year-old, and with other family members, boyfriends, husbands, and/or significant others, both before and after the accident. There was no temporal limitation on the production. The Second District overturned the trial court, noting that this was the kind of “carte blanche” discovery that the Florida Supreme Court warned against in *Allstate Insurance v. Langston*, 655 So. 2d 91, 655 So. 2d 91, 655 So. 2d 91, 655 So. 2d 91, 655 So. 2d 91 (Fla. 1995). “[W]e do not believe that a litigant is entitled to carte blanche irrelevant discovery.”

Appellate cases before the Florida Supreme Court will dramatically affect the practice both in terms of indemnity benefits, *Westphal v. City of St. Petersburg*, 122 So. 3d 440 (Fla. 1st DCA 2013) cert. granted, and in terms of attorney fee awards, *Castellanos v. Next Door*, 124 So. 3d 392 (Fla. 1st DCA 2014), cert. granted. There are also medical procedures that are becoming mainstream, such as minimally invasive spine surgery and stem-cell injection procedures for the knee and shoulder. The importance of tort remedies available to injured workers was illustrated by a favorable jury verdict for a plaintiff earlier this year in *Robert Matthews v. Mosaic Fertilizer*, Case No. 10-CA-009268 Circuit Court, Hillsborough County, FL (verdict docketed on March 30, 2015.) The Longshore and Defense Base Act Rules of Procedure were dramatically revised this year and will have a major impact on that practice. We will offer seminars and speakers on each of these topics this coming year. We hope to see you then.

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

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Jolyon D. Acosta, a shareholder at Bush Ross, was recently accepted into the Florida Fellows Institute. Acosta’s practice focuses on federal and state taxation; corporate law; partnership law; and wills, trusts, estate planning, and estate administration.

Retired Judge James M. Barton II has been reappointed for a three-year term on the board of directors for The Florida Bar Foundation. The foundation is a statewide charitable organization whose mission is to provide greater access to justice.

Gregory P. Brown, a shareholder in the litigation group of Hill Ward Henderson, P.A., has been reappointed to a three-year term on the board of directors for The Florida Bar Foundation.

Adam B. Cordover celebrated his law firm’s fifth anniversary in July and changed its name to Family Diplomacy: A Collaborative Law Firm. Family Diplomacy offers exclusively out-of-court dispute resolution services, including collaborative family law, mediation, and unbundled legal services.

Kacy Donlon, a founding shareholder of the Tampa-based law firm Wiand Guerra King, was named The Florida Bar Business Law Section’s Outstanding Member of the Year at the Bar’s annual meeting in Boca Raton.

Leonardo M. Dosoretz of the law firm Shumaker, Loop & Kendrick, LLP, has been appointed chair of the Public Policy Committee of Emerge Tampa Bay. Emerge Tampa Bay is a young professional leadership program of the Greater Tampa Chamber of Commerce designed for emerging leaders ages 21 to 35.

Leonardo M. Dosoretz and Erin M. McKenney, associates in the Tampa office of Shumaker, Loop & Kendrick, LLP, have graduated from Tampa Connection. The Tampa Connection program helps guide executives into key leadership roles while helping to meet Tampa’s growing social, health, and education needs. Its mission is to prepare class members to become active volunteers and leaders in the Tampa Bay community.

Jeffrey P. Greenberg has become of counsel to the firm Barnett Bolt Kirkwood Long & Koche Attorneys at Law. Greenberg has more than 25 years’ experience in health care and corporate transactional and regulatory matters, including acquisitions and divestitures, federal and state licensure, and compliance.

Thomas Newcomb Hyde presented “Resolving Professionalism Complaints” to students and faculty of Western Michigan University – Cooley Law School on behalf of the Thirteenth Judicial Circuit’s Professionalism Committee.

Richard A. Jacobson, a shareholder with Buchanan Ingersoll & Rooney, has been appointed to the International Taxation Committee of the Florida Institute of CPAs. Jacobson is a certified public accountant who is also board-certified by The Florida Bar in International Law.

Leonard H. Johnson has joined the firm Barnett Bolt Kirkwood Long & Koche Attorneys at Law as a partner. Johnson has more than three decades of experience serving clients with complex issues related to buying and selling real estate and businesses, banking law, construction matters, land use and development, and estate planning.

Andrew R. Lincoln has joined the law firm of Jackson Lewis, P.C., in the Tampa office as an associate. Lincoln concentrates his practice on wage and hour compliance, FLSA litigation, and collective/class actions. He also represents management in matters related to labor relations and employment law.

Sheada Madani has joined the firm Barnett Bolt Kirkwood Long & Koche Attorneys at Law as an associate attorney. Madani practices transactional real estate, banking, and corporate law.

Monica Mason has joined the law firm of Trenam Kemker as Senior Counsel and will practice in the Business Transactions Group. Her practice will focus on intellectual property law with a specific focus on company representation in trademark, copyright, and domain name matters.

William “Bert” McBride of Trenam Kemker completed the New Leaders Council Institute (NLC) program and is an NLC Fellow. The NLC Institute is a premier leadership and professional development, training, mentoring, networking, and career and political advancement program for young professionals. An intense, five-month...
progressive entrepreneurship training program, the NLC Institute is highly selective, admitting only 15 to 20 fellows.

