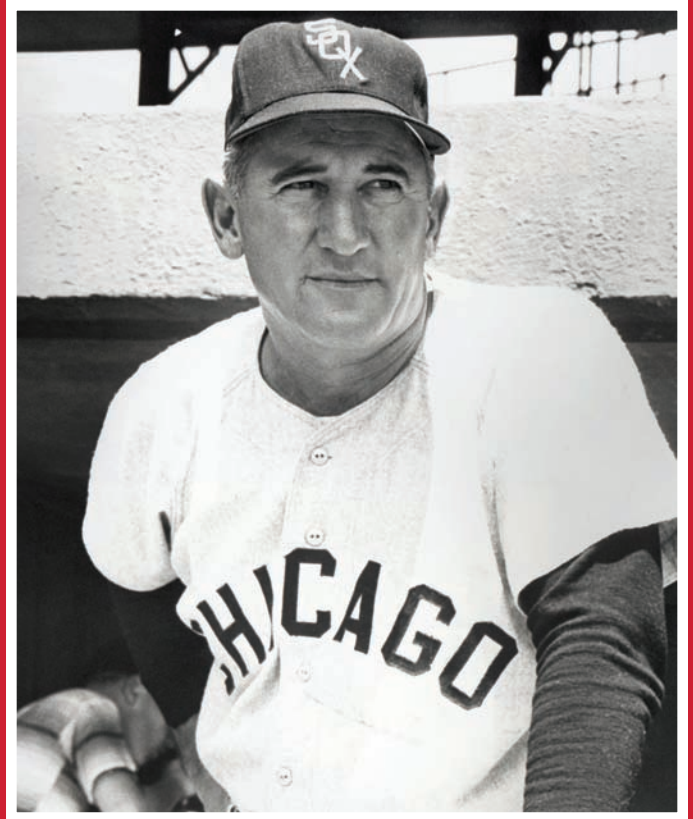
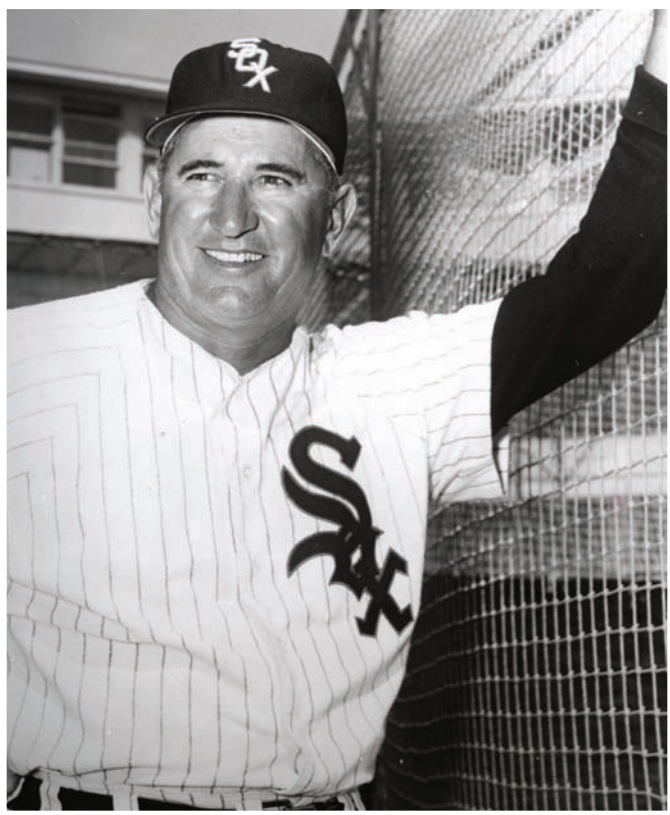


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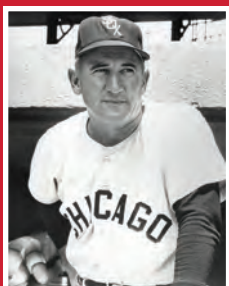
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ABOUT THE COVER

Happy spring! In honor of baseball season, we are featuring on our cover one of our beloved local sports legends — Alfonso Ramon "Al" López, affectionately known to many as "El Señor." He was the first Tampa native to become a Major League player, manager, and inductee into the National Baseball Hall of Fame. He played for the Brooklyn Robins/Dodgers, Boston Bees, Pittsburgh Pirates, and Cleveland Indians, and was the manager for the Cleveland Indians and the Chicago White Sox. Lopez held the Major League record for career games as a catcher for more than 40 years. Also, over the course of 18 full seasons as a baseball manager, López's teams never finished with a losing record. He was inducted into the Baseball Hall of Fame in 1977.

On the cover, we also feature two local landmarks that bear Lopez's name, Al Lopez Park and The Tampa Baseball Museum at the Al Lopez House. Al Lopez Park was renamed to honor Lopez in 1992. The popular park located off of Himes Avenue features a life-statue of Lopez. The Tampa Baseball Museum, which commemorate the city's baseball heritage, opened in 2021 and is located in Lopez's rehabilitated childhood home in Ybor City.

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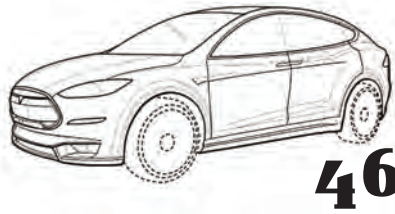
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Note: On the cover of the January/February issue of the magazine, we mistakenly included one photo of Lee Roy Selmon's brother, Lucious Selmon, who also played for University of Oklahoma, in the collage tribute to Lee Roy Selmon. The photo has been replaced in the digital version of the magazine that is archived on the HCBA website. We sincerely apologize for the error.

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Diversity Fair & Path to Unity Event

The HCBA Diversity, Equity & Inclusion Committee was pleased to host the Diversity Fair & Path to Unity Luncheon/CLE Event on February 13 at the Chester H. Ferguson Law Center. The Florida Bar's Standing Committee on Diversity and Inclusion sponsored a traveling exhibit honoring attorneys in Florida who exemplify the values of The Florida Bar's mission for equality. The CLE also included an inspiring panel of attorneys discussing multigenerational workforce benefits and challenges.

Thank you to our other event sponsors: The Florida Bar Diversity & Inclusion Committee; The Florida Bar Real Property Probate & Trust Law (RPPTL) Section, Membership & Inclusion Committee; and Hill Ward Henderson.





Taking the Plunge: Board Certification

I would encourage you to take the plunge, apply, and take one more test — the journey alone can make you a better attorney.

Early in November, I did something that I thought I would never do again — take an exam testing my legal knowledge. I originally took the Bar Exam in Maryland, and, once I passed, waived into the District of Columbia, where I practiced for the first part of my career. When I moved to Florida in 2009, I had to take the entire Bar Exam again. After going through the arduous process of studying what seemed like the entirety of the law for the second time, and passing, I pretty much swore off any

further legal related examinations. My mindset changed, however, once I decided to dedicate my practice to marital and family law. As I came into contact with more and more family law attorneys, I began to notice a trend. Of the attorneys who were the most knowledgeable, the ones who came across as “experts,” and who, in my opinion, most exhibited professionalism, the vast majority were board certified in marital and family law.

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Once I became aware of the trend I was seeing, I decided to look into the process. I went to the Florida Bar's website and found the section on board certification and looked at the requirements. Practice of law for at least five years: check. Marital and family law constituting over fifty percent of my practice for the past five years: check. Seventy-five hours of approved marital and family law CLE's in the preceding five years: check. Handling of at least twenty-five contested family law cases in the preceding five years with at least seven trials: check. Peer review: don't know until I try, but people seem to like me, so check! Hopefully. And finally, a written exam. Ugh.

Dreading the prospect of taking another exam, but keeping my eye on the trend I had noticed, I set about completing the application to become a board-certified attorney. The application, is, to put it mildly, daunting — seeking detailed information on cases for which I was the lead attorney and the trials I had conducted, the names of peers who hopefully had good things to say about me, identifying judges before whom I had appeared and hopefully made a good impression on — essentially hours of non-billable work completed on nights and weekends. Finally, it was completed and turned in, leaving just the exam remaining.



Studying for the board certification exam was one of the most difficult processes I have been through in my legal career. I had to fit over one hundred hours of studying into a calendar already full of litigation, mediation, client meetings, and collaborative work, in addition to family, professional, and community obligations. It could not have been done without the full support of my firm and family, for which I am forever grateful.

Now, the exam is done, and I wait to find out if I passed. But pass or fail, I can definitively say that I feel more confident in my legal knowledge than I ever have in my career. The process of studying and preparing for the exam has put me at the top of my game, deepened my knowledge, and strengthened my abilities. The feeling of achievement that came over me once the exam was complete was similar to the feeling I had completing my first marathon — the studying, like the training process, was long and arduous; the exam was difficult with its own ups and downs, mini-victories and defeats, just like the race; the exhaustion at the end hit hard, but brought its own exhilaration. Marathons are not for everyone, and the board certification process is not for every attorney. But, if you look around, and find the attorneys that you respect and look up to and learn from are board certified, I would encourage you to take the plunge, apply, and take one more test — the journey alone can make you a better attorney. ■

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Getting Connected — Join a Committee or Section

If you are not a member of a section or committee, you are likely missing out on additional programming related to your specific practice area or volunteer opportunities for groups near and dear to your heart.

Wow, this Bar year is really flying by! I find myself looking at the calendar, staring summer in the face and realizing that my time as HCBA President is short. The past ten months have been incredible, and what an honor it has been to be at the forefront of the activity. If you are reading this, you are likely at least somewhat aware of all the HCBA does for our profession and the legal community at large. But did you know the HCBA has more than 30 sections and committees that work throughout the year to put on events like CLEs and networking happy hours, mock trials and courthouse tours for students in the area, judicial and practitioner panels on hot legal topics, pro bono and community service events, and diversity, equity and inclusion programs?

The HCBA has close to 3,500 members! We are one of the largest and most recognized Bar associations in the nation. And our success is due in large part to the work done in our sections and committees. The HCBA has won awards nationally and with The Florida Bar and other



organizations for several of our member service and community service projects. Our Bar staff makes sure we are visible and engaged with other Bars throughout the country.

So, you might be asking yourself what is the point. Well, if you are not a member of a section or committee, you are likely missing out on additional programming related to your specific practice area or volunteer

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Join A Committee or Section at hillsbar.com.

To join a HCBA Committee or Section, log into your online Member Profile, click on the Committee or Section's webpage, and select "Join Group."

It's that simple!

opportunities for groups near and dear to your heart. For example, did you know the HCBA has a Community Service Committee? How about our Military and Veterans Affairs Committee? You can also sign up to join the committees that plan the annual Bench Bar Conference and Judicial Food Festival/5K Pro Bono River Run. And if extra-curriculars aren't your thing, we have practice area-specific committees ranging from appellate law to environmental law, from intellectual property law to healthcare law, as well as resources for technology and solo/small firms. These sections and committees also allow you the opportunity to network with the Judges in our circuit, as well as other lawyers and legal professionals.

Looking back on my service to the HCBA over the years, it started with joining the Young Lawyers Division. I served for many years on the YLD Board, eventually being elected President for the 2013-14 Bar year. Throughout my time with the YLD, I helped plan and participated in more CLEs, luncheons, mock trials, coffees at the courthouse, and community service days than I can even try to remember. It was at those events that my love for Bar service grew and that I made lifelong friends who shared similar interests.

After you read this issue of the *Lawyer Magazine* cover to cover, please take the time to visit the HCBA's website — www.hillsbar.com. You can learn more about all of the sections and committees and join them right on the website! It could not be easier. And of course, our amazing Bar staff and board of directors are always available to discuss how to get more involved and how to serve in leadership positions. Thank you again for allowing me to lead the HCBA. Looking forward to my last few months as your President. ■



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HCBA Members Continue to Shine

HCBA Young Lawyers Division honored three outstanding HCBA members with its annual awards.

On January 11, 2023, our legal community gathered for the Hillsborough County Bar Association's annual Diversity Luncheon, where the HCBA Young Lawyers Division (YLD) honored three outstanding HCBA members with its annual awards.



