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Continuing with our theme of highlighting unique and meaningful architecture and locations about the County, we are featuring this beautiful photo from MacDill Air Force Base, in honor of Memorial Day. MacDill Air Force Base has been a part of our community, since its founding in 1939. Today, MacDill is a busy and important base, serving as home to the 6th Air Refueling Wing, its 310th Airlift Squadron flying the C-37A, and its 50th Air Refueling Squadron and 91st Air Refueling Squadron flying the KC-135. It also is home to the headquarters for two of the U.S. military’s unified combatant commands: United States Central Command (USCENTCOM) and United States Special Operations Command (USSOCOM). We are proud to call MacDill and the service members and airmen who are stationed at the base part of our community. (Photo, courtesy of MacDill AFB)
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Based on the ever-increasing risks and concerns associated with the coronavirus (COVID-19) pandemic and the local and statewide social distancing and safer at home orders, the Bar Foundation has regretfully decided that it is necessary to postpone and reschedule the Annual Law & Liberty Dinner. Rest assured that we are looking forward to announcing a new date for the event.

Joe Theismann is committed to be the speaker for the rescheduled event. We appreciate the continued support of our sponsors, during this period of uncertainty with the increased need for assistance within community.

The Hillsborough County Bar Foundation wishes to thank these sponsors (to date):

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The Bar Foundation hopes that you and your families are safe and healthy!
As the COVID-19 pandemic has shut down businesses and schools, we’ve been in crisis. And in a time of crisis, the world needs lawyers more than ever. It has been so heartening to watch our profession jump into action: interpreting the rapid-fire changes in law, advocating for those in need, and supporting businesses, schools, hospitals, and individuals as they navigate daily uncertainty.

Just because we have risen to the challenge does not mean it has been easy. We are adapting to new technologies, reduced productivity, reduced support, and in many cases reduced income or unemployment, while balancing increased responsibility at home (there is a reason I am a lawyer and not a teacher!), increased client demands, increased health worries, and deadlines that do not know there is a crisis.

I’ve watched fellow attorneys make the best of it with humorous social media posts — sharing silly pictures of their “colleagues,” a.k.a. pets and children, in funny situations, or their “business on top, party down below” video conference garb. And the virtual video happy hour with friends from around the country may well be the best thing to come out of 2020.

Continued on page 5
But there’s also an undercurrent of coping difficulties (so, so many references to “wine-o’-clock” and day drinking and understandable impatience and anger). It can be startlingly easy to slip into unhealthy coping mechanisms. Stress causes not just fight or flight, but also freeze. Physiologically, the best ways to break free of that freeze and complete the stress response cycle include exercise/movement, mindfulness and meditation, or even a good old-fashioned cry or scream.

In the face of so much additional stress, I am reminded to lean on one of my favorite life skills books: *The Four Agreements* by Don Miguel Ruiz. This simple, small tome carries four big ideas that make business and life smoother. They are:

1. **“Be impeccable with your word.”** Be honest with yourself and others. Speaking with integrity is the first step to managing difficult situations.
2. **“Don’t take anything personally.”** If my first thought is “what a jerk!” I take an immediate step back. What might this person be going through that is making him angry or sad or mean? I don’t know, but I do know it is not about me. So I remove myself from the equation and find I can handle the situation much better when I don’t let taking offense get in the way.
3. **“Don’t make assumptions.”** This is all about asking good questions, expressing yourself honestly, and avoiding drama.
4. **“Always Do Your Best.”** This one sounds like you must be absolutely be 100% on your game, but it’s not. Your best differs from moment to moment, and sometimes your best is writing the best brief of your life and sometimes your best is showering before 10 am. Whatever kind of day it is, do your best without self-judgment or self-abuse or regret.

The undercurrent of these four rules is caring: Caring for yourself, and approaching the people with whom you interact with care. If we can remember to choose caring, we will get through this, and our lives and our profession will be better for it. And if you need help, please ask. The Florida Bar’s Lawyers Assistance Program confidential hotline, 800-282-8981, can provide much-needed support. In the meantime, do your best.

**The Stann Givens Family Law Inn of Court**

**Tampa’s only Family Law Inn, the Stann Givens Family Law Inn of Tampa, is now accepting applications for the 2020-2021 Inn year, which starts in August 2020.**

Are you new to the practice of family law? Do you want to get more involved in the family law community? Are you interested in getting to know the judges who will be presiding over your family law cases?

Formed in 1995, The Stann Givens Family Law Inn of Tampa is an organization of family law judges, magistrates, hearing officers, attorneys, and law students, who are dedicated to professionalism, ethics, civility, and excellence in the practice of family law. We were the first Inn in Tampa to be recognized by the American Inn of Court as achieving the highest standards of an Inn – Platinum.

We hope that you will consider becoming a member.


Dear members,

I am writing this issue’s President’s Message in March 2020 as the worrisome news keeps arriving about the novel coronavirus, COVID-19. Based on public health official recommendations, the HCBA announced event postponements or cancellations through April (extended to May 31 after this article’s writing). The Ferguson Law Center, normally host to many meetings, has become pretty quiet. Some of us are preparing to work remotely, away from the usual company of colleagues. Some of us are duty bound and showing up for work to provide essential services in the community. We have learned new phrases like “social distancing” and “flatten the curve” and have had to significantly alter social behaviors like shaking hands in greeting.

Our members are great sources of pride. Clients search us out in normal times for advice, counseling, and help with a variety of legal issues. In extraordinary times like now, our members are

Continued on page 7
Continued from page 6

having to rely even more upon a great variety of skills. Our members are analyzing documents, case law, offering input, and keeping up with new executive orders that state and local officials are issuing. We are problem-solving even as facts, data, and legal goalposts seem to change from day to day. We are considering what is best for the greater good, what is practical, what makes sense, and are pooling collective life experiences as many look to us to communicate calmly-delivered and sound guidance.

We are acting as strategic planners, putting forth our best efforts in an uncertain future. We are organizing and managing our own work and needing to adjust routines in life. Some of us are managing teams working a lot more remotely than before, and we are needing to adapt quickly to interact with many people from a physical distance.

I am also very proud of our HCBA team under the leadership of executive director John Kynes. The website and social media channels continue to be updated. Some sections and committees have switched to webinars, video conferences, and conference calls to share information. Our HCBA Lawyer Referral Service and volunteers have answered hundreds of phone calls from the public seeking help. Our HCBA team has kept up with a lot of work remotely to continue member services with as little disruption as possible.

I urge our members to do their best to take care of their physical and mental health and help those around them. I truly hope you all stay safe, express gratitude, and show kindness. In highly challenging and stressful times as these, it’s even more paramount that family, friends, neighbors, and strangers support each other as much as possible, and I am confident that HCBA members will continue to help as we eventually head towards a path of recovery and normalcy. I hope to see many of you soon, shake your hands, offer hugs, and welcome you back to bar events. However, if circumstances prevent our ability to gather in the coming months, please know that your HCBA and I personally send our very best wishes! ■

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Office in Maitland
May is designated by The Florida Bar YLD as “Health & Wellness Month.” Due to recent events and the temporary new world we find ourselves in, anxiety, stress, fear, and negative thoughts can easily take control. Many may think that, because of recent events, they do not have time to practice wellness, but these troubling times underscore the importance of our overall wellness and mental health. This is especially true given that lines may be blurred between many workplaces and the safe haven that is typically our home.