Mac R. McCoy, a shareholder in the Tampa office of Carlton Fields Jorden Burt, has been appointed a United States magistrate judge for the Fort Myers Division of the Middle District of Florida.

Steven Mezer has joined the law firm of Becker & Poliakoff as a shareholder in the Community Association Law Practice Group at its Tampa office. Mezer has focused his practice during the past three decades on representing community associations and their boards of directors and will continue to serve as counsel to community association clients in the Tampa Bay area.

Woodrow H. “Woody” Pollack, a shareholder in the Tampa office of GrayRobinson, has been appointed chair of The Florida Bar’s Business Law Section’s Intellectual Property Committee. Pollack was previously vice chair.

Steven C. Pratico has joined the firm Barnett Bolt Kirkwood Long & Koche Attorneys at Law as a partner. Pratico handles all manner of commercial litigation, including contract and other commercial disputes, employment issues, and real estate disputes.

Jennifer G. Roeper of Shumaker, Loop & Kendrick, LLP, has been reappointed to serve

Continued from page 76

Continued on page 78
on The Florida Bar Immigration & Nationality Board Certification Committee for a three-year term. This committee is responsible for peer reviewing and certifying attorneys who meet rigorous standards of excellence in the field of Immigration & Nationality Law. Roeper is co-chair of the immigration practice group and is certified by The Florida Bar in Immigration & Nationality Law.

Murray Silverstein of Greenberg Traurig, P.A., has been appointed to the board of directors of The Florida Bar Foundation. Silverstein focuses his practice on commercial litigation and class actions.

Lavern Wilson of FordHarrison LLP has passed The Florida Bar Board Certification for Labor & Employment Law. Approximately 4,700 of Florida’s 100,000 lawyers are board-certified, and only 200 of them are certified in Labor & Employment Law.

Akerman LLP has received the “I Am for the Child” award, the highest recognition by the Florida Statewide Guardian ad Litem (GAL) Program. Akerman was honored for its commitment to promote volunteer advocacy for at-risk youth in the courtroom and community. Akerman is the first law firm to partner nationally with the National Court-Appointed Special Advocate Association and its local GAL programs.

Murray Silverstein of Greenberg Traurig, P.A., has been appointed to the board of directors of The Florida Bar Foundation. Silverstein focuses his practice on commercial litigation and class actions.


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JURY TRIAL INFORMATION

For the month of: June 2015
Judge: Hon. Bernard C. Silver
Parties: Sheryl Scott-Duns as PR for the estate of Justin Scott-Duns v. Life Concepts, Inc., d/b/a Quest, Inc. a/k/a Quest’s Adult Day Training Center
Attorneys: For plaintiff: Henry E. Valenzuela; for defendant: Mike McCahill
Nature of case: Negligence
Verdict: $8,000,000

For the month of: July 2015
Judge: Hon. Walter Schafer
Parties: Roderick Fields v. Keisha L. James and Louis R. Gooltenlenchter
Attorneys: For plaintiff: Jay Dinan; for defendant: Brandon Scheele and Thomas Kane Jr.
Nature of case: Admitted-liability case with surgeries to plaintiff’s knee and spine
Verdict: Defense verdict, $4,747.16 (ER bill), resulting in zero verdict. Motion to enforce defendants’ proposal for settlement is pending.

To submit news for Jury Trial Information, email teresa@hillsbar.com.

ADVERTISING INDEX

Bank of Tampa.................................................................Back Cover
Barbas Nunez Sanders Butler & Hovsepian ........................26
Bay Area Legal Services .................................................57
Boston Asset Management .............................................18
Brannock & Humphries ..................................................66
Buell & Eligett ...............................................................14
Business Observer ..........................................................80
C1 Bank .........................................................................27
Charles W. Ross ..............................................................32
Darwin Securities ............................................................80
Douglas R. Ramm, Ph.D., ABPP .................................15
FamLaw ..........................................................................63
GulfShore Bank ..............................................................63
Gunn Law Group ...........................................................Inside Front Cover
Holland & Knight ...........................................................19
Isom Mediation ...............................................................63
Jeff Murphy Law .............................................................80
Johnson, Pope, Bokor, Ruppel & Burns LLP - Scott Ilgenfritz ......15
Law Office of Robert Eckard & Associates .......................33
LawPay ..........................................................................67
Lee Pallardy ......................................................................4
Librero’s School & Dance Club, Inc. .................................49
Mchale, P.A. ...................................................................63
Mediation for Florida ......................................................77
Morgan & Morgan Business Trial Group ............................44
NorthStar Bank ...............................................................15
Older, Lundy & Alvarez ..................................................54
Pheils Dunbar .................................................................37
Robert Bonanno .............................................................75
Skoda Minotti .................................................................78
Suncoast Trust & Investment Services ............................75
The Centers .................................................................Inside Back Cover
The Centers - Litigation Support Services .......................55
The Fraley Law Firm .......................................................75
Thompson Studios ..........................................................73
Tim Bower Rodriguez, P.A. ............................................6
Trenam Kemker .............................................................55
Trial Consulting Services LLC .......................................62
University of South Florida HPCC ..................................49
Waller & Wax Advisors ..................................................4
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