2022 Robert W. Patton Outstanding Jurist Award: Judge Elizabeth G. Rice

The YLD presents this award to an outstanding jurist who has an excellent reputation for sound judicial decisions, an unblemished record for integrity, is recognized as highly qualified, is active in Bar-related activities, and demonstrates willingness to assist young lawyers. Judge Elizabeth G. Rice exceeds all of the award criteria and has undeniably demonstrated her commitment to young lawyers and the legal profession.

Judge Rice began her career in private practice, was elected to the County Court in 2005, and appointed to the Circuit bench in 2009, where she has been re-elected

without opposition ever since. Judge Rice has brought her intellect, passion, and dedication to achieving the highest level of proficiency to each of her judicial assignments. She has served and continues to serve in many positions of leadership, including as a judicial liaison to the YLD, and her history of involvement and leadership in multiple bar organizations locally and statewide is extensive. Judge Rice is a dedicated jurist, a mentor to many, a strong supporter of the HCBA YLD and young lawyers, and an exceptionally worthy recipient of this award.

2022 Outstanding Young Lawyer Award: Lyndsey E. Siara

The Outstanding Young Lawyer Award recognizes a young attorney who has demonstrated exemplary performance and professionalism in the practice of law

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Award recipients (left to right): Judge Elizabeth G. Rice, Lyndsey E. Siara, and Alexa Cline

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in his or her field. This year's recipient, Lyndsey E. Siara, has certainly done that.

Lyndsey currently serves as General Counsel of the Sixth Judicial Circuit. To say Lyndsey is also involved in the legal and non-legal community would be a gross understatement. To name only a few of her accomplishments, she is the current President of the YLD, having previously served as a committee member, committee chair, and a board member. She also advocated for the creation of the HCBA Government Lawyers Section and served as its co-chair, and serves on the Executive Board of The Junior League of Tampa.

Lyndsey is a trusted colleague, a prolific writer and speaker, and one of the most hardworking young lawyers in our community. She is deserving of this award, and no doubt many more in her years to come.

**2022 Outstanding Government/Non-Profit
Lawyer Award: Alexa Cline**

The Outstanding Government/Non-Profit Lawyer

Award recognizes government and non-profit lawyers for their character, commitment, and professionalism in serving as an attorney to the public or for a non-profit organization.

This year's award recipient is a devoted government lawyer, who has shown exceptional skill and commitment in her role as Assistant State Attorney in the Thirteenth Judicial Circuit. Alexa Cline also chairs a YLD Committee, is a co-chair of the HCBA's Government Lawyers Section, and was a member of and now co-chairs the HCBA's Bar Leadership Institute. She is also a leader within The Junior League of Tampa.

Alexa Cline is the epitome of a young government lawyer who shows tremendous promise, a deep commitment to public service, and a desire to use their time and talent to improve both the practice of law and the community. ■



*Author: Anisha Patel – Hill Ward
Henderson; President-Elect of The
Florida Bar Young Lawyers Division*

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HCBA's Military & Veterans Affairs Committee Members Continue to Inspire and Serve

"Our debt to the heroic men and valiant women in the service of our country can never be repaid. They have earned our undying gratitude. America will never forget their sacrifices." — Harry Truman

Since its inception in 2014, the HCBA's Military & Veterans Affairs Committee (MVAC) has worked to support local veterans and active-duty military personnel in a variety of ways.

Now, just under a decade later, MVAC is seen as a model for other legal groups around Florida and the nation interested in supporting veterans and advocating for equal access to justice.

Ben Hill IV worked to establish MVAC during his year as HCBA president in 2014-15.

"It struck me back then that the HCBA didn't have a formal committee in place to support local veterans and help them with their legal concerns," Hill told me recently.

"We saw creating MVAC as a tremendous opportunity to connect the HCBA and our local military community, particularly given our proximity to MacDill Air Force Base and the large number of veterans who reside in our area," Hill said. "It's been a great team effort."



MVAC hosted a watch party in November to celebrate Judge Daryl Manning being recognized at the 2nd Annual Florida Patriot Award virtual statewide ceremony.

Nearly 100,000 veterans live in the Tampa Bay area, according to the U.S. Department of Veterans Affairs.

Hill recalled that former HCBA president Bob Nader, Chris Brown, former judge Greg Holder and Harold

Continued on page 11



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Youmans were among the many HCBA members who were involved in MVAC's early development.

He said MVAC has also benefitted from the longtime support of the many local judges who have served in the military, including Steve Berlin, Richard Weis, Michael Scionti and Daryl Manning.

One major MVAC project involved the establishment of a Veterans Legal Assistance Registry (VLAR), which helps connect MVAC members and local veterans and active-duty military personnel who are in need of legal assistance.

HCBA Board member Matt Hall, a U.S. Army veteran himself, said the registry has become a valuable resource for local veterans.

"With the support of HCBA members, the legal registry has gone from concept to reality," Hall told me.

He said more than 100 attorneys are now involved in the registry and that it is a model for legal groups in Florida and around the country interested in developing their own veterans' assistance program.

Hall emphasized that HCBA members do not have to be veterans themselves to be involved in the registry.

MVAC has scheduled a reception in April at the Ferguson Law Center to celebrate the work of all the VLAR participants.

MVAC also provides mentors and support to the 13th Judicial Circuit's Veterans Treatment Court (VTC), which is a specialized court established to serve veterans currently in or about to enter the criminal justice system.

Judge Scionti, a Judge Advocate General (JAG) in the U.S. Army Reserve, currently presides over the VTC.

This year, Robert Barton and Janae Thomas are the co-chairs of MVAC.

"We worked to help MVAC successfully navigate through the pandemic," Barton told me. "This year, we have been focused on bringing MVAC members back together to provide camaraderie and support through various education and social programs."

Barton said MVAC has benefitted from the strong support of some HCBA members over the years, including HCBA Immediate Past President Cory Person, DJ Reyes, David Veenstra, Alex Srsic and Colleen O'Brien.

Thomas highlighted some of MVAC's veterans' outreach efforts and unique educational programs.

One recent event at the Ferguson Law Center featured Brig. Gen. Ronald Sullivan, who is the Chief Judge for the U.S. Army Court of Appeals.

Brig. Gen. Sullivan spent time talking to HCBA members and local law students about opportunities available with the Judge Advocate General (JAG) corps.

This past November, MVAC hosted an event where 13th Judicial Circuit Judge Daryl Manning, a U.S. Army veteran, was honored in a virtual statewide ceremony as the local recipient of the 2nd Annual Florida Patriot Award.

In addition, MVAC, in collaboration with the George Edgecomb Bar Association (GEBA), hosted an inspirational luncheon in February featuring Roy Caldwood, who, at 100, is the oldest living member of the Buffalo Soldiers, the all-Black infantry division that served during World War II (*photos from the luncheon on page 59*).

MVAC members continue to support and serve veterans and our local military community in many ways.

And for that sense of duty, we should all be grateful. ■



SAVE *the* DATE

Wednesday, April 26, 2023
"Bridging the DEI Gap in Law" Documentary Premiere
Chester Ferguson Law Center

Thursday, May 9, 2023
Law Day Membership Luncheon
Hilton Downtown

hcba events



Thursday, May 18, 2023
Law & Liberty Dinner
Hilton Tampa Downtown



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

STAY CONNECTED.



Chief Judge Ficarrotta Receives Distinguished Judicial Service Award

Chief Justice Muñiz called Chief Judge Ficarrotta a “universal favorite” and “model of a service-minded judge” when the award was presented.

The year 2023 started off on a very positive note. On January 26, Ronald N. Ficarrotta, Chief Judge of the Thirteenth Judicial Circuit, was honored with the 2023 Distinguished Judicial Service Award. Chief Justice Carlos G. Muñiz presented Chief Judge Ficarrotta with the award at the Florida Supreme Court, recognizing his accomplishments, particularly those affiliated with pro bono services.

Chief Justice Muñiz called Chief Judge Ficarrotta a “universal favorite” and “model of a service-minded judge” when the award was presented. Chief Justice Muñiz also cited to a number of worthy justifications in his remarks including Chief Judge Ficarrotta’s:

- Support of the Volunteer Lawyer’s Program of Bay Area Legal Services (BALS), which includes providing free office space for BALS staff, and space appropriate for holding recurring legal clinics for the public;
- Participation in community events;
- Establishment of the circuit’s Juvenile Mental Health Court, over which he presides; and
- Encouragement of judicial colleagues to support pro bono services.



Chief Justice Muñiz and Chief Judge Ficarrotta

This honor is a perfect way to recognize Chief Judge Ficarrotta as he finishes his fourth and final term as Chief Judge on June 30, 2023. Those who know him have experienced firsthand his friendly disposition, smile and positivity, willingness to help others, and ability to connect

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Continued from page 12

with everyone he meets. Chief Justice Muñiz may have said it best when he remarked that Chief Judge Ficarrotta is “instantly likable” and “unfailing joyful.”

Let me tell you a little bit more about the judge who I have been fortunate enough to work closely with for the last eight years.

Chief Judge Ficarrotta was appointed to the County Court by Governor Lawton Chiles in 1994. He was later appointed to the Circuit Court by Governor Jeb Bush in 1999. He became the Chief Judge of the Thirteenth Judicial Circuit in 2015, and one of his first assignments was to replace the long-time Trial Court Administrator, Michael Bridenback, upon his upcoming retirement. That’s where I came on scene. He hired me as Trial Court Administrator in the summer of 2015. I moved from Honolulu to Tampa because I knew what an impactful change he and the Thirteenth Judicial Circuit would have on my life.

I have recurrently witnessed the impact that Chief Judge Ficarrotta has on others. The heart-felt dialogue he has with court participants is that of a service-minded judge. His passion for problem-solving courts and turning lives around is near and dear to his heart. He is known for touring residential drug treatment facilities, and Safe and Sound Hillsborough’s Reporting Center for youth in delinquency divisions, which demonstrates to those participating that he values the services they receive there. Chief Judge Ficarrotta can often be found connecting with Mental Health Court clients by speaking to them while sitting beside them, rather than from the bench (while not wearing his traditional robe). His rapport with the clients can be strengthened with a handshake or hug. He is generous with praise, having realized that many clients have never felt a proud moment. Equally important is his method for holding court participants accountable. Knowing he will be checking-in on them before they meet in court again is something that makes people want to change their lives for the better. No one wants to disappoint him.

Chief Judge Ficarrotta is also very generous with his time. After spending full days at the Edgecomb Courthouse, it’s not uncommon for him to stop at a function on the way home. It’s difficult to create a list of every legal organization he has supported over his 29 years on the bench, but certainly the list includes the following: the Hillsborough County Bar Association, the Young Lawyers Division of HCBA, Bay Area Legal Services, the Tampa Hispanic Bar Association, the

George Edgecomb Bar Association, the Asian Pacific American Bar Association, the American Board of Trial Advocates, the Tampa Bay Trial Lawyers Association, the Hillsborough Association for Women Lawyers, and the Herbert Goldberg-Ronald Cacciatore Criminal Law American Inn of Court. He is steadfast in his appreciation for the great work each local organization performs.

I personally believe that Chief Judge Ficarrotta played a significant role in building the esteem that the Thirteenth Judicial Circuit holds among the other 19 circuits, the Office of the State Courts Administrator,

and the Florida Supreme Court. His leadership and collegiality are known and respected state-wide.