So during this Health & Wellness Month, here are some tips to maintain or improve your mental health and overall well-being. First and foremost, be sure to take care of you, and engage in stress-reducing activities. This may include taking a break to meditate, listen to an inspirational podcast, or go for a walk.

Also, be sure to check in with others. Though “social distancing” is currently required, you can still physically distance while maintaining social connections with those who are important in our lives. This may include calling or video chatting with loved ones or friends, or even writing a letter or e-mail to someone you may have lost contact with.

Finally, don’t be afraid to seek help. The Florida Bar and the American Bar Association both have a multitude of mental health resources for lawyers and young lawyers in stressful times.

The HCBA YLD continues to support the promotion of the health and wellness of its members, as it hosted Lisa Giarratana, LCSW, for a wellness CLE luncheon in February, where she gave extremely useful tips and guidance on managing the demands of the legal profession with mindfulness.

Further, the HCBA YLD still plans to offer wellness events and activities during this Health & Wellness Month, so please be on the lookout for announcements regarding those events and how you can participate. Let’s all be sure to focus on maintaining a healthy lifestyle and improve wellness, especially in these particularly stressful times.

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The HCBA’s Lawyer Referral & Information Service is accredited by the American Bar Association. To join this program, call (813) 221-7780.
Coffee at the Courthouse

The Young Lawyers Division and the Hillsborough Association for Women Lawyers co-hosted another successful “Coffee at the Courthouse & Judicial Shadowing Day” on February 28 at the Edgecomb Courthouse with the judges of the Thirteenth Judicial Circuit Court. Thank you to the judges that participated and shared their valuable insight and advice to the attendees. Also thank you to our event sponsors:
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Amid COVID-19 Pandemic, Signs of Hope: Health Care, Frontline Community Workers are America’s Newest Heroes

As always is the case, members of the legal community will play a critical role in helping our nation regain its bearings.

In between the disturbing daily TV news briefings about the COVID-19 pandemic, comes reports about America’s newest heroes.

All the health care workers putting their lives at risk every day to treat infected patients and manage the crisis.

And all the first responders and the other frontline community workers, such as grocery store clerks, who help the rest of us all carry on as best we can.

Their everyday acts of personal sacrifice and compassion are truly inspiring.

We are all in this together, and the road to recovery will certainly be a long one.

And, as always is the case, members of the legal community will play a critical role in helping our nation regain its bearings.

For instance, the Florida Bar YLD, in conjunction with the ABA Young Lawyers Section and FEMA, has re-opened its Disaster Relief Hotline.

Working remotely, volunteer attorneys assist citizens negatively impacted by COVID-19 on a pro bono basis by returning calls placed to the YLD’s 1-800 hotline.

You can get more information about this great opportunity to help your fellow Floridians in their time of need on the Florida Bar or HCBA websites.

In March, a Franciscan brother from Dublin, Ireland, named Richard Hendrick posted on Facebook a poem he had written to give respite to all those people who were in “lockdown” amid the coronavirus pandemic.

Hendrick said he was inspired to write the poem by news coverage of the pandemic outbreak. He was invited to read his poem on BBC Radio London, and it was featured on a broadcast by CNN’s Anderson Cooper.

Seen as a strong message of hope in the face of dire circumstances, Hendrick’s Facebook post has been shared tens of thousands of times. The full text follows on the next page:

Continued on page 13
“Lockdown”

Yes there is fear.
Yes there is isolation.
Yes there is panic buying.
Yes there is sickness.
Yes there is even death.

But,

They say that in Wuhan after so many years of noise
You can hear the birds again.
They say that after just a few weeks of quiet
The sky is no longer thick with fumes
But blue and grey and clear.
They say that in the streets of Assisi
People are singing to each other
across the empty squares,
keeping their windows open
so that those who are alone
may hear the sounds of family around them.
They say that a hotel in the West of Ireland
Is offering free meals and delivery to the housebound.
Today a young woman I know
is busy spreading fliers with her number
through the neighbourhood
So that the elders may have someone to call on.
Today Churches, Synagogues, Mosques and Temples
are preparing to welcome
and shelter the homeless, the sick, the weary
All over the world people are slowing down and reflecting
All over the world people are looking at their neighbours
in a new way

All over the world people are waking up to a new reality
To how big we really are.
To how little control we really have.
To what really matters.
To Love.
So we pray and we remember that
Yes there is fear.
But there does not have to be hate.
Yes there is isolation.
But there does not have to be loneliness.
Yes there is panic buying.
But there does not have to be meanness.
Yes there is sickness.
But there does not have to be disease of the soul
Yes there is even death.
But there can always be a rebirth of love.
Wake to the choices you make as to how to live now.
Today, breathe.

Listen, behind the factory noises of your panic
The birds are singing again
The sky is clearing,
Spring is coming,
And we are always encompassed by Love.
Open the windows of your soul
And though you may not be able
to touch across the empty square,
Sing.

So, to all our HCBA members, take care of yourselves,
and remember, the sky is clearing, and spring is coming,
hopefully soon.
See you around the Chet. ■
2020 Honorable Robert J. Simms High School Mock Trial Competition

The HCBA Young Lawyers Division hosted another great Honorable Robert J. Simms High School Mock Trial Competition on February 22, with several local schools participating! Congratulations to the Bell Creek Academy team, who won this year again and will advance to the state competition on behalf of the Thirteenth Circuit.
Thank you also to the committee members; the local attorneys that volunteered to serve as scoring jurors; Florida Court Reporters; the many judges that participated; and the event sponsors: Older, Lundy & Alvarez, Johnson and Jackson, PLLC, and Burr Forman.
Court Operations in a COVID-19 Environment

Addressing the needs of the circuit, within the spaces we have, is complicated.

The court facilities of the Thirteenth Judicial Circuit are meant to serve the people. They must be open to the public and accessible to all. However, COVID-19 has had a significant impact on Hillsborough County, to include court business. Community leaders had to shift from normal business operations to COVID-19 compliant operations. My focus was to ensure that essential court events and mission critical hearings could be held in an environment that promotes public health.

Thankfully, I have numerous support systems. The Administrative Office of the Courts for the Thirteenth Circuit had recently updated our Continuity of Operations Plan (COOP) and Pandemic Plan, which enabled me to quickly prioritize the types of hearings that must be held. The Centers for Disease Control and the Florida Department of Health provided guidance on social distancing, maximum room occupancy, and cleaning protocols. Supreme Court Chief Justice Charles Canady and the Administrative Office of the State Courts held teleconferences to address the needs and questions of the Circuit Court Chief Judges. I quickly acquired the information needed to enter Administrative Order S-2020-019 (dated March 18, 2020), detailing the COVID-19 mitigation efforts of the circuit.

However, addressing the critical needs of the circuit, within the spaces we have, is complicated. Courtrooms of the Thirteenth Circuit were not built with social distancing in mind. The criminal annex was built in phases, in 1952 and 1984. While there have been build-outs and updates to provide security enhancements, incorporate technology, and create additional courtrooms and seating, no one ever contemplated that court attendees would need to stay six feet from each other or participate remotely. First appearances following arrest take place in courtroom 17, where those in custody make video appearances. Key participants generally appear in person and witnesses testify within the courtroom. In order to provide more distance between people, a microphone was installed in the public gallery, allowing witness testimony from a distance. And only those whose presence is essential are now permitted into the courtroom.