Here’s to our very own Ron Ficarrotta, a Distinguished Jurist... an honor he humbly earned and certainly deserves. ■



Author: Gina Justice - Thirteenth Judicial Circuit



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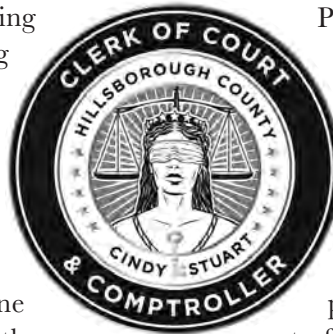
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Coffee at the Courthouse

The YLD co-hosted a great Coffee at the Courthouse & Judicial Shadowing Day on January 31 at the George Edgecomb Courthouse. A huge thank you to the judges from the Hillsborough County 13th Judicial Circuit Court and the Florida Second District Court of Appeal for sharing their time and insights with members. Attendees enjoyed the opportunity to network and experience the daily rhythm of the judicial system first-hand. Thank you also to our co-sponsors, Hillsborough Association for Women Lawyers YLD, George Edgecomb Bar Association YLD, and Tampa Hispanic Bar Association YLD, and to The Florida Bar Young Lawyers Division, which helped make this event possible through a grant.



Judge Kathryn Kimball Mizelle Goes “Off the Record”

“I believe that if you’ve been given a lot of opportunities and talents, you have a responsibility to use them well. I believe everyone should pursue excellence in whatever you’re doing.”

Note: This interview has been slightly edited for length and clarity.

Q: Judge, I understand you were born in Lakeland, Florida. Can you tell us a little about your background and what it was like growing up there?

A: Yes, my husband and I are both Polk County natives. Lakeland was one of those towns that, although it has grown dramatically in the last decade or so, still has a small town feel to it. I very much enjoyed that close-knit community, and I still love getting to visit my folks (and childhood friends) who live there.

Q: I’ve read that you received an Army Reserve National Scholar Athlete Award in high school. What sport did you play?

A: I played a bunch of sports — soccer, volleyball, track, and cross-country. I think the award was probably for soccer.

Q: Somebody told me that you also ran a lot in law school. Do you still jog?

A: I still enjoy running. I admittedly don’t have many hobbies, but running is one of my favorite activities. It’s a good way to clear your mind.



Continued on page 17

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Continued from page 16

Q: You obviously have a very impressive academic record. You were valedictorian at Lakeland Christian School; you graduated summa cum laude from Covenant College in Georgia, and then graduated summa cum laude and at the top of your class at the University of Florida's College of Law. What motivated you to achieve such academic success?

A: I never had a desire to simply achieve "success." Rather, I felt like I had a responsibility to do my absolute best in everything — whether it's sports or academics, or now, law. I believe that if you've been given a lot of opportunities and talents, you have a responsibility to use them well. I believe everyone should pursue excellence in whatever you're doing, including academics while you are in school.

Q: Interestingly, I understand that you didn't originally plan on becoming a lawyer, which is maybe somewhat surprising given your status now. What inspired you to become a lawyer?

A: I wasn't one of those kids that grew up debating everything, which sometimes causes your parents to tell



you you're going to be a great lawyer. In fact, I preferred math and science because there were clear right and wrong answers, unlike English literature or art, which seemed more subjective. When I went to college, I intended to become a medical doctor, so I took biology and chemistry courses. I enjoyed those subjects, but soon realized that being a doctor wasn't where I would enjoy spending my time. So I started taking some philosophy classes, and thrived in that area. I liked the analytical thinking it required — it was rigorous, and logic dictated the answers. I then interned in Washington, D.C.,

and worked for a small nonprofit called Shared Hope International. They educate social service providers and law enforcement about sex trafficking (how to detect it, help the victims trapped in it, etc.). Everyone I encountered in that field had a law degree. I thought that fighting against sex trafficking was something I could be very passionate about. So in the end, I decided to go to law school because I enjoyed exercising the skills necessary to be an effective lawyer and I had an interest in a particular area of law.

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Q: Speaking of that, you have an extremely varied legal background. You started as a law clerk right here in Tampa with Judge Moody and then served as a law clerk for Judge Pryor at the 11th Circuit; then you worked as a trial attorney at the Department of Justice and later clerked for Justice Clarence Thomas before joining a large national firm in private practice. Which of those positions did you enjoy the most?

A: Well, they're all interesting and challenging in their own right. I'm going to give two answers. My dream was to be a federal prosecutor. I remember the first time I stood up in federal court and said "Kathryn Kimball" on behalf of the United States of America. That is a surreal moment if you really believe your oath to uphold the Constitution and pursue justice for the American people. The role of being a prosecutor (both at the US Attorney's Office and Main Justice, as we called it), and the calling to do the right thing and enforce the law is very special, and I'm proud of my service to our country through it. Second, clerking for Justice Thomas was truly amazing. As a jurist, his mark on Supreme Court jurisprudence is unparalleled in many ways. He approaches every case from a first principles perspective and allows only the dictates of the law to control his vote. But more importantly, Justice Thomas is remarkable as a person. He is unfailingly kind, principled, joyful, and humble. I doubt I will ever enjoy any position as much as I did clerking for him.

Q: I understand that Justice Thomas actually spoke to your first-year class in law school and commented that no one from the University of Florida School of Law had previously clerked at the Supreme Court. How did it feel to become the first?

A: Well, I certainly had no anticipation of that when he spoke to our 1L class. In fact, I didn't even know what clerking was at the time. I didn't have any lawyers in my family, so I wasn't setting out to do that. When it finally came to fruition, I was deeply, deeply thankful ... and, you know, proud to be a Gator.

Q: Other than clerking for Justice Thomas, was there one of your experiences before becoming a judge that stands out?



A: Yes. One of the first cases I handled at the U.S. Attorney's Office involved prosecuting the leaders of what was, and is still as far as I know, the largest sex trafficking case ever prosecuted in the Eastern District of Virginia. That case was special, both because of its magnitude and seriousness and because it was the culmination of why I wanted to go to law school in the first place.

Q: I understand that you've also been an adjunct professor at your law school. What have you taught?

A: I've taught a course a couple times at the University of Florida on the Religion Clauses of the First Amendment: the Free Exercise Clause and the Establishment Clause.

Q: Do you plan to continue teaching?

A: I'm certainly open to it. Absolutely.

Q: If you didn't plan on being a lawyer, I suppose you didn't plan on becoming a judge either. What moved you to aspire to a judgeship?

A: I would not recommend *aspiring* to become a judge, as it is impossible to control all the variables that must align for it to happen. But I think clerking for jurists at every level of the federal judiciary gave me a different perspective than most about what the job entails. When the (very unexpected) opportunity arose, I was inspired to answer the call to service by the example of other men and women who have carried out their responsibilities as Article III judges by faithfully following the law and the Constitution.

Q: What was the judicial nomination process like? I understand it went fairly quickly for you, unlike some others.

A: Yes, it proceeded fairly quickly. I think my process was fairly standard: You interview and apply with the Senators and the White House, and if the White House Counsel's Office tells you that the President wants to proceed with your nomination, you go through a background check. I'd already been a prosecutor, so the background check was not new. And then after the intent to nominate was made public, you go through an ABA process and then you prepare for the Senate hearing, which can be stressful.

Q: In a twist of fate, you ended up coming back to the

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Tampa Division of the Middle District where you previously clerked. How did that feel?

A: It truly felt like coming home. Ironically, I almost ended up in the exact same chambers that Judge Moody had when I was clerking. It certainly feels like I came full circle.

Q: Was it difficult at all making the transition from government and private practice to becoming a federal district court judge?

A: I think it would have been more difficult had I never been a law clerk. You certainly take your advocate hat off when you are on the bench. But because I had watched judges from within chambers do that, it didn't feel as jarring of a transition than it might otherwise have been.

Q: You once likened serving as a district court judge to "playing speed chess." Maybe you could elaborate on that.

A: I mean that the rulings, the legal conclusions, the decisions you have to make are the same ones that the court of appeals is going to have to rule on, but they usually have more in-depth briefing and time. In the trial court, you might not have briefing at all on a particular issue, as it might be something that came up at trial. And even if you do have briefing, the docket volume is so high that you have to quickly research, make the best decision, and move on. I think it's a bit more challenging in that respect.

Q: Is there one judge who you have worked with or know about that you particularly admire and try to emulate in your own practice.

A: I pull from all the jurists for whom I clerked. In the district court capacity, I frequently ask myself, what would Judge Moody do in this situation. He's very decisive and keeps things moving, which is an important aspect of being a district court judge — especially in the Middle District of Florida with the volume of cases that we have. But I draw from all the judges for whom I clerked. Justice Thomas would always say, "Go to the front of the train," and by that, he meant you've got to ask the fundamental or first-principle questions that maybe the parties aren't arguing.

Q: I've seen some comments you made that it's important for judges to try to accurately say what the law is by reading the text as originally written and by considering how the law would have been understood by its audience at the time it was written. And you've suggested that lawyers practicing before you should try to adhere to those principles. Could you maybe provide a

real-world example of how that might be applied in a lawyer's day-to-day practice?

A: In any civil case, especially if it's an issue of first impression, such as a Florida law issue in a diversity action where there isn't a settled answer, I'm looking for the parties to tell me what the Florida statute means. I'd like briefing on the statutory analysis of the actual text that the Florida legislature passed. That's a real-world example that arises more frequently than I would have expected. My job is to figure out the meaning of the text that needs to be interpreted, whether it's a statute, the Constitution, or a contract dispute. It also comes up in sentencing under the U.S. Sentencing Guidelines — how to interpret the Guidelines when there is no caselaw on point. I want to know what the words mean as used in that particular context. They're not all high-profile cases, I suppose, but that's how it might be employed on a day-to-day basis.

Q: What do you like best about being a judge now?

A: I really enjoy figuring out the right legal answer. I'm not beholden to a client or any agenda. I simply seek to uncover the correct legal answer, and then I apply it to the case. I like that singularity of task. It is freeing.

Q: If you could offer one piece of advice or practice pointers for lawyers who appear before you, what would it be?

A: Please come prepared, especially in civil cases. I'm not going to hold a hearing unless I really need it, and I'll be prepared. If you cited a case for a certain proposition, and your argument hinges on it, I'm going to ask you about the case and your answer better be accurate. This is something I think all of my colleagues would say — especially in the written filings — be accurate, keep it short, and make your points clearly. "I'm asking the court to do X because of Y," and then cite the case that supports that. It's not helpful to me if I have to track down the correct governing law or I discover that a party's representation about what was said in a deposition is not correct.

Q: The COVID-19 pandemic obviously impacted the court system and brought about a number of changes in terms of the way we practice law here and everywhere. Are there any changes that you've seen that you think actually are a positive benefit or outcome from the pandemic?

A: I think there's a lot of civil status conferences, Rule 16, even pre-trial conferences that will now be telephonic or via Zoom. It helps save clients' money and counsels' time. I also foresee mediation occurring mostly by Zoom.

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Q: Can you tell us a little about your family? I understand that you're married, and you have a newborn?

A: Yes, my husband and I welcomed our first child earlier this year. What a life-changing event, in every way imaginable. He's the joy of my life.

Q: How does someone in your position achieve that work-life-balance that we all hear about?

A: (Laughs) You don't, especially when you have a newborn and you're trying to balance everything. I do my best, but I'm frequently very tired.

Q: What do you do to relax or have fun when you're away from the office?

A: I still like to run. And I enjoy cycling — I've gotten into that more. I also listen to books on audible and podcasts.

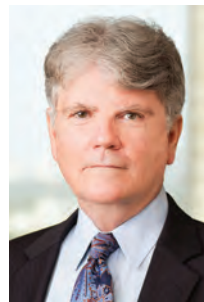
Q: Are there any organizations that you are involved with or support?

A: We're active parishioners at our church. I'm on the Law Alumni Council for UF Law School, and I try to do things like teach at the school. I also frequently give talks

at law schools around the country. To me, it's important for the judiciary, when given the opportunity, to interact with law students and help them where I can. I had a lot of professors and judges who helped me, and I would like to pay it forward.

Q: Last question, what have you found to be the single most fulfilling aspect of your distinguished legal career so far?

A: Hmmm ... it's a bit of a repetitive answer, but I truly enjoy what I consider to be the legal task of finding the correct answer. I like the process of judging. I also enjoy having law clerks and the opportunity to mentor them. I know how important the judges for whom I clerked were in shaping how I thought about the law and how I would then go on to practice as a lawyer. I try to instill that in my law clerks too. ■



Author: Mike Hooker – Phelps Dunbar LLP

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**Experts advise lawyers to keep
briefs clean by cutting
“unnecessary” language.**



Experts advise lawyers to keep briefs clean by cutting “unnecessary” language.¹ Another tip is to cut unnecessary Bluebooking. Consider this example: “[A] trial court’s grant of summary judgment is reviewed de novo.” *Panettieri v. People’s Tr. Ins.*, 344 So. 3d 35, 37 (Fla. 4th DCA 2022) (quoting *Sunshine State Ins. v. Jones*, 77 So. 3d 254, 257 (Fla. 4th DCA 2012)).

The “quoting” parenthetical is unnecessary. There’s no need to note that the court said in *Sunshine* what it again said in *Panettieri* — especially regarding such a mundane point. Instead, the cleaner choice is to use a “citation omitted” parenthetical, like this: “[A] trial court’s grant of summary judgment is reviewed de novo.” *Panettieri v. People’s Tr. Ins.*, 344 So. 3d 35, 37 (Fla. 4th DCA 2022) (citation omitted). The Bluebook expressly permits this practice.²

Daring lawyers who want to keep their briefs even cleaner might venture outside The Bluebook. Granted, Florida Rule of Appellate Procedure 9.800(p) says that citations “shall be in the form prescribed” by The Bluebook. But, that rule

can hardly be understood to require strict compliance with all of The Bluebook’s minutiae.³

One tool you won’t find in The Bluebook is the “cleaned up” parenthetical. Invented in 2017 by an appellate lawyer,⁴ this parenthetical has made its way to Florida courts,⁵ and it serves as a tool to avoid using notations otherwise required by The Bluebook. Again, an example is in order.

Suppose there’s a case called *Peteves v. Costello* and the court quotes from the prior paragraph as follows: “[T]he ‘cleaned up’ parenthetical . . . [was] [i]nvented in 2017 by an appellate lawyer . . . [and] has made its way to Florida courts” This looks ugly, but you wouldn’t have to carry forward that ugliness if you were to quote from the court’s opinion. Instead, you could simply clean up the quote — that is, omit the ellipses, brackets, and parentheticals that The Bluebook would require — and add a “cleaned up” parenthetical at the end of the citation. The resulting citation would look like this: “The ‘cleaned up’ parenthetical was invented in 2017 by an appellate lawyer and has made its way to

Florida courts.” *Peteves v. Costello*, 123 So. 4th 567, 568 (Fla. 2022) (cleaned up). Isn’t this much easier to read?

A parting word: be careful what you clean. Courts are wary of lawyers who obscure the truth under the guise of cleaning up a citation.⁶ If your citation concerns a controversial point, it might be best not to clean it up.

¹ E.g., Bryan A. Garner, *Garner on Language and Writing* 407 (2009).

² *The Bluebook: A Uniform System of Citation* B5.1 (21st ed. 2020) (“A quotation appearing within another quotation can either be parenthetically attributed to its original source or otherwise acknowledged by indicating that a citation has been omitted.”).

³ Cf. Fla. R. App. P. 9.800, committee notes to 1977 adoption (“Use of these citation forms . . . has not been made mandatory.”).

⁴ See Jack Metzler, *Cleaning Up Quotations*, 18 J. App. Prac. & Process 143, 143 n.1 (2017).

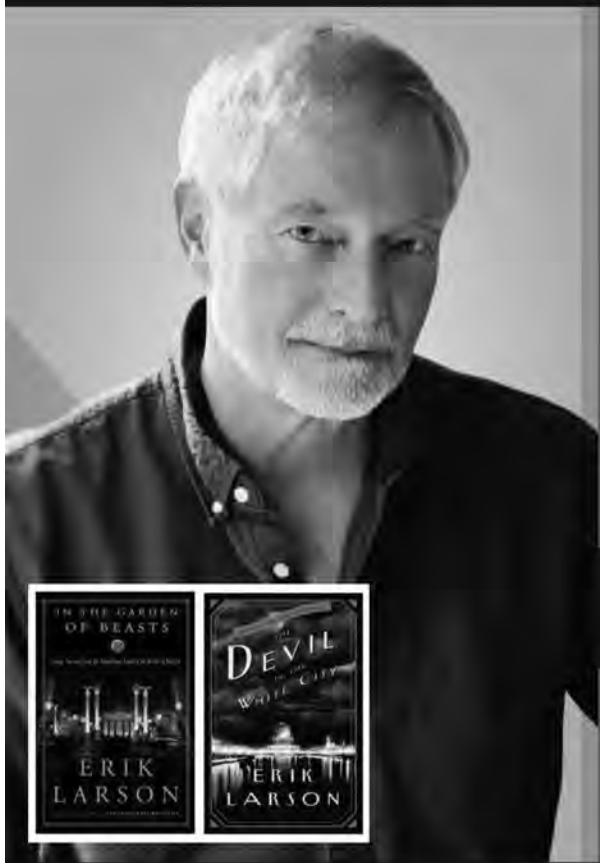
⁵ E.g., *Gary v. State*, 330 So. 3d 118, 121–22 (Fla. 2d DCA 2021).

⁶ See, e.g., *Callahan v. United Network for Organ Sharing*, 17 F.4th 1356, 1362 n.1 (11th Cir. 2021).

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BLI VISITS THE J.C. NEWMAN CITY FACTORY

Bar Leadership Institute

Chairs: Alexa Cline — State Attorney's Office, 13th Judicial Circuit, Jason Imler — Imler Law & Daniela Mendez — Tampa General Hospital



Every class member was grateful for the opportunity to see and meet with a family that helped to shape Tampa into the city it is today.

The 2023 Bar Leadership Institute Class had an opportunity to meet with Legal Counsel and Part-Owner Drew Newman of the J.C. Newman Cigar Factory. As Tampa's only operating cigar factory, the class was invited to tour the facility and see its operations. J.C. Newman still has staff that hand-roll premium cigars daily at a rate of approximately 100 cigars. The company also produces thousands of cigars made by machine each day within the Tampa factory.

The company was founded in 1895 by Julius Cesar Newman. The factory, an Ybor City National Historic Landmark, is also known by long-time Tampa natives as

"El Roloj" or "The Watch" in English. In 1986, J.C. Newman partnered with the Arturo Fuente family to make the Moya, a Tampa-brand cigar at the J.C. Newman factory. The company agreed to do so in exchange for J.C. Newman hand-rolled cigars to be made at the Arturo Fuente Factory in the Dominican Republic. This partnership expanded J.C. Newman's operations and created one of most successful premium cigar manufacturing and distribution combinations in the world.

While meeting with Drew Newman, the BLI class learned that he is a fourth generation owner. He provided a colorful history of the company and his

family's ties to the Tampa Bay area. Drew stated that he is the first in his family to attend law school and has worked since 2007 alongside the company's counsel to understand the inner working of the company and its day-to-day operations. He now runs the company alongside his cousins to keep Tampa's cigar making history alive.

The first floor of the factory has a museum with artifacts, photos, and a timeline of the history of the building for the public to visit. During the tour, the class got a sneak peek at the archives in the basement, with special items preserved by the family over the

Continued on page 25

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BLI VISITS THE J.C. NEWMAN CITY FACTORY

Bar Leadership Institute



Continued from page 24

years, along with a chance to see the secret getaway staircase used by the family in the 1930's to hide money earned by the business and provide an escape route, if necessary, from organized crime during that era.

Both myself and my classmates agree that, as long-time Tampa

residents, the sign “Home of the Cuesta-Rey Cigar” has been a fixture of our drive on I-4 for decades, but it was a treat to step inside and see a part of Tampa’s bygone era still thriving. Every class member was grateful for the opportunity to see and meet with a family that helped to shape



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*Author: Cynthia Hernandez –
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Lawyers are often an unhappy bunch. Maybe it's the long hours, the extraordinary pressure, or the ungrateful clients. Maybe it's the opposing counsels, who sometimes are liars or cut-throats. Or it might be our bosses, who can be rude and uncaring. It could even be our peers, who are occasionally backstabbers. Maybe it's the anxiety caused by the deadlines, the unpredictability, and the frequent threat of malpractice. Whatever the cause, many of us are stressed, or bored, or frustrated, or just miserable practicing law. Simply put, a lot of us hate it.

I am the anomaly. I *love* practicing law. I love litigation. I love winning. Criminal prosecution. Commercial litigation. Bankruptcy. Appellate law. I loved it all.

Until I didn't. Until I became a family lawyer. Until I woke up one day and thought, *Families don't belong in the courtroom*. Until I realized, *No one wins in family court*. Yet someone told me the other day that I was too happy to be lawyer.

Too Happy To Be a Lawyer

We were on vacation. It was a hot mid-afternoon in December,

and my husband and I were taking a long, lazy walk on the Caribbean sugar sand beach. We rationalized, "We don't want to overtax our calves," so we sampled every bar along the way.

The young man, who had waited on us several times before, aspired to become "an entrepreneur." The restaurant was deserted, so we chatted about what avenues might be open to him, in today's environment, in that venue. To provide context, my husband and I talked about where we had lived over the years, and the entrepreneurs we had worked with or for, or had met in our travels.

Our server was fascinated by my husband's business, and that, if you create and utilize a digital application, your enterprise becomes more valuable than if, for example, it consists of personal services, as mine does.

When I mentioned that I was a lawyer, he regarded me, in my bikini top, flamingo pink cutoffs, and bare feet, skeptically.

"What?" I asked, amused by his incredulity, caused, I assumed, by my tan and my attire.

"You're a lawyer?"

"I am!"

"I never would have guessed that." He explained, "You're *far* too happy to be an attorney."

Must be all the collaborative work I do these days.

Collaborative Work

The next day, a woman I had met months earlier texted, "Ready to pull the plug." She wanted to schedule a divorce consult. (Must be one of those New Year's Resolution things.)

I replied, "I can meet with you to explain your divorce process options, so that you can make an informed decision about how you want to move forward. But I'm only handling collaborative matters these days, helping folks reach resolution without going to war. Otherwise, I'm pleased to refer you to lawyers who are still

taking their clients to court for their divorces."

No wonder I'm so happy!



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WHEN “SHALL” A FIGA AUTOMATIC STAY APPLY?

Construction Law Section

Chairs: Debbie Crockett – Cheffy Passidomo, P.A. & Adam Bild – Bild Law



All proceedings in which the insolvent insurer is obligated to defend a party shall be stayed for 6 months.



When shall “shall” mean what it means? Litigators have raised variations of this question in courtrooms across the State since September 27, 2022 — when the Florida Department of Financial Services was appointed Receiver of FedNat Insurance Company (“FedNat”) for purposes of liquidation.

Nearly all construction litigation includes at least one named party whose property insurer defends it from the claims asserted pursuant to the terms of their respective insurance policy. FedNat insures contractors across the State of Florida, and it has regularly defended its insureds in litigation

and arbitration based upon FedNat’s duty to defend those contractors.

The Florida Insurance Guarantee Act (“FIGA”) provides, in part: *All proceedings in which the insolvent insurer is a party or is obligated to defend a party* in any court or before any quasi-judicial body or administrative board in this state *shall be stayed for 6 months*. § 631.67, Fla. Stat. (2022) (emphasis added).

The above language may appear straightforward to some and provide that FedNat’s liquidation triggers an *automatic 6-month stay in all proceedings* in which FedNat is obligated to defend its named insured.

Indeed, Florida District Courts of Appeal agree, and hold that “[a] FIGA automatic stay applies not

just to an individual party, but to the proceeding itself.”¹ “The stay is required in order to allow FIGA, who must step in to replace the insolvent insurer, time to investigate, evaluate and defend the claims. [FIGA’s] ability to do so would be seriously impaired without the six-month stay. In addition, [insureds] are protected by the stay since FIGA will be in a better position to determine whether to settle a claim, without incurring expensive litigation.”² The above decisions are not incongruous with decisions in other districts, and thus are binding on all trial courts.³

“Not so fast, my friend!”⁴ Several trial courts have interpreted Section

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WHEN “SHALL” A FIGA AUTOMATIC STAY APPLY?