We have also made significant changes as to the way by which juvenile detention hearings are conducted. Remote video appearances of parties are the new norm, to include the youth at the detention facility and their parents/guardians. The judge sees and hears everyone from a monitor on the bench. Shelter hearings are also conducted with video appearances.

Times like these can bring out the best in people. I am grateful for active engagement of my fellow judges, to include the Administrative Judges who generously shared ideas and support. Our local justice partners, such as the Clerk, Public Defender, State Attorney, Sheriff and Chiefs of Police, were tireless in their efforts to see justice served while ensuring public safety.

Obstacles are overcome with collaboration and innovation. The business of the court continues when we all aspire to the same goals. In Hillsborough County, our justice partners share goals, and we reach them.
YLD Recognizes Lyndsey Siara

Congratulations to Senior Judicial Staff Attorney Lyndsey Siara with the Thirteenth Judicial Circuit on being recognized by The Florida Bar Young Lawyer Division as one of nine Outstanding Young Female Lawyers, who were highlighted during International Women's week in March. She was elected to the HCBA’s YLD Board three years ago and in that time has championed the creation of an Outstanding Young Government Attorney Award. She also organized a regional summit on government attorneys in our area (currently postponed) and encourages other government attorneys to get involved in Bar activities. Also, she is a regular contributor to this Lawyer magazine: In fact, she is the author of the feature article starting on the next page on Judge Caroline Arkin Tesche!

Additionally, Siara and a colleague spearheaded the opening of two lactation rooms at the Edgecomb Courthouse and have pushed for more across the state. She is also active in The Junior League of Tampa, playing an instrumental role in the success of Tampa's first and only Diaper Bank. Siara gives countless hours of her time to the local Bar and community at large, while excelling in her role as a judicial staff attorney, and is very deserving of this recognition. Congratulations!
Beyond the Robe: Judge Caroline Tesche Arkin

Judge Tesche Arkin was obviously thrilled to be nearing the finish line of her orthopedic surgery recovery.

Author’s Forward: The sixth segment of this series was written in the midst of a worldwide pandemic. The conversation that preceded the article occurred several weeks prior — long before remote work requirements and stay-at-home orders. But of course, there was some pause for concern about publishing a light-hearted exposé at a time when our world seems chaotic and the future uncertain. After consulting with the subject of this article, we decided it best to push forward. It is our sincere hope that this article will provide a small break from the surrounding craziness (whether induced by the news or work-from-home requirements whilst kids distractedly engage in shenanigans around you) and bring a sense of normalcy during these uncertain times. By publication, perhaps we are all back to our routines and our office desks. Either way, we find solace in knowing that we will reach the other side of this challenge and once again be together at the Chet.

You will first notice that this recurring series on Thirteenth Circuit judges has been rebranded. While we are certainly still “meeting the judges,” it is my intention to take readers Beyond the Robe and resume of the featured judge on a deeper dive into their lives, interests, and personalities. Brief, non-scientific research revealed only one common title: Beyond the Robe: Science for Monks and All It Reveals about Tibetan Monks and Nuns, by Bobby Sager. No doubt markedly different subjects, but amusingly, the title usage for both is quite apropos.

In the sixth segment of this series, I highlight Judge Caroline Tesche Arkin. On the tail-end of her recovery from a total ankle replacement, Judge Tesche Arkin graciously invited me to her home to converse over a cup of tea. Although it was her continued recovery that prompted my home beyond the robe: Judge Caroline Tesche Arkin

Continued on page 19
visit, after spending time with her, I have no doubt she would have invited me regardless and welcomed me with a signature warm hug. Warmth. That is the primary adjective to describe Judge Tesche Arkin’s personality and the feeling she elicits from others. It was certainly the environment she created during our time together as we sipped an herbal blend, chatted, and gazed out into her backyard.

Overlooking the Hillsborough River, her backyard is an oasis of banana trees and butterfly gardens, along with a band stage and a large bird aviary built by a dear friend. You shouldn’t be surprised to learn that gardening is her favorite hobby. After her family and the law (more on those later), her backyard is a true love. It shows. The passion was born after her parents encouraged teenaged Caroline to grow something. She tapped into her ancestral agricultural roots (her dad’s family ran a walnut farm in what is now Silicon Valley, and her maternal grandparents were lima bean growers in southern California). She chose pumpkins, and realized she enjoyed watching them grow. Now she
MEET THE JUDGES
by Lindsay E. Siara – Thirteenth Judicial Circuit

Continued from page 19

writes her bananas sprout along the river. Trying not to be distracted by the beauty and serenity of her backyard sanctuary, I had the pleasure of learning what I now share with you.

Judge Tesche Arkin was obviously thrilled to be nearing the finish line of her orthopedic surgery recovery. The surgery that left her with a bionic ankle stemmed from a shattered femur after a bad car accident when she was a sophomore in college, followed by degenerative arthritis. In college, her recovery motivation was a picture of Mount McKinley. Now, it’s the Swiss Alps, which she plans to eventually trek. She also focuses on returning to her courthouse family and hopefully a more active lifestyle than the arthritis previously allowed. Judge Tesche Arkin fancies herself an athlete and has always loved the outdoors.

Judge Tesche Arkin is a Tampa import. Born in New Mexico to Fred and Marilyn Tesche, the youngest child of this family had quite an interesting childhood. Judge Tesche Arkin had four older brothers — Fred, Tom, Allan, and Dan; her fondness for each of them truly shines. Interestingly, the age gap between Judge Tesche Arkin and her brothers is quite expansive — 11 years separate her and her next youngest sibling. So by the time baby Caroline came along, her brothers were mostly grown, and seemed more like uncles to her — six-foot protective ones.

Judge Tesche Arkin’s childhood was shaped by her father’s career, so his story is interwoven with her early years. Fred Senior was born in San Jose, California (a city in which I lived for several years — yet another reminder that a collegial conversation can elicit connections you never knew existed). He became a Second Lieutenant in World War II. Judge Tesche Arkin’s parents were both students at the University of California Berkley when they met. After they married, Marilyn suspended her studies to raise the children. Thirty-five years later, Marilyn returned to Cal, and as the oldest graduating student, she earned her degree in art history and Native American studies.

Fred Senior was a physicist, having received his Ph.D. from UCLA, and worked for the government on top secret nuclear weapons research and development projects at Los Alamos National Laboratories. Judge Tesche Arkin recalls that his level of clearance came with a hostage negotiation plan (is that cool or what?!?!), and her father’s immediate supervisor was a four-star general. While the family lived in New Mexico, Maryland, and D.C., the more notable mission was a diplomatic post as the United States Scientific Advisor at the American embassy in London. About ten years old when they moved abroad, young Caroline had what she described as the best academic experience of her childhood. Having skipped a grade in the transition from America to England, Judge Tesche Arkin learned to speak French — she still speaks enough to get by — and even picked up a wickedly good British accent. The family eventually returned to California where her father finished out his career working on energy alternatives like wind and solar, and teaching at UC Berkley as a physics professor.

The family’s nomadic-like lifestyle spawned a life-long love for travelling; during summer breaks, Judge Tesche Arkin’s mother took her to countries such as Greece, Italy, and France. As an adult, her travels are only more exotic. For their honeymoon, Judge Tesche Arkin and her husband Steve traveled to Iceland and Norway. They have been dog sledding on a glacier in Alaska, stayed in an overwater bungalow in the French Polynesian, and went sailing on a catamaran in Bora Bora. As a last hurrah before her surgery, Judge Tesche Arkin recently travelled to Singapore and Thailand. Judge Tesche Arkin and Steve both appreciate memories and experiences over material things.

In that same vein, people and relationships are just as important. That was apparent from the get-go; she took

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great joy in sharing with me the people she holds most dear. Between her parents and brothers, as well as the family she gained after her marriage to Steve, and her group of long-time close friends (one of whom, Jennifer Smith — affectionately known as “Wingman” — had been graciously assisting her throughout her recovery), she had a lot to talk about. At the expense of sounding a bit “Hallmarky,” Judge Tesche Arkin described her love and admiration for her “kind, fun-loving, and generous” husband Steve, who is an exceptional physician. Having met later in life, Judge Tesche Arkin and Steve live life to the fullest together. “My greatest gratitude in life is having his love in it,” she warmly shared. During a brief one-on-one moment with Jennifer, as she toured me through the backyard, I could sense how special Judge Tesche Arkin is to those people she holds dear.

I also gathered from Jennifer that Judge Tesche Arkin is just a fun person to be around. As people-people, Judge Tesche Arkin and her husband love to throw themed parties in their backyard. Steve is her willing partner in donning clever costumes for such events. They’ve dressed up as “Night” and “Fever” (a Bee Gee’s reference, for those not old enough to know), and won a “best costume” prize for attending as a hurricane — yes, a hurricane! She was the cone of uncertainty and he a spaghetti model. She takes pride in personally designing and crafting most of these costumes.

And hence the backyard band stage. Judge Tesche Arkin loves music, so no party is complete without it. As a child, she had vocal training in classical music and played the violin. Now, she plays some guitar and occasionally volunteers to sing at Law Follies. With a few college acting classes under her belt, she’s always willing to ham it up. Judge Tesche Arkin and Steve have hosted barristers from the United Kingdom and weddings, and even feature regular musicales, in their backyard sanctum.

Just like her parents, Judge Tesche Arkin graduated from the University of California, albeit the Santa Barbara campus. She graduated from Lewis & Clark Northwestern School of Law in Portland, Oregon, but spent her third year in New York City as a visiting scholar at Fordham Law School. Her entire family is exceptionally impressive in terms of academics and achievements — she used the term “off the charts smart.” Her oldest brother Fred has a Ph.D. in electrical engineering and Tom has a Ph.D. in geophysics; both are brilliant scientists. Allan was the other lawyer in the family, and Dan — her “soul brother” — is a musician, artist, and free spirit. The entire Tesche clan are gifted orators. Judge Tesche Arkin recalled deep conversations and great debates — all engaged in with respect for one another — around the dinner table. Fred Senior was a particularly talented educator. Judge Tesche Arkin highlighted a “Bring Your Dad to School Day” during which Fred Senior held court with her schoolmates by placing a Hershey kiss on the top of each child’s head. With instructions that if you’re still enough to keep the kiss on your head, you get to eat it at the end, Fred Senior orated about the solar system or some other deep topic. With a laugh, Judge Tesche Arkin considered implementing this strategy for one of her trial advocacy classes at Stetson. The more memorable times with Fred Senior were during his “lab talks” out in the garage. Judge Tesche Arkin would join Fred Senior in tinkering with an antique amateur ham radio to register Morse Code transmissions from around the world. Or he would teach lessons about the big questions kids have like Why is the sky blue? He loved to talk and young Caroline loved to listen; a skill she finds helpful now as a judge.

Judge Tesche Arkin was elected to the bench in 2008. Her brother Allan, who has since passed away, was her inspiration for going to law school. He was a prominent attorney and an elected Assembly Member in Anchorage, Alaska, and also ran a bed and breakfast with his wife, Pam. Allan was a gifted orator, just like Fred Senior. Judge Tesche Arkin recalled a time during which she was still in private practice and Allan was visiting Tampa; she had laryngitis and an important

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MEET THE JUDGES
by Lyndsey E. Siara – Thirteenth Judicial Circuit

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criminal hearing before former Judge Debra Behnke. Allan came to her rescue by appearing pro hac vice, with the permission of the client, the State, and the judge, and despite not being a criminal attorney, he was a great stand-in. Over the years, they would collaborate on cases; Allan was her sounding board. Allan also became Judge Tesche Arkin’s campaign advisor — she even modeled her campaign sticker after his. Allan loved Tampa and its Cuban sandwiches and cigars, and to this day, there is a steady stream of family and friends that travel between the Anchorage B&B and Tampa.

Before running for judge, then-attorney Tesche Arkin was in private practice doing mostly criminal defense work, along with some estate planning, contracts, and bankruptcy. While in law school, she spent a summer at the Department of Probation and then the New York City Mayor’s Office. Uncertain of her next move, the new graduate saw a brochure essentially touting “Come to Miami and Work for Janet Reno.” Intrigued, Judge Tesche Arkin took a chance, moved South, and became an Assistant State Attorney under the woman who would become the first female and second-longest serving United States Attorney General. Those five years as an ASA were formative and landed her new roles at the U.S. Attorney’s Office in Maine followed by private practice in Key West. Realizing the weather was better down South, Judge Tesche Arkin took her next chance by moving to Tampa and becoming an Assistant Public Defender under Julianne Holt. Judge Tesche Arkin had traveled all over the world, but Tampa soon became her chosen home.

While on the bench, Judge Tesche Arkin has circulated through several divisions. The felony division was very natural for her, given her background as a criminal defense attorney. There were challenging times of course. She recalled a five-month pill mill RICO trial — what she understands is still the longest state court trial in this Circuit. It was that experience, and the toll it took on her mind and body, that led her to care deeply about judicial wellness and mindfulness. She later taught a course at the

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Florida Circuit Court conference on the topic. Judge Tesche Arkin found great joy in the Juvenile Delinquency Division, feeling that she could make a difference in a child’s life. Her time in the Dependency Division was especially consequential; the weightiness of the decisions that must be made have stayed with her over the years — a child’s life truly is on the line in child welfare cases. Where possible, she tried to make special connections with the children, even dyed her hair pink because she thought the youngsters would enjoy it. Of course, she remembers the heart-wrenching cases where it felt as though there is little the system can do to change the course of a child’s life. But Judge Tesche Arkin held tight to the skills and lessons imparted by her dad — communication, listening, and being fundamentally optimistic. In her newest judicial assignment in the Civil Division, Judge Tesche Arkin sees it as an opportunity to expand her mind, and especially looks forward to those cases with scientific evidence — an obvious ode to her dad.