Construction Law Section

Continued from page 28

631.67 to allow them discretion in applying the *automatic* 6-month stay. Specifically, trial courts have either severed the FedNat insured from the action to justify not staying the entire proceeding, or denied the statutory 6-month stay altogether. These trial judges relied upon the statute’s apparent conflict with the Florida Supreme Court’s recent Administrative Order directing all judges to conclude litigation as soon as it is reasonably and justly possible to do so.⁵ The Administrative Order neither evaluates, nor cites to, Section 631.67, and instead considers emergency measures for trial courts handling cases during the COVID pandemic.

There is confusion among certain trial courts regarding whether they *shall* automatically stay all proceedings for 6 months in which FedNat is obligated to defend its named insured. Without appealing the trial court decisions denying an automatic stay, or direction from the Florida Supreme Court on this issue, trial courts — and hundreds of FedNat insureds and the attorneys appearing their cases — are left wondering when “shall” shall mean what it means. ■

¹ *Martinez v. Iturbe*, 823 So. 2d 266, 267 (Fla. 3d DCA 2002) (citing § 631.67, Fla. Stat.).

² *Halili v. Radiation Oncology Consultants, P.A.*, 820 So. 2d 415, 416 (Fla. 5th DCA 2002) (citing § 631.67, Fla. Stat.).

³ See *Pardo v. State*, 596 So. 2d 665, 666-67 (Fla. 1992) (holding that, “in the event the only case on point on a district level is from a district other than the one in which the trial court is located, the trial court be required to follow that decision.”).

⁴ This quote is attributed to the great Lee Corso.

⁵ See *In Re: Comprehensive Covid-19 Emergency Measures for Florida Trial Courts*, Fla. Admin. Order No.

AOSC20-23,
Amendment 12
(April 13, 2021).



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Diversity Membership Luncheon

Approximately 300 members attended the annual Diversity Membership Luncheon on January 11 at the Hilton Downtown Tampa. Our featured speaker Haley Moss gave an inspiring talk on the importance of neurodiversity in the legal industry and other professions.

We also were honored to recognize several leaders in our legal community with annual awards, including Robert Williams, who received our 2022 Outstanding Lawyer Award (*read more about Williams and his achievements in the January/February issue of the Lawyer magazine*). In addition, the Young Lawyers Division presented its annual awards to three outstanding members. Read more about these award winners on page 8.





Thank you also to our event sponsors, Florida Lawyers Mutual Insurance Company, Gunster, and Carlton Fields!



Photography is courtesy of Thompson Brand Images. Thank you also to TCS for providing A/V assistance and signage at the luncheon. Additional photos from the event are available at www.facebook.com/HCBATampabay.

Q&A WITH A DEI PARTNER: DAWN SILER-NIXON

Diversity, Equity & Inclusion Committee

Chairs: Alexis Dion Deveau — Gunster & Antina Mobley — Public Defender's Office, 13th Circuit



**Commitment to Diversity,
Equity and Inclusion is more
than just developing a
policy, creating a committee,
or hiring a DEI professional.**



Diversity. Equity. Inclusion. Have you ever thought about what these words mean at your firm or office? Are they part of your firm's core values? If so, how does that manifest in day-to-day life? Some offices have a designated position relating to diversity, equity and inclusion (DEI). I recently had the opportunity to speak with Dawn Siler-Nixon, DEI Partner at FordHarrison, LLP. Dawn has over two decades of employment law experience, and in her career, she has counseled employers on a variety of hot-button issues and new laws. She is also a Certified Diversity Executive, and as the Firm's DEI Partner, she is responsible for the oversight and implementation of the Firm's Diversity Strategic Plan. She shared valuable insight into her role, and DEI initiatives in general.

Alex Srsic (HCBA Standing DEI Committee): Thank you so much for speaking with me. I am eager to hear your thoughts on the subject of DEI in the workplace. For starters, what does it mean for a firm or office to have a commitment to diversity? How does an office demonstrate that commitment?

Dawn Siler-Nixon (FordHarrison, LLP DEI Partner): A commitment to Diversity, Equity and Inclusion is more than just developing a policy, creating a committee, or hiring a DEI professional. To show a genuine commitment to DEI, a firm or office must acknowledge that we are all different and that we have biases that impact our decisions and how we interact and respond to others and to situations. We must also be open to considering and validating different viewpoints and learning from one another. Finally, we must be willing to have difficult conversations and admit that our way might not be the only way and our path may not work for others. We really need to be open to change, sharing our feelings and attitudes and exploring ourselves, our history, and the path that brought us to where we are today.

Alex: How do you see yourself fitting in to that commitment in your current role as Diversity, Equity & Inclusion Partner?

Dawn: I see myself as a catalyst for change. I try to ensure that I am assisting others to understand what I view as the key to a diverse workforce — Inclusion. I look at

Diversity as the “What?,” Equity as the “Why?,” and Inclusion as the “How?”. Our goal is to achieve diversity to enable us to have an equitable workplace. The way that we get there is to create an inclusive culture where everyone feels that they belong, that they are a valuable part of the organization, and that their input, output, and work product matter. When we create that type of environment (through implementation of policies, employee resource groups, minority initiatives, targeted recruitment efforts, etc.), it will create loyalty, heighten productivity/profitability, and generate better results for our clients. It will also reduce absences and attrition.

Alex: How do you advocate for DEI with colleagues who do not understand its importance?

Dawn: I try to meet people where they are and identify parts of their culture that make them diverse. We are all diverse in some manner, but when most people think of diversity, they think of physical characteristics that we can visually observe (race, gender, age, etc.). Diversity is much more than

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Continued from page 34

that. Diversity encompasses each of our cultures, religions, ethnicities, backgrounds, thoughts, veteran status, disabilities, immigration status, and more. When I can hone in on one of the things that an individual can identify as a diverse characteristic and connect a similarity in my background with a colleague, it provides them with a tangible method of identifying the importance of DEI to themselves and others.

Alex: What are the biggest challenges DEI professionals are currently facing?

Dawn: One of the biggest challenges that DEI professionals are currently facing is the true prioritization of DEI as a business strategy. While many organizations got on board with DEI following the murder of George Floyd and the tragic deaths of so many others, many of those organizations simply placed DEI on the shelf as a window-dressing. Many DEI leaders have struggled to garner support for true change as it relates to the culture of organizations, change in recruiting strategies, increasing understanding of what DEI means generally and for the organization specifically, and embedding DEI throughout the organization's business operations. Some business leaders view DEI as just another buzzword or phrase that they need to utilize in order to be accepted by clients, without the willingness to engage in the hard work necessary to sustain real and important change.

Alex: Do you believe it is necessary for companies to dedicate a role to DEI?

Dawn: In order for DEI to be a true priority within an organization,

a company will need a dedicated DEI professional or at least someone who can focus on developing the mission and vision of DEI for the organization and embedding those core values within every part of the company. This dedicated DEI resource will be able to identify issues and help guide the organization through challenges, while helping leaders embrace and share vulnerabilities that will allow the organization to thrive and grow. As you know, a one-size-fits-all approach to DEI does not work. Each organization has its own unique culture that the dedicated DEI resource will be able to evaluate and cultivate, so that systematic and individual biases can be identified and addressed.

Dawn further shared, "Getting started with DEI may seem overwhelming for many businesses. That is where a dedicated DEI professional can help. When their singular focus is on moving Diversity forward, the DEI professional can continue the company's trajectory forward on their strategic plan to achieve their goals, without getting sidetracked with other obligations."

Many thanks to Dawn for her time and for sharing her insight and thoughts on this important topic. ■



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A DAY IN THE LIFE AT THE FLORIDA DEPARTMENT OF FINANCIAL SERVICES

Government Lawyers Section

Chairs: Alexa Cline – State Attorney's Office, Christian Katchuk – 13th Judicial Circuit Court & Judge Marc Makholt – 13th Judicial Circuit Court



I really look forward to coming to work every morning to tackle all the new questions, new tasks, and new challenges. It makes every day different and keeps life interesting!



I am a senior attorney for the Office of General Counsel, in the Criminal Law and False Claims Unit, for the Florida Department of Financial Services (DFS). Although the main office for DFS is in Tallahassee, I report every morning to the criminal fraud investigation's location in Tampa. My unit has six attorneys, but I am the only one assigned to the Tampa Office. Nevertheless, we are a close-knit unit. We work together daily on Microsoft Teams, via phone, and e-mails. My Tampa co-workers include sworn law enforcement officers who investigate automobile fraud, general insurance fraud, workman's compensation fraud, and property and casualty fraud. I also work with both the State Fire Marshal's Office, which investigates fire and arson, and the Public Assistance Fraud Unit, who investigate government benefits fraud.

The first task of my typical day is to check my e-mail to see what messages I have, and then my calendar to see what meetings I have for the day. Being an attorney for DFS has many hats and several different daily tasks. One of my hats includes teaching with my fellow unit attorneys the basic insurance fraud and case law updates and investigation practices to the employees of DFS. My day may

include going to the Florida State Fire

College and teaching either a one-day or three-day basic fraud course to DFS and Fire and Arson detectives. I also must teach at the Florida Insurance Fraud Education Committee Meeting (FIFEC), and at the Division of Public Assistance Fraud (DPAF) conference division-wide training. In addition, I teach continuing legal education classes in insurance fraud to Florida prosecutors. In preparation for those trainings, I work with the other attorneys in my unit to check Westlaw for new case law and new laws to update the presentations and to create a handout to give out to the participants.

Another job I hold is being a resource for all the DFS employees who are investigating criminal fraud cases from Miami to Tallahassee. I will go over the cases they are investigating to help with legal knowledge and direction. I assist in reviewing subpoenas and search warrants before they are presented to the State Attorneys Offices statewide. I also assist Assistant State Attorneys and Designated Fraud Prosecutors that are prosecuting fraud-related cases by answering questions they may have

prior to making filing decisions or helping respond to motions or trial issues.

Additionally, my unit is tasked with doing bill analysis to review new insurance and financial bills that have been or will be presented to the legislature. Part of the review process is to see if the proposed bill impacts another existing state or federal law, and what effect and fiscal impact the new bill will have to state and local governments if it becomes law. I also attend all the monthly Chief of Staff meetings in Tallahassee, attend weekly meetings held by my unit, and attend trainings classes.

As a result, every day is a little different here at DFS. I really look forward to coming to work every morning to tackle all the new questions, new tasks, and new challenges. It makes every day

different and keeps life interesting! ■



Author: Amy Casanova-Ward – Florida Department of Financial Services

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Chairs: Elizabeth Scarola – Epstein Becker & Green, P.C. & Jennifer Touse – BayCare Health System, Inc.



As we celebrate a new year, we reflect upon the power that each of us has to make positive change in our profession and in our community at large.

Take the first step today in deciding how you will help in this year; and, please reach out to our section's pro bono representative, Jenna Horowitz, if you are interested in learning more (jbhorowitz@ebglaw.com).

A sample of select projects in our community follows. Please reach out to these, or any other organizations in our area, to offer your support:

- **Volunteer Lawyers Program (VLP) Client Intake:**

Interview and advise legal aid applicants via Zoom two evenings a month from 5:00 – 7:00 p.m. No experience is necessary. New volunteers may shadow experienced attorneys. Training provided. <https://www.bals.org/volunteer>

- **Federal Litigation Project:** Provide limited one-time consultations to pro se litigants in civil matters filed in federal courts in the Middle District of Florida. Organized by the

Tampa Bay Chapter of the Federal Bar Association. Contact: scott.mclaren@hwlaw.com.

- **VLP Community Counsel:**

Provide transactional legal assistance to community groups and nonprofits that serve indigent residents or distressed neighborhoods.

The project is an ideal opportunity for transactional attorneys and in-house counsel. <https://www.bals.org/volunteer>.