Judge Tesche Arkin ended our time together with a sweet story that intersected her familial and judicial lives. She has fond early childhood memories of going to Native American pueblos with her mother, having lived in New Mexico as a child. She showed off a special Native American bracelet and ring that belonged to her mother, and that she now wears. Judge Tesche Arkin shared a story of travelling to Santa Fe for a judicial conference, wandering into a jewelry store, and noticing a ring that had an uncanny resemblance to hers. After inquiring with the shop owner, she was delighted to learn that the modern version of her 80-year-old ring was made by the grandson of the artist who made hers; she felt a special connection to her mom indeed.

Should you get the chance to attend a Tesche Arkin backyard soirée, ask her about her “epic” guacamole, her Native American jewelry, or her butterfly garden — any of which will elicit a warm smile, and plenty to talk about. Until next time . . .

Author: Lyndsey E. Siara – Thirteenth Judicial Circuit

Want to advertise your business to THOUSANDS OF ATTORNEYS in the Tampa Bay area? Call (813) 221-7777 for information about advertising.
Emphasizing efficiency and a more streamlined process, the Florida Supreme Court has implemented major changes to the way Florida’s rules of court procedure and standard jury instructions are developed, amended, and implemented. The changes, announced in two separate opinions issued in early 2020, mark a dramatic departure from the decades-long practices of Florida’s ten rules and three jury instruction committees.

For years, the rules committees — which oversee broad topics like the civil, criminal, and appellate rules along with the subject-specific rules governing family, traffic, probate, and small-claims proceedings — have filed reports with the Supreme Court on a staggered basis in scheduled three-year cycles. No more. Starting June 1, the committees will instead be authorized to file proposals with the Court “whenever a committee determines rules changes are needed.”

According to the Supreme Court, which took this action on its own initiative, the revised procedure will allow amendments to Florida’s rules of court to be proposed and adopted “in a more efficient, timely manner.”

Historically, the cycle reporting system has caused efforts to amend the rules to languish for years between their proposal and ultimate adoption by the Court. The delay has also meant that the committee members most intimately involved in analyzing, developing, and suggesting the proposals sometimes are no longer on the committee when the reports and attendant comments are considered by the Court. Of course, the new ad-hoc procedure, while “provid[ing] for more expeditious rule making,” could have drawbacks of its own.

The committees will now constantly be engaged in a process of submitting proposals to the Court, and practitioners will now constantly need to stay alert for changes to the rules on a rolling basis.

Another change with a major impact on practitioners involves the process for creating, amending, and publishing standard jury instructions for use in civil, criminal, and contract and business cases. Dating back to the late 1960s, when the Florida Supreme Court created the first committee that was responsible for developing standard instructions for each of these case types, Florida has had “one of the few state high courts that authorizes or approves standard, pattern, or model jury instructions.” Although, in each opinion adopting a model instruction, the Court includes a caveat that it is not opining on the instruction’s correctness, the Court has come to believe that, due to its involvement, “trial judges are sometimes reluctant to modify standard jury instructions or to give other instructions requested by a party that may be more appropriate.”

Based on that concern, along with the additional concern that the “current process for developing and authorizing standard jury instructions is more cumbersome than necessary,” the Court decided to remove itself from the process. Under this revised approach, the three committees will now develop and approve, by two-thirds vote, new and amended jury instructions and will publish those instructions on their own. Time will tell whether this system, while seemingly granting the committees greater responsibility, will reduce the overall standardization of jury instructions given in Florida courts.

2 Id. at 1.
3 Id. at 2.
5 Id. at 5.
6 Id. at 4.

Author: Joe Eagleton – Brannock Humphries & Berman
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Law firms with 100% membership in the HCBA

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To be added to this list, please email a list of attorneys in your firm to Stacy@HillsBar.com.
The Bar Leadership Institute’s winter modules — visits to Strategic Property Partners (SPP), the front office of the Tampa Bay Vipers, and Amalie Arena — all share a common theme: the importance of learning about, engaging in, and strengthening the community around you. The Bar Leadership Institute offers the chance for its members to do just that by providing monthly opportunities to get a behind-the-scenes look at local organizations, encouraging involvement in the Hillsborough County Bar Association, introducing its members to many leaders within the community (both lawyers and non-lawyers), and requiring its members to plan and complete a service project. Through my participation in this program, I have a better understanding of those that not only excel at their chosen profession, but also find the time to give back to their community.

SPP, the Tampa Bay Vipers, and the Lightning Foundation each demonstrated their commitment to the community in different ways. For example, SPP is committed to wellness and sustainability: Water Street Tampa is the first neighborhood to be certified by the International WELL Building Institute as a community dedicated to promoting health and well-being. It was fascinating to learn about their centralized district cooling facility, a facility that has the capability of cooling the majority of the buildings in the neighborhood while reducing energy consumption. This, in turn, enables SPP to provide more publicly accessible space throughout the neighborhood.

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Meanwhile, the Tampa Bay Vipers, committed to accessibility, emphasized their goal of lowering the price of attendance to professional sporting events: a family of four can purchase tickets to a home game at Raymond James Stadium for less than $100. Moreover, they have implemented policies that allow children to meet the players on the field before the game. And as we were taking a facility tour of Amalie Arena, we encountered two puppies that were being carried by employees for the Humane Society of Tampa Bay, one of the many nonprofit organizations that benefits from the Lightning Foundation’s charitable outreach. Charity is so ingrained in the organization that many season ticket holders ask about opportunities to volunteer with the Foundation.

While our last three modules have provided us with many standout moments — including touching the ice at Amalie Arena, viewing a miniature model of the plans for Water Street Tampa, and observing firsthand the stress and excitement that led up to the Tampa Bay Vipers’ home opener — I left each module with the lasting impression that the secret to each entity’s success was its dedication to bettering the community. As lawyers, we have the opportunity and the responsibility to better the community around us. I’m thankful to the BLI and the local organizations that we have visited for reinforcing this lesson.

Author: Julia Kapusta – Second District Court of Appeal

WELCOME NEW HCBA MEMBERS

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Ellen Pappas Bodenmiller
Michael Quesada
Kia Tolbert
Matthew Wolf
In collaborative cases, the primary role of the financial neutral is to explore options — helping to educate the clients.

When hired to jointly serve both attorneys and their clients in family law cases, the forensic CPA works in a very different capacity depending on whether the case is litigated or collaborative. In litigated cases, the forensic CPA serves as a “joint expert” and may provide expert testimony if the case proceeds to court. In collaborative cases, the forensic CPA serves as “financial neutral” and may not be involved if the case goes to court; however, while the work is limited to the collaborative process, the financial neutral often has a more expanded role within the collaborative team.

The primary role of the joint expert in litigated cases is often to express opinions — helping to educate the court. Alternatively, in collaborative cases, the primary role of the financial neutral is to explore options — helping to educate the clients. The financial neutral often has greater flexibility in assisting each client with getting questions answered efficiently and comprehensively, outside of the typical formal discovery requests of litigated cases. The goal within the collaborative process is to quickly help both clients to establish “equal footing” regarding their finances, allowing them to make fully informed decisions. Once the financial information is assembled, the financial neutral facilitates “option-building” discussions with the full team, usually in a conference room setting involving both clients, both attorneys, and a mental health professional.

The primary responsibility of the joint expert in litigated cases is to be responsive to a specific list of tasks in which the expert is expected to provide an opinion. The primary responsibility of the financial neutral in collaborative cases is to be proactive to the evolving needs of the team. The goal of information gathering within the collaborative process is to be both as efficient as possible and as exhaustive as needed. Document requests can often be far more streamlined and tailored to specific areas of concern, as the team discusses up-front the areas in which there may already be agreement. The financial neutral also works closely with the collaborative facilitator (mental health professional) to address emotional issues which may be limiting progress on the financial front. Beyond the technical and communication skills needed in a litigation case, the financial neutral must also have a high “EQ,” being aware of the emotional subtleties of each client and exploring how to creatively address their concerns.

The primary foundation for decision-making within litigated cases is often position-based — where each side takes positions based on their application of case law and the joint expert provides opinions based on the underlying assumptions provided by each attorney. In collaborative cases, the foundation for decision-making is primarily interest-based — where the starting point for discussions are the specific interests of each client. Positions can often be harmful in settlement discussions, encouraging polarization — in which the other side often takes an equally opposing position. The more each side clarifies and defends their positions, the more committed they are to them and the harder it becomes to retract. The financial neutral’s goal in collaborative cases is to avoid positions by helping the clients focus on their specific interests instead. Whereas settlement discussions in litigated cases often involve offer/counter-offer negotiations, financial neutrals help to explore creative options that specifically meet the clients’ shared interests.

Author:
J. David Harper, CPA, ABV, PFS, CFF, CBA, CVA – Westbay CPAs
Criminal Law Section Luncheon

The Criminal Law Section held a luncheon on February 13, featuring guest speakers State Attorney Andrew H. Warren and Teresa Hall, Conviction Review Unit Supervising Attorney for the State Attorney. The speakers gave insight on how and when to file a petition for review. We appreciate Warren and Hall for taking the time to meet with the Section!
With the COVID-19 emergency causing uncertainty across all markets and industries right now, many developers and landowners are looking for some relief. Section 252.363 of the Florida Statutes is an avenue for relief from impending expiration dates and deadlines contained in permits and development orders. When the Governor of Florida declares a state of emergency, Section 252.363 tolls these deadlines until the end of the emergency, and allows for an extension of the expiration date for however many days the emergency lasted plus six months (note that if emergencies overlap, the overlapping days may only be counted once in calculating the extension). This statute has been used by many a permit-holder after Florida’s hurricane emergencies, and even after the Zika Virus emergency.

In 2019, however, Section 252.363 was revised to specify a “natural emergency” as the only type of emergency that will toll and extend expiration dates and deadlines. The other types of emergencies defined in Chapter 252 include “manned emergency” and “technological emergency.” A “natural emergency” is defined in the statute as “an emergency caused by a natural event, including, but not limited to, a hurricane, a storm, a flood, severe wave action, a drought, or an earthquake.”

Though not exhaustive, this list does not necessarily contemplate disease- or virus-related emergencies. Although the Zika Virus emergency did serve to toll and extend deadlines under the statute, that emergency occurred before the statute was narrowed; therefore, the COVID-19 emergency is the first virus emergency occurring in the state since the statute was revised.

Executive Order 20-52, which declared the COVID-19 state of emergency, describes COVID-19 as a “Public Health Emergency.” That term is not defined in Section 252.363; however, it is mentioned in Chapter 252 in a cross-reference to Section 381.00315, Florida Statutes. “Public Health Emergency” is defined in that section to include infectious diseases. The executive order that declared the Zika Virus emergency similarly described that situation as a “Public Health Emergency.” Therefore, it is not clear from this terminology that either the Zika Virus or COVID-19 are “natural emergencies” as contemplated by Section 252.363.

The Florida Department of Business and Professional Regulation issued guidance on March 20, specifying that the COVID-19 emergency as declared by EO 20-52 does qualify as a “natural emergency” for purposes of tolling permits under Sec. 252.363. It is not clear whether this is a policy decision for the COVID-19 emergency specifically or implies that the term

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“natural emergency” will cover viruses and/or “Public Health Emergencies” for all purposes going forward. Greater clarification in the statute may be necessary in the event our state faces another virus-related emergency in the future.

Section 252.363 provides a 90-day window after the conclusion of an emergency (and any extensions thereof) to notify a local government, in writing, of the intent to exercise the extension. If a client’s expiration deadline is fast approaching and the COVID-19 emergency is not yet over, it may be worthwhile to send a letter to the appropriate jurisdiction to put them on notice of the client’s intent to exercise their rights under Section 252.363 when the emergency is over. The issuing authority may respond with an acknowledgement of that right. Some jurisdictions will request that the client formalize the use of Section 252.363 through that jurisdiction’s own processes for extending deadlines. Sending a notice letter well before your client’s deadline is therefore advisable, to provide you with enough time to find out if the issuing authority will require additional steps before accepting your client’s intent to exercise their rights under Section 252.363.

It is not unusual for a local government’s land development code to contain procedures for requesting deadline extensions for certain types of development orders and permits. This type of extension could be used in tandem with a Section 252.363 request, or could be used before the COVID-19 emergency is over to extend your client’s deadline before an extension under Section 252.363 is ripe.

Many jurisdictions, such as the City of Coral Springs, the City of Brooksville, St. Lucie County, and Seminole County, have issued their own executive orders regarding the tolling of various deadlines during local states of emergency which may benefit your clients as well.

Author:
Jaime R. Maier
– Hill Ward Henderson
Creating an inclusive work environment is challenging. While many law firms assert a commitment to diversity and inclusion (D&I), they continue to struggle to recruit, retain and promote diverse lawyers, more specifically women lawyers of color.¹ Despite their efforts, law firms continue to be overwhelmingly white and male.

A recent report on diversity from the National Association for Law Placement (NALP) and a recent survey by Vault and the Minority Corporate Counsel Association, evidence women of color and Black women specifically remain drastically underrepresented in law firms.² So, how do firms with a sincere commitment to D&I break barriers and bridge disparities so their workforce mirrors the values articulated in their D&I statements? Enter intersectionality.

Intersectionality was first introduced to bring attention to dynamics within discrimination law that courts did not (and still do not fully) appreciate, i.e., the intersection of race and gender that has a uniquely disparate and arguably erasing impact on Black women.³ In her groundbreaking paper, Professor Kimberlé Crenshaw examined the inherent difficulties in judicial treatment of race and gender discrimination cases.⁴ Crenshaw used DeGraffenreid v. General Motors to demonstrate how courts repeatedly ignore specific challenges faced by Black women.⁵ In DeGraffenreid, the plaintiffs sued General Motors alleging the company’s seniority system discriminated against them as Black women. The district court dismissed the claims, reasoning the lawsuit had to be examined as a race discrimination case or a sex discrimination case, but not a combination of both.⁶ The court stated Black women could not be considered a separate protected class, or else risk opening a “Pandora’s box” “new classes of protected minorities.”⁷ Arguing that often race and gender discrimination cases involving Black women are examined under a “single-axis framework,” Crenshaw opined this framework ignores that Black women are Black AND female and could (and do) face discrimination at the intersection of race and gender.⁸

Since Crenshaw’s introduction, others have adopted intersectionality to examine how multifaceted identities are impacted by discrimination. D&I advocates have explored intersectionality, its impact on diversity and inclusion, and how it can lead to career obstacles or discrimination.