- **PROJECT H.E.L.P.:** Volunteers provide advice and counsel to homeless individuals at Metropolitan Ministries' Outreach Center. Training is provided. Contact: natasha.khoyi@gray-robinson.com.
- **Crossroads For Florida Kids, Inc.:** A nonprofit that trains and mentors pro bono attorneys to represent children in dependency proceedings. The organization also oversees the Juvenile Delinquency Attorney Ad Litem Program. Professional liability insurance is provided. Contact: rosemary@crossroadsfloridakids.org.
- **Guardian Ad Litem Program:** Volunteer to become an appointed guardian to a young child in need. Training is provided. Contact:



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- **Teen Court:** Serve as a judge or mentor to help first-time juvenile offenders in Teen Court, a court-sponsored diversionary program. The project is organized by the Thirteenth Judicial Circuit. Contact: stokespl@fljud13.org.
- **Wills For Heroes:** Provide essential legal documents free of charge to first responders in Hillsborough County. The project

uses volunteer attorneys and paralegals to provide wills, living wills, and powers of attorney during scheduled events. Training is provided. Contact: Katie@everlovelegal.com.

If giving back to our section through intellectual contributions or mentorship is more aligned with your new year's resolution, consider submitting articles to us for publication in this *Lawyer* magazine or presenting to our section at our May meeting (May 24, 12:00 p.m. – 1:00 p.m.).

We hope that this year brings each of you health, happiness, and prosperity.

We look forward to joining together again in service and thought leadership. ■

Author: Elizabeth Scarola – Epstein Becker Green

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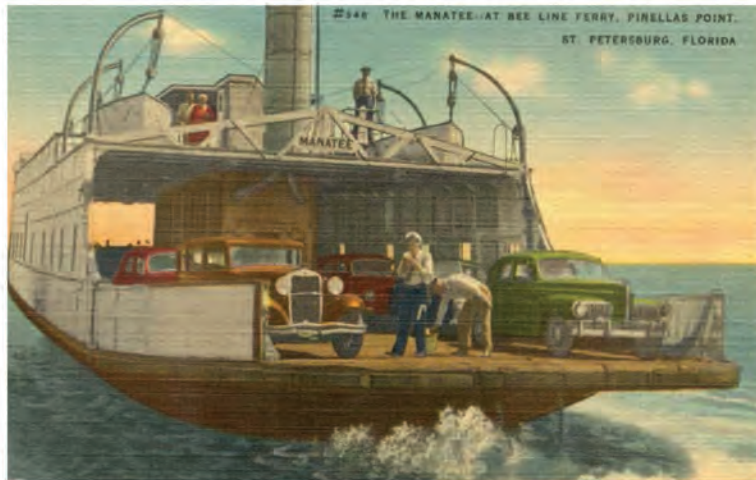
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IP RIGHTS AT TRADE SHOWS — PART II: PATENTS

Intellectual Property Law Section

Chairs: Andriy Lytvyn – Hill Ward Henderson & Patrick Reid – Hill Ward Henderson



Trade shows present a great opportunity to showcase innovation, connect with current and prospective clients, and to gather information about the competitors. A well-established IP strategy can help maximize opportunity and minimize risk.

The January/February 2023 issue of this *Lawyer* magazine published an article on the topic of intellectual property (IP) issues that may arise at trade shows. That article explored the subject of potential opportunities and risks in the context of the trademark law, while this article analyzes this subject from a patent law perspective.

Background

Let's start with the basics. What is a patent? A patent is a legal right to exclude others from making, using, selling, or importing the claimed invention. There are two types of patents: utility and design. In a nutshell, utility patents protect functional aspects of a product or a method, while design patents protect aesthetic and ornamental features.

**Utility Patent US 10,933,195
(issued to my wife)**

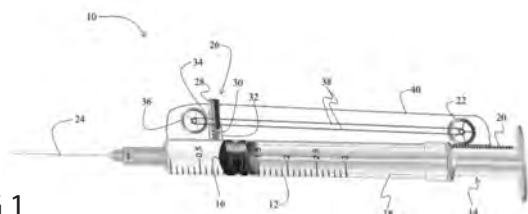


FIG 1

**Design Patent US 683,268
(issued to Tesla, naming Elon Musk
as an inventor)**

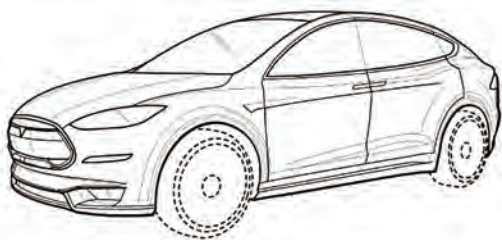


FIG 2

If your client has an innovative product, then building a strategic patent portfolio around that innovation can be a worthwhile endeavor. There are many ways in which a well-executed patent strategy can bring value to a company, including creating barriers to entry, increasing market share, generating licensing revenue, deterring lawsuits from competitors, and the list goes on.

Practical Advice for Trade Show Exhibitors

1. Secure “Patent Pending” Status Prior to the Trade Show Date

Patent rights are extremely time sensitive. If your client is planning to showcase an innovative product or service at a trade show, that should be an immediate trigger to consult with a patent attorney. Exhibiting a product or a service at a trade show likely constitutes a “public disclosure” or “public use,” which carries important legal implications with respect to patent rights. In the United States, a public disclosure date triggers a one-year grace period during which your client must apply for patent protection — otherwise, any possible patent rights in the displayed product will be irrevocably lost, and the innovation embodied in the product will fall into the public domain. Foreign jurisdictions, including Europe, have even stricter laws requiring “absolute novelty,” which means that if a company does not have a pending patent application when its product or service is revealed to the public, that company forfeits its right to seek patent protection in those jurisdictions.

Good news is that there is a quick and efficient way of protecting your client's rights: filing a provisional patent application. A competent patent attorney should be able to prepare and file an urgent provisional patent application describing and illustrating your client's invention within a matter of

Continued on page 47

Continued from page 46

days. As soon as a provisional patent application is filed, the invention is awarded a “patent pending” status, and your client protects its right to seek full patent protection for the product or service described in the provisional application. Beyond protecting a company’s ability to pursue patent protection for its products, the “patent pending” status can be a potent deterrent against competitors looking for an easy knock-off opportunity. Additionally, research shows that consumer perceive patented products as superior, and therefore, the “patent pending” status can add marketing value at the trade show.

2. Perform a “Freedom-To-Operate” Search

A trade show exhibition may put your client on a patent-infringement radar of a competitor or a non-practicing patent entity (a patent troll). It is a well-known strategy for patent owners to attend trade shows with a goal of identifying potential infringers. Trade shows are generally industry specific, making them a perfect setting for patent enforcers to survey hundreds or even thousands of potentially infringing products at once. Thus, if your client intends to showcase its products or services at a tradeshow, it is recommended to perform a clearance search — which in the patent world is known as a “freedom-to-operate” analysis.

The results of this search will inform your client about potential patent infringement risks and may help make strategic decisions about foregoing displaying or discussing certain products or features, thereby reducing exposure to possible patent infringement claims.

3. Identify Potential Infringers

On the flip side, if your client has built a robust patent portfolio, then a trade shows can present a great opportunity for identifying infringing products or services. It is not uncommon for patent holders to invite their patent attorneys to trade shows to examine competitors’ booths with the purpose of detecting patent infringement. Unsuspecting exhibitors often have their guard down and are eager to describe the innerworkings of their products and services with anyone willing to listen. This information could be a great starting point for building a patent infringement case.

Takeaway:

Trade shows present a great opportunity to showcase innovation, connect with current and prospective clients, and to gather information about the competitors. A well-established IP strategy can help maximize opportunity and minimize risk. ■

Author: Andriy Lytwyn — Hill Ward Henderson



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REMOTE WORK AS A REASONABLE ACCOMMODATION

Labor & Employment Law Section

Chairs: Amanda Biondolino – Sass Law Firm & LaKisha Kinsey-Sallis – Fisher & Phillips LLP



While some employees were happy to return to the office, many employees with disabilities thrived working remotely.



The COVID-19 pandemic abruptly altered how the world operated in many ways. To keep the world turning, employers needed to quickly adjust and enable employees to work from home to keep their businesses afloat, while adhering to the health guidelines established by the government. While things have more or less returned to normal, remote work seems to be sticking around for good.

The pandemic showed that many positions can be performed remotely with negligible production loss, and some employees have even become more efficient while working from home. However, once COVID restrictions were lifted, many employers required employees to return to the office. While some employees were happy to return to “normalcy,” many employees with disabilities thrived under the “new normal” of working remotely.

The Americans with Disabilities Act requires covered employers to provide disabled employees with a reasonable accommodation. Many employees with disabilities are far more able to perform their roles remotely, and have sought accommodations to continue working from home.

To be eligible for accommodation, an employee must show that they

are qualified to perform the essential functions of the job, with or without reasonable accommodation. Essential job functions are those that are “the fundamental job duties of the employment position.”¹ When employers are going through the interactive process to determine accommodations for their disabled employees, it would be prudent to establish which job duties are *truly essential* to the roles.

Courts typically show great deference to an employer’s judgment on which functions are essential, but the employer’s judgment is not conclusive evidence of whether a function is truly essential.² Courts also consider factors such as “the amount of time spent on the job performing the function” and “the consequences of not requiring the incumbent to perform the function.”³

The way that the world operated during the pandemic showed that for many positions, an employee’s physical presence in the workplace is not necessarily “essential” to the performance of their job duties. It has never been easier to meet with clients, customers, and coworkers through video-conferencing technology. Cloud computing has enabled employees to access almost

everything they need from the comfort of their own computers.

As a general rule, an employer is not required to remove essential functions to accommodate an employee. However, if some job duties that would require an employee to be present in the workplace are more tangential to an employee’s role, it may not be an undue hardship on the employer to have them performed by employees who are physically present.

If a company has already built out the systems necessary for employees to work remotely, and as the technology itself advances and becomes more accessible, it may become increasingly likely courts rule that requests to work remotely are reasonable. Both employees and employers should remain cognizant of these advancements in order to understand their respective rights and obligations. ■

¹ 29 C.F.R. § 1630.2(n)(1).

² *D’Angelo v. ConAgra Foods, Inc.*, 422 F.3d 1220, 1233 (11th Cir. 2005).

³ *Id.* At 1230.



*Author: Dan Kalter
– Wenzel Fenton
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Information & Membership Application

Deadline: Friday, June 2, 2023

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Tampa's civil litigation Inns are The J. Clifford Cheatwood Inn, The Ferguson-White Inn, The Tampa Bay Inn, and The Wm. Reece Smith Litigation Inn. Each Inn limits membership to approximately 80 members who are assigned to pupillage groups of eight or nine members. Pupillage groups include at least one judge as well as attorneys of varying experience and areas of practice. The Inns usually meet monthly from September through May for dinner programs, except for The Wm. Reece Smith Litigation Inn which meets monthly for a weekday luncheon. Inn members usually earn one hour of CLE credit for each program attended.

Each year, the Inns invite new members to join for varying membership terms. Members are selected based upon their length and area of practice. Discounted memberships are available for full-time law students who wish to apply. If you are interested, please apply promptly! (Please note: Current Inn members who wish to renew membership in their present Inn need not apply.)

Name: _____

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Years in practice and specialty? _____

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Have you been referred to an Inn? If so, by whom? _____

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Do you have a preference for a particular Inn? _____

Please attach a current resume limited to one page in length.

Forward Application Package to: jointinnsapplication@gmail.com

Note: This application does not include other specialty Inns here in the Tampa Bay area (family, criminal, criminal-appellate, workers compensation, and elder law) that have separate application processes. Please visit www.innsofcourt.org to explore additional inns.



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DISCOVERING HIDDEN INCOME

Marital & Family Law Section

Chair: Susan Miles Whitaker – Bay Area Legal Services, Inc.



**Always ask to review
contracts of the company
and be aware of accounting
entries that don't seem
to make sense.**



The Profit and Loss statement of a company rarely tells the whole story. At first glance you might see expenses such as “Retirement Contributions,” “Tax Payments,” and “Management Fees,” followed by a resulting net loss or very small profit. To the layperson this may look like the owners of the company are not making any money. If you take a closer look, you might find another story altogether.