In its Intersectionality in the Workplace report, Bentley University’s Center for Women and Business examines intersectionality and provides insight on fostering an inclusive culture through an “intersectional approach to leadership.”⁹ This leadership approach requires organizational leaders to acknowledge systemic discrimination and recognize that “talent at the intersections is sometimes invisible...not due to racism or sexism, but often resulting from unconscious bias and privileged positions.”¹⁰ Said differently, it is easier for leaders to promote someone who reminds them of them, thereby creating barriers to opportunity for certain groups.¹¹ The report suggests that

Barriers are broken and bridges are built when employees are not asked to erase a portion of their identity to gain equal access to opportunities and advancement.

Continued on page 33
leaders should “bravely and visibly create a culture in which people at the intersections of unique identities have equal access to opportunities and advancement.”

Creating an inclusive work environment through intersectionality is challenging; it takes commitment and a willingness to have courageous conversations to break down barriers and build bridges. Barriers are broken and bridges are built when employees are not asked to erase a portion of their identity to gain equal access to opportunities and advancement. And in 2020, it is time.

1 Although the focus of this article is women lawyers of color, the issue is applicable to all lawyers of color.


4 Id.


6 Id. at 143.

7 Id. at 145.

8 Id. at 140.

9 Bentley University Gloria Cordes Larson Center for Women and Business, Intersectionality in the Workplace: Broadening the Lens of Inclusion, Winter 2019.

10 Id.

11 Id.

12 Id.

13 Id. at 23.

Author: Monica Williams Harris – Jackson Lewis, P.C.
On February 26, the Eminent Domain Section held a CLE luncheon regarding advocating for a prospective change in land-use or zoning during an eminent domain trial. Speaker James Patterson, AICP, of Mesimer and Associates, Inc. discussed local government land-use/zoning regulations; highest and best use; and evidence issues to consider.

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17th Annual Judicial Food Festival & 12th Annual 5K Pro Bono River Run

Thanks to all the sponsors, attendees and participants that helped make the 17th Annual Judicial Food Festival & 12th Annual 5K Race on February 29th such a success! Also, thank you to our 5K Committee and all our volunteers, especially Committee co-chairs Judge Miriam Valkenburg and Judge John Conrad, and volunteer coordinator Nate Paulich. About 500 HCBA members and their friends and family gathered for the event on the grounds of Stetson’s Tampa Campus, where participants competed for best food, drinks and décor. We had more than 35 food and drink booths this year. More than 300 runners participated in the 5K this year, and more than 2,100 pro bono hours were pledged as a result. What a great event for a great cause!

CONGRATULATIONS TO OUR FOOD FESTIVAL AWARD WINNERS:

- Best Sweets and Treats
  Winner: Young Lawyers Division
  Runner up: The Spring

- Best Libation Station
  Winner: Trenam Law
  Runner up: Hillsborough Association for Women Lawyers (HAWL)

- Best Hub (Booth)
  Winner: 13th Judicial Circuit
  Runner up: Anthony & Partners

- Best Grub
  Winner: Trenam Law
  Runner up: Asian-American Pacific Bar Association

CONGRATULATIONS TO OUR PRO BONO SERVICE AWARD WINNERS:

- 2020 Challenge Cup Winner
  (Most pro bono hours pledged - team):
  Winner: Hillsborough Association for Women Lawyers (HAWL)

- 2020 Rosemary Proven Producer Award Winner
  (Most pro bono hours performed - individual):
  Winner: Matthew Hall

- 2020 Award for Individuals Who Raised the Most Pledges:
  Daniela Carrion, Greg Hearing, Ella Shenhav, Tori Simmons, Katherine Yanes

- 2020 Proven Producers
  (Met or exceeded hours pledged):
  Adam Bild, Alex Caballero, Dylan Finn, Ron Hanes, Jesse Hoyer, Natasha Khoyi, Traci Koster, Michael Matthews, Alex Palermo, Anthony Palermo, Anitra Raiford, Susan Sandler, Ella Shenhav
CONGRATULATIONS TO ALL THE WINNERS
5K INDIVIDUAL AWARDS
- Overall Male Winner: Chris Rapozo
- Overall Female Winner: Caroline Gipe
- Fastest Male Judge: Hon. Christopher Nash
- Fastest Female Judge: Hon. Susan St. John

5K TEAM AWARDS
- First Place: Wilkes & McHugh
- Second Place: CSK Tampa
- Third Place: Jud6 (6th Judicial Circuit)
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Health Care Law Section Luncheon/CLE

On February 12, the Health Care Law Section held a CLE luncheon on the topic “10 Common Healthcare Compliance Concerns for Physician-Hospital Transactions.” Speaker Angie Caldwell, managing partner of the PYA Tampa office, discussed several issues, including healthcare real estate, collections-based compensation formulas, administrative compensation for physicians/physician practices, and purchase price of entities acquired from physicians.

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Franklin Street has changed since this 1952 postcard, but the Tampa Theatre remains, as does the Woolworth Building – site of the 1960 lunch counter sit-in.

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As the World Health Organization has declared COVID-19 (“coronavirus”) a pandemic and President Trump has declared a national emergency, employers and employees have begun to accept that they face major workplace challenges. Indeed, employers need to protect their employees as well as follow government directives, all the while considering their bottom line so they can afford to pay their employees. Attorneys should be prepared to respond to labor and employment law inquiries regarding the coronavirus pandemic from employers and employees alike.

As the virus spreads, an assortment of labor and employment issues have arisen. Restrictions and limitations on employee travel is top of mind. A recent decision from the Eleventh Circuit is pertinent to that topic. In E.E.O.C. v. STME, LLC, the Eleventh Circuit held that an employer did not engage in associational or regarded as discrimination in violation of the Americans with Disabilities Act (“ADA”) when it terminated an employee who refused to cancel her trip to West Africa during an Ebola outbreak. E.E.O.C. v. STME, LLC, 938 F.3d 1305 (11th Cir. 2019). The employer had instructed the employee not to travel to West Africa because it feared that the employee might come into contact with unknown individuals infected with the Ebola virus and bring the virus back to Florida. Sound familiar?

Some employers are requiring employees to stay home. In such situations, questions arise about employee compensation. Prior to the Families First Coronavirus Response Act, the answer for all employers subject to the requirements of the Fair Labor Standards Act (“FLSA”) was it depends on whether employees are exempt or non-exempt under the FLSA and/or whether the employees are covered by a collective bargaining agreement. For instance, an employer must compensate exempt employees for forced business closures of less than one week but not for more than one week. Also, employers must always compensate exempt employees for a full day of work if the employee engages in any amount of work on a particular given day, including checking work-related emails. Employees covered by a union contract may be due wages due to an unforeseen work stoppage.