Paying Personal Expenses Through the Business

When this occurs, instead of classifying expenses as a distribution to the owner, they are classified as expenses of the business. Personal expenses can be found in any income statement account classification. The best piece of information to obtain in order to quantify personal expenses paid by a business is a General Ledger. A General Ledger is a record of all transactions that occur within a company for a specified time period.

Overpaying Taxes

Another way that a person can hide income is to pay more taxes than they actually owe. While the books of the company show a large expense, what they probably don't show is the refund due back from the IRS. Be sure to see if there is a

refund due from the IRS on page 2 of the personal tax return (Form 1040), as this would be considered an add-back to income.

Padding Retirement

Matching retirement contributions for employees is a legitimate expense. Excessive retirement contributions to the owners' retirement account are not. It is important to consider the ownership structure and policies of a company. Does the company even offer retirement benefits to its employees? What you may find is that “Retirement Expense” is actually a way for the owner to move money from the company to their personal accounts.

Becoming Underemployed

From the dentist who is seeing 50% less patients this year, to the roofer whose number of jobs suddenly declined right around the date of filing of their divorce, there are many ways to become underemployed. Ask yourself, does it make sense that this person is saying there are no other jobs available to them? Is this person making a conscious decision to accept less contracts so that their income appears to be less than it was in prior years?

Management & Consulting Fees

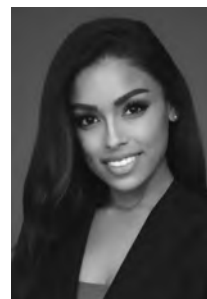
This is another type of expense that could be legitimate but should be given further consideration.

Sometimes what you will find is that a company is paying a management fee or consulting fee to another company that they also own an interest in. A quick business entity search on the State Division of Corporations website can reveal if the fees are going to a related company.

Cash Payments

It is extremely important to fully understand how a business operates. If the company accepts cash payments, it will be rife with opportunity to hide income. Always ask to review contracts of the company and be aware of accounting entries that don't seem to make sense. Reviewing the bank statements of the company might also reveal unexplained deposits. If a company has more write-offs or deposits than you expect, the accounting may bear further scrutiny.

The number of ways to hide income in a closely-held business is limited only by the owners' (or accountant's) creativity. If income is at issue, it would not be prudent to accept an Income Statement at face value. ■



Author:
Sasha M. Moore,
CPA/ABV, CFE
– CBIZ Forensic
Consulting Group

Marital & Family Law Section “ACES in Family Law” CLE

The Marital & Family Law Section hosted an insightful CLE on Adverse Childhood Experiences (ACES) in Family Law, which brought together representatives from the mental health and legal communities on February 6. Topics discussed included an ACES educational overview, a Positive Childhood Experience (PCES) summary, the role of the Bench and Bar, the role of mental health professionals, and tools to implement ACES/PCES in the members’ practices and in the courtroom. Thank you to those who attended, the speakers, and the sponsors that helped make the event possible: Older Lundy Koch & Martino; Matthew Lundy Law; King Kay Law; Busciglio, Sheridan & Schoeb, P.A.; Solomon Law Group; SoberLink; Our Family Wizard; and Sessums Black Family Law.



Judicial Luncheon/CLE

HCBA hosted an interesting and popular luncheon/CLE on February 1 at the Chester H. Ferguson Law Center on the topic of “Persuading Judges.” Attendees had the chance to hear from a judicial panel featuring Judge Chris Nash of the Circuit Civil, 13th Judicial Circuit; Judge James Giardina of the County Civil, Hillsborough County; Judge Keith Meyer of the Circuit Civil, 6th Judicial Circuit; and Judge Amanda Sansone of the U.S. Magistrate Judge, Middle District of Florida (Tampa Division). We thank the panelists for their time and insight.



THE MEDIATION SETTLEMENT AGREEMENT

Mediation & Arbitration Section

Chairs: Gerald T. Albrecht – Albrecht Mediation & Amber Boles – Boles Law Office



If a mediation settlement is reached, it shall be reduced to writing and signed by their parties and counsel, if any.

In *The Parkland Condominium Association, Inc. v. Ruth Henderson*, 46 Fla. L. Weekly D2350c (November 16, 2022), the Second District Court of Appeal addressed the issue of whether a party could enforce a settlement agreement that arose from a mediation when neither party signed the mediation settlement agreement.

Henderson sued her condominium association for damage to her unit caused by a water leak. The parties proceeded to court-ordered mediation. After the mediation, the attorneys exchanged several e-mails that included terms and drafts of the proposed settlement agreement. Henderson's attorney e-mailed Parkland a proposed settlement agreement that included all the "essential terms." Parkland's attorney accepted the settlement agreement noting that his client had "agreed to the documents as drafted."

There was a subsequent breakdown in communications, and Parkland moved to enforce the settlement. The problem was that neither party signed a mediation settlement agreement.

Florida Rule of Civil Procedure 1.730(b), regarding mediation, expressly provides: "If a partial or final agreement is reached, it *shall* be reduced to writing and signed by the parties *and* their counsel, if any." The court ruled that a

Continued on page 57



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settlement agreement resulting from mediation cannot be enforced absent the signatures of all parties.

The court noted that Florida Statutes Section 44.404(1)(a) specifically provides: “A court-ordered mediation begins when an order is issued by the court and ends when a partial or complete settlement agreement, intended to resolve the dispute and end the mediation, is signed by the parties and, if required by law, approved by the court.” The statute also provides that the mediation can end when the mediator declares an impasse.

In MEAC Opinion Number: 2022-002, dated October 10, 2022, the Mediator Ethics Advisory Committee addressed the issue if,

in the age of virtual mediations, the mediator could turn on the record feature of the virtual platform to memorialize the parties’ ratification of the mediation settlement agreement and then the mediator would sign the settlement agreement for the parties. MEAC again noted Section 44.404 stating that the mediation settlement agreement must be *signed by the parties*. Allowing the mediator to sign on behalf of the parties creates a potential conflict of interest, especially if one of the parties contests the authority given to the mediator to sign and the mediator is later put in a position of having to testify against that party, creating a clear conflict of interest.

MEAC notes that the agreement must be reduced to writing and

suggests that a “different option” would be to send the mediation settlement agreement to the parties to sign by electronic signature. The Florida rules of procedure have been amended, effective October 1, 2022, to expressly allow agreements to be signed with signatures that are “original, electronic, or facsimile.”

PRACTICE TIPS:

1. Discuss with your mediator how the mediation settlement agreement is going to be prepared and how it is going to be signed.
2. Make sure that the parties and their attorneys have signed the agreement so that it is enforceable. ■

Author: Gerald T. Albrecht – Albrecht Mediation Services

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APPELLATE RIGHTS AND THE VA CAREGIVER PROGRAM

Military & Veterans Affairs Committee

Chairs: Robert Barton – Rumberger Kirk & Janae Thomas – Quinteros, Prieto, Wood and Boyer, P.A.



When this program runs as it should, it provides life-changing benefits to deserving veterans. When it doesn't, it leaves veterans hopeless and in the dark.



Jeremy Beaudette served in the Marine Corps for ten years.¹ During his combat tours in Iraq and Afghanistan, he suffered several concussions, causing traumatic brain injury and leaving him legally blind. He was medically discharged from military service, and The Department of Veterans Affairs (VA) rated him 100% disabled. The VA also granted Jeremy and his wife Maya participation in the Program of Comprehensive Assistance for Family Caregivers (PCAFC), which aims to provide financial and clinical support to the family of a veteran who requires full-time supervision or assistance. Because of this program, Maya was able to quit her job and provide her husband with the care he needed.

A few years later, VHA reviewed Jeremy's medical records during a routine reassessment and erroneously determined that he no longer needed full-time care. Accordingly, Jeremy and Maya were denied continued participation in PCAFC.

The Beaudettes filed an appeal to the Board of Veterans' Appeals, but never received a response. Accordingly, the Beaudettes filed a petition for extraordinary relief at the U.S. Court of Appeals for Veterans Claims, requesting that the court certify a class of all claimants who received an adverse

decision regarding PCAFC and provide them with appellate rights. The Secretary of the VA argued that entitlement to the benefits of PCAFC is a medical determination, not a legal one, and that the only way to appeal is to participate in the VHA Clinical Review Process, which is otherwise used when a patient disagrees with the course of treatment of a medical provider.

In 2021, the Court determined that Congress unambiguously mandated the Board of Veterans' Appeals review of these types of decisions.¹ Consequentially, the Beaudettes had a right to have the Board review their appeal. Additionally, the Court certified a class of claimants who were denied or discharged from PCAFC, had exhausted the VHA appeals process, and were not afforded the right to appeal. The Secretary appealed this decision to the U.S. Court of Appeals for the Federal Circuit.

While we wait for the Federal Circuit to review this case, we are seeing other issues arise with the VA's handling of PCAFC, which are negatively impacting the very veterans this program was designed to help. These issues include controversy about VHA's reassessment process,² flawed implementation of the program,³ and misapplication of regulations.⁴

When this program runs as it should, it provides life-changing benefits to deserving veterans. When it doesn't, it leaves veterans hopeless and in the dark. Veterans and their advocates are keeping a close eye on developments and are hoping for positive change in the months ahead. ■

¹ *Beaudette v. McDonough*, 34 Vet. App. 95, 99 (2021).

² Quil Lawrence, *VA revamps caregivers program: Those who already qualified must reapply*, NPR (Jan. 18, 2022, 5:08AM), <https://www.npr.org/2022/01/18/1073732623/va-revamps-caregivers-program-those-who-already-qualified-must-reapply#:~:text=A%20MARTINEZ%2C%20HOST%3A,to%20stay%20on%20the%20program>.

³ Dep't of Veterans Affs. Off. of Inspector Gen., Rep. 17-04003-222, Veterans Health Administration: Program of Comprehensive Assistance for Family Caregivers: Management Improvements Needed (2018).

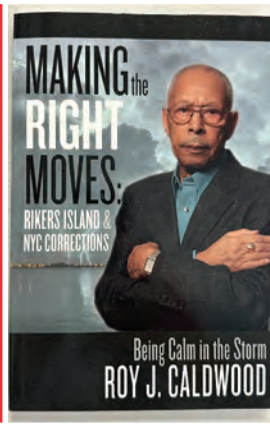
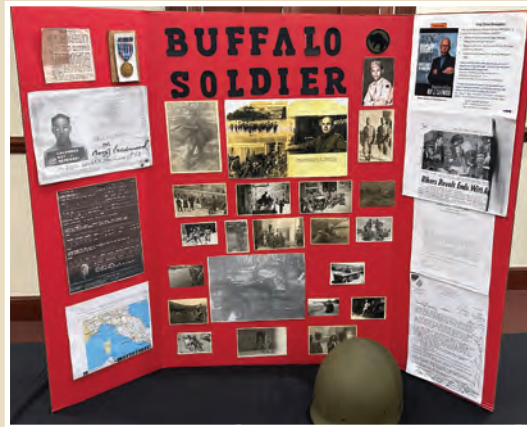
⁴ *Veteran Warriors, Inc. v. Sec'y of Veterans Affairs*, 29 F.4th 1320, 1342-43 (Fed. Cir. 2022).



Author: Morgan MacIsaac-Bykowski – Stetson University College of Law Veterans Law Institute

MVAC Hosts Luncheon with Buffalo Soldier

The HCBA Military and Veterans Affairs Committee and George Edgecomb Bar Association were honored to host a luncheon with keynote speaker Roy J. Caldwood on February 10. Mr. Caldwood was a World War II Army "Buffalo Soldier," former assistant deputy warden on Rikers Island, and author of the book, "Making the Right Moves." It was a pleasure listening to his experiences and learning about his problem-solving skills he developed through life experiences.





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Crossroads For Florida Kids' pro bono attorneys are proud to represent children in Juvenile Mental Health Court and OPTION Court, and thankful to Chief Judge Ron Ficarrotta and Circuit Judge Robert Bauman for their founding initiatives in creating these courts.



Crossroads For Florida Kids, Inc. is a non-profit organization founded in 2012 that trains and mentors pro bono attorneys to represent disadvantaged children in Hillsborough County in their dependency and delinquency cases. For many years, our attorneys have appeared in two local juvenile specialty courts, the Juvenile Mental Health Court and OPTION Court. Today, we shine a light on the important work these two courts do to improve the lives of children in our community.

Juvenile Mental Health Court (JMHC)

Chief Judge Ficarrotta reports that “the 13th Circuit has a long and robust history of leading in the area of therapeutic and rehabilitative courts.” In 2016, he created our Adult Mental Health Court, and in 2019 he started the first Juvenile Mental Health Court (JMHC) in Florida. JMHC targets juvenile offenders found incompetent to proceed based on either age and immaturity, mental illness, and/or intellectual disability, or by agreement. It also supervises and provides services to some juveniles in diversion cases. Stakeholders include the State Attorney, Public Defender, Private Attorneys, Attorneys ad Litem, Hillsborough County School District, DJJ, DCF

and APD. JMHC provides competency restoration training and treatment plans, and engages the juveniles and their families in services. To date, the Office of the Public Defender has represented 247 juveniles in 864 cases.

Chief Judge Ficarrotta describes presiding over JMHC cases as “overall the most rewarding work he [has] done in 28 years on the bench.” He notes that many of the children who appear in JMHC “have never received any positive encouragement about where they are and what their future could be.” In JMHC it is common to hear the Chief Judge praise a child for good grades, a job, or any other success, and to see the child react with a big smile.

Crossroads' Attorney Gil Singer, in his own words, about representing a client in JMHC: “*Representing JJ was an eye-opening experience. The child was intellectually disabled, had a seizure disorder, and was living in a hot van with an abusive mother and little food. He was also one of the kindest, nicest youths I ever encountered. Crossroads provided him school clothes and shoes, and advocated for him at JMHC hearings. Judge Ficarrotta was incredibly supportive of JJ, as he is of every child in his Court. Through his efforts and ours, JJ is now in an APD group home with his brother —*

happy and well cared for. The system works well when the judges are outstanding and the children have the extra support of Crossroads lawyers.”

OPTION Court

As Associate Administrative Judge of the Dependency Crossover Division, Circuit Court Judge Robert Bauman presides over both delinquency and dependency divisions. One of the things he noticed when he first arrived was the disturbing number of children who were victims of human trafficking. To help victims, he founded OPTION Court in 2019. Many children who appear in OPTION Court have suffered extreme trauma, leading them into the foster care system. Their trauma and unstable lives make them prey for traffickers. But, changes do occur, with successes often measured in small steps, as Judge Bauman describes: “*Success comes in various measures: it is efforts to get a youth a safe placement, and the youth not returning to the trafficker; it can be as little as the youth not running for a period of time — for some even a day or week can be a success; placement in a safe house; enrollment in school; providing a trustworthy survivor-mentor; placement with appropriate service*

Continued on page 61

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provider(s) — therapy for mental health and/or substance abuse; medical care; and obtaining employment. We have had several youth that have not returned to their trafficker and are thriving in school or have graduated. We know most victims only choose to leave “the life” when they choose, and a victim is only “rescued” when they decide to leave “the life”. That is the purpose of OPTION Court — to provide the victim an opportunity/option to accept services and/or assistance. We impose no penalties when the victim chooses not to engage. We open the door for the victim to take the chance to get out from under the stranglehold of the trafficker and have the chance for a better life. There is usually a very small window of time to do so.”

OPTION Court holds monthly staffings and hearings for each child. Stakeholders are the State Attorney, Public Defender, Children’s Legal Services, DJJ, Juvenile Justice, School District, a variety of case managers (Court, dependency), Guardians ad Litem, Attorneys ad Litem, treatment service providers,

Survivor Mentors, and Missing Child Specialists. In Court, Judge Bauman praises the accomplishments of victims, and questions them as to their needs. His staff maintains a clothing closet at the courthouse, because they know kids in foster care run and when they return their clothes are gone.

Judge Bauman has become an expert on human trafficking, and makes time to educate local, state and national entities about Florida’s unfortunate status as the third leading state in the country with respect to human trafficking and how to spot and help trafficking survivors. He also created a primer called “Human Trafficking 101.” In his courtroom, talking to the survivors is where Judge Bauman really makes a difference, and breakthroughs happen.

To date, 343 cases involving over 70 kids have been heard in OPTION Court.

Crossroads For Florida Kids attorneys are proud to represent children in Juvenile Mental Health Court and OPTION Court, and thankful to Chief Judge Ron

Ficarrotta and Circuit Judge Robert Bauman for their founding initiatives in creating these courts that promote the delinquency goal of rehabilitation. In January 2023, Circuit Judge Michael Scionti succeeded Chief Judge Ficarrotta as head of JMHC. Welcome Judge Scionti!

Crossroads For Florida Kids depends upon HCBA pro bono attorneys, who donate their skills or money, to help make sure children in these Courts are represented. If you would like to join in our mission, please contact us at Rosemary@crossroadsfloridakids.org. ■



Authors: Rosemary Armstrong – Crossroads for Florida Kids and Chad Moore – Morgan & Morgan

Trial & Litigation Section Luncheon

On January 26, Trial & Litigation Section members received a special update from the Honorable William Jung, District Judge, United States Middle District of Florida. We thank Judge Jung for taking the time to speak to our Section.

Thank you also to our luncheon sponsor:



DATE OF INJURY FOR PTSD CASES

Workers' Compensation Section

Chairs: Anthony Cortese – Anthony V. Cortese-Attorney at Law, Irene M. Rodriguez – Irene M. Rodriguez, P.A., Ya'Sheaka Williams – Eraclides, Gelman, Hall, Indek, Goodman



PTSD is causing some unusual rulings on the determination of the date of injury.



Post-traumatic stress syndrome, referred to as PTSD, is causing some unusual rulings on the determination of the date of injury.

In *City of Hallandale v. Casey*, No. 1D21-2138 (Fla. 1 DCA, Nov. 30, 2022), the claimant was a police officer who responded to the active shooter at Marjory Stoneman Douglas High School on February 14, 2018. As he was helping to clear and secure the building, he saw the bodies of dead students and an adult. He began to have episodes of anger, nightmares, and anxiety. In October 2018, the city provided a mental health seminar, and he realized he might have PTSD. He asked a supervisor for assistance, met with supervisors on November 19, 2018, and was immediately placed on administrative leave. The employer/carrier authorized a psychiatrist for PTSD treatment for him as a first responder under F.S. 112.1815(2)(a)(3), and the claimant was put on light duty and then terminated. The employer/carrier did not pay indemnity on the basis that the date of injury was February 14, 2018, and the law that added

indemnity benefits for PTSD for a first responder PTSD claim was not effective until October 1, 2018, under F.S.112.1815(5).

The Judge of Compensation Claims held that PTSD qualified as an occupational injury, and the date of disability for an occupational injury can be considered as the accident date. Since the date the claimant was placed on administrative leave and effectively disabled was November 19, 2018, the Judge held that November 19, 2018, was the effective accident date. Therefore, since it was after the October 1, 2018, effective date of the law allowing indemnity, the claimant was entitled to indemnity benefits. The First District affirmed and noted that the nature of post-traumatic stress syndrome is that it occurs sometime after the traumatic event occurs.

In another example, in a case under the Defense Base Act (*Rodriguez v. Triple Canopy*, BRB No. 20-0520 (5/27/2021)), an Administrative Law Judge who found that the claim for PTSD was barred by the statute of limitations under that Act was reversed.

Rodriguez worked in Iraq from 2006 until 2010, and in 2008 an explosion damaged his hearing and killed two people next to him, when a mortar attack hit his bunker and knocked him unconscious. He received some medical treatment, but kept working. He testified he had other adverse exposures in 2009 and developed bilateral hearing loss, vision problems and psychological symptoms. However, he first sought psychological care in October of 2016 and treatment for hearing loss in March of 2018. He filed claims for both in March of 2018. The Benefits Review Board reversed the denial of benefits based on the statute of limitations, holding that PTSD was an occupational injury in the case, and that the statute of limitations for an occupational injury under the Act is two years. Therefore, until Rodriguez had the opinion of the psychologist that he had PTSD on October 21, 2016, the two-year statute of limitations had not begun to run. ■

Author: Anthony V. Cortese – Anthony V. Cortese at Law

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JURY TRIALS

For the month of February

Judge: Hon. Larry Helms, Polk County Circuit Court

Parties: Coca-Cola Beverages Florida, LLC ("Coke Florida") v. Connor Crouse

Attorneys for plaintiff: Karl Pansler and Chase Pansler of the Pansler Law Firm

Attorneys for defendant: Robert L. Blank, Damien Orato

and Alyxandra Buhler of Rumberger, Kirk & Caldwell

Nature of case: Trucking accident

Verdict: Defense Verdict

For the month of February

Judge: Hon. Keith Meyer

Parties: Sheridan Vincent Cornn, Roberts Mobile Home and RV Resort, Inc. v. Frank Susco, Sr.

Attorneys for plaintiff: Dennis Hernandez and Mollie Hair of Dennis Hernandez & Associates

Attorneys for defendant: Jody M. Valdes and Megan B. Collins of Weekley Schulte Valdes Murman & Tonelli

Nature of case: Motor vehicle negligence alleging traumatic brain injury and spinal injuries

Verdict: Defense verdict



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Ceci Berman of **Brannock Berman & Seider** participated in a panel discussion at the Wm. Reece Smith, Jr. Litigation American Inn of Court on the topic, “Last Things First: What Your Appellate Attorney Wants You to know.”

Michael J. Bradford, a shareholder in the Tampa office of **Marshall Dennehey**, was appointed to the Middle District of Florida’s Admiralty and Maritime Practice Committee, which is tasked with reviewing and making recommendations regarding the Court’s Admiralty and Maritime Practice Manual. Bradford is a Board-Certified Civil Trial Lawyer and he serves as co-chair of Marshall Dennehey’s Maritime Litigation Practice Group.

Hill Ward Henderson is pleased to announce the election of four new shareholders: **Andrew Holway**, **Justin Wallace**, **Nicole Walsh**, and **Trae Weingardt**. Holway is a member of the firm’s Construction Litigation group. Wallace is a member of the firm’s Corporate & Tax group. Walsh is a member of the firm’s Personal Injury group, and Weingardt is a member of the firm’s Real Property Litigation Group.

Congratulations to **Kathleen McLeroy** of **Carlton Fields**, who has been selected as the 2022 recipient of the American Bar Association (ABA) Business Law Section’s Jean Allard Glass Cutter Award.

Bradley Arant Boulton Cummings LLP is pleased to announce that **Christopher A. Odgers** has joined the firm’s Tampa office as an associate. Odgers is a member of Bradley’s

Construction Practice Group where he represents owners, general contractors, and subcontractors, providing strategic counsel to clients on a variety of construction-related issues.

Spencer Fane is pleased to announce that **Drew O’Malley** has been elected to the partnership. O’Malley is a full-service litigator focusing on complex commercial litigation with an emphasis on consumer finance, real estate, and corporate disputes.

Adams and Reese is pleased to announce that **Chantal Pillay** has been appointed partner in charge of the firm’s Tampa office. Pillay maintains a diverse legal practice on a wide array of banking, financial services, civil and commercial litigation matters.

Sarah Roberge recently joined the appellate firm of **Brannock Berman & Seider**. Brannock Berman & Seider is pleased to welcome Roberge to the firm.

Mark A. Sessums of **Sessums Law Group** spoke at the 2023 American Academy of Matrimonial Lawyers (AAML) Florida Chapter’s Marital and Family Law Review course. This was Sessums 14th year speaking at the event, which draws over 1300 lawyers, judges, and experts. Sessums’ presentation focused on the topic of Agreements.

Garrison, Yount, Forte & Mulcahy, LLC is pleased to announce that **Madeline Villani** has been named as a partner in its Tampa office. Villani represents clients in a wide array of civil litigation defense matters, including premises liability, auto negligence, products liability, wrongful death and first-party property insurance cases throughout the state.

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