The Families First Coronavirus Response Act, H.R. 6201 (“the Act”), which President Trump signed into law March 18, 2020, changes the above analysis for private employers who employ fewer than 500 employees or public employers who employ one or more employees (with exceptions for health care providers and emergency responders). Such employers must provide emergency paid sick leave (subject to monetary caps) to full-time employees in an amount equal to 80 hours at their regular rate of pay and part-time hourly employees an amount which covers the hours an employee normally would have worked during a two week period. Employers must provide such emergency paid sick leave in addition to any other sick leave or leave benefits provided to the employee. Qualifying circumstances which require emergency paid sick leave include an employee subject to government mandated quarantine, an employee’s self-quarantine at the direction of a health care provider, or an employee experiencing COVID-19 symptoms and actively seeking a diagnosis. The Act also provides for the above paid emergency sick leave at a reduced two-thirds rate of compensation when the employee is caring for an individual subject to quarantine, the employee is caring for a child due to school or child care

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closures/unavailability, or if the employee is experiencing any substantially similar situation. To assist employers with this newly imposed burden, the Act provides tax credits to refund 100 percent of private employer funds used to cover emergency paid sick leave.

The Act also effects how the Family and Medical Leave Act (“FMLA”) may be implicated for eligible employee leave. Prior to the Act, only eligible employees of covered employers (defined, inter alia, as employees of employers who employ 50 or more employees within 75 miles and all public employers) could take FMLA leave to care for an employee’s immediate family member(s) who has a serious health condition or for the employee’s own serious health condition. The Act amends the FMLA to require public health emergency-related leave for certain employees who work for a private employer with fewer than 500 employees and employees who work for a public employer during a public health emergency (with exceptions for health care providers and emergency responders). Under this amendment to the FMLA, an eligible employee is defined as an employee employed for at least 30 days. Interestingly, the amendment only provides leave for an employee unable to work or telework due to the need to care for a child if the school or childcare provider of the child is closed/unavailable due to a public health emergency. While the first 10 days of this new form of leave are without pay, the amendment requires covered employers to pay for up to 10 weeks of leave at a rate of two-thirds an employee’s normal compensation (subject to monetary caps).

So far, Congress has not enacted any coronavirus legislation which alters the ADA during a public health emergency. Employees with disabilities may request accommodations under the ADA to prevent exposure to coronavirus. Employers must then determine whether such accommodations are reasonable in light of the circumstances. For employers who may wish to test the body temperature of employees reporting to work, the Equal Employment Opportunity Commission (“EEOC”) recently issued guidance on its website which permits employers to engage in such testing due to the unprecedented emergency declarations which are currently in effect across the country.

These issues represent just the tip of the iceberg of employment issues now arising due to the coronavirus pandemic, and Congress is preparing to enact additional legislation in the near future. Accordingly, practitioners who represent employers should seek guidance from experienced labor and employment practitioners, and plaintiff attorneys should be prepared to accurately counsel concerned employees.


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In Florida family law cases, financial disclosures are made for the benefit of the court and the opposing party. Financial disclosures are central to the fair resolution of cases because settlement decisions and court rulings are dependent on full financial disclosure.

Under Rule 12.285(e), parties are required to produce a financial affidavit and financial documents. “While evidence of a person’s financial condition may be drawn from a multitude of documents, a financial affidavit is a party’s formal, sworn position that reduces finances to a manageable chunk of information.”

The documents that must be disclosed under Rule 12.285(e) include tax returns, IRS forms, evidence of earned income, loan applications, checking account statements, retirement account statements, and statements for all other accounts.

Many attorneys fail to remind their clients that, in addition to the enumerated accounts, the Rule also requires production of statements for “all other accounts.” Other accounts would include accounts that reside in applications such as Venmo, PayPal, Cash App, Google Wallet, and international money transfer apps. If you would use the word “account” when referencing it, such as “my PayPal account,” and there is money involved, then you need to disclose it.

Attorneys and clients also routinely fail to update the client’s mandatory disclosures. Under Rule 12.285(f)(1), parties have a “continuing duty to supplement documents described in this rule, including financial affidavits, whenever a material change in their financial status occurs.” Generally speaking, a material change is one that could reasonably be expected to influence the decisions made by the parties or the court.

Rule 12.285(f)(2) also specifically provides that when an amended financial affidavit is filed, the amending party must also serve any documents supporting the amendments. For example, if a party amends her financial affidavit to reflect the purchase of a new car, she is also required to produce the monthly statements for the car loan, the title, and the loan application.

Many lawyers and judges are not aware that Rule 12.285(f) provides the following sanctions for non-compliance: (1) documents produced less than 24 hours prior to a non-final hearing or in violation of pretrial order are not admissible absent good cause; (2) the court may impose the serious sanctions authorized by Rule 12.380; and (3) the court may also impose sanctions on the offending lawyer.

Under Rule 12.285(j), a party is also obligated to file and serve a sworn certificate of compliance with the mandatory disclosure obligation. The certificate of compliance must identify with particularity the documents that have been delivered and certify the date of service to avoid one lawyer “swearing” that they delivered certain mandatory disclosure documents, and the other lawyer “swearing” that the documents were never received.

In short, Rule 12.285 requires parties to disclose their finances, provide supporting documents, update the disclosures whenever there is a material change, and provide detailed certifications of what was disclosed and when the disclosure occurred.

1 Daniel v. Daniel, 922 So. 2d 1041, 1045 (Fla. 4th DCA 2006) (discussing the importance of the family law financial affidavit).

Author: Richard J. Mockler – Mockler Leiner Law, PA.
The biggest key to handling a dissolution of marriage case involving a veteran or their spouse is to know what you don’t know. Here are five hot areas to look out for in your practice:

1. **Pension Division:** Not all military pensions are created equal, and not all components of the pension are divisible. Consider active vs. reserve pensions, traditional vs. blended retirement system, VA disability waivers, Concurrent Retirement and Disability Pay (CRDP), Combat-Related Special Compensation (CRSC), and Chapter 61 retirement pay. It is critical to know what is divisible, what is not, and what Defense Finance and Accounting Services (DFAS) will pay out.

2. **DFAS Regulations:** The court can order the most eloquent relief possible, but if the order doesn’t conform to the requirements set out in the Uniformed Services Former Spouse’s Protection Act (USFSPA), 10 U.S.C. 1408, and Chapter 61 retirement pay. It is critical to know what is divisible, what is not, and what Defense Finance and Accounting Services (DFAS) will pay out.

3. **Security for Pension:** The pension stops paying both parties when the member dies. If the spouse will depend on the pension to pay living expenses, consider the best vehicle to secure that payment, either through a life insurance policy or through the Survivor Benefit Plan (SBP). The SBP pays the spouse monthly after the member’s death and until the spouse’s death. The plan is available to all retiring members, and the member must elect SBP at the time of the retirement. There are no physical examinations or requirements, and the premium does not increase with the member’s age. However, if the spouse remarries before the age of 55, the spouse will not be eligible to collect on the SBP. In contrast, life insurance may be a lower cost option while the member is young, but dramatically increase in cost later on in life. Consider not only the best method for securing this asset, but who will bear the cost for this security. Finally, if your client is the beneficiary of SBP, they must make a “deemed election” for the SBP beneficiary designation within one year from the final judgment.

4. **Income for Support:** Pursuant to Fla. Stat. §61.30(2), the court shall consider all sources of income available to either party. This means that you need to do the pension division calculation before you do the support calculation. This also means that VA compensation, basic allowance for housing, and basic allowance for subsistence are included in the income for support purposes.

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Continued from page 46

5. Security for Support: In general, active duty military service will meet the “special circumstances” standard for the court to order security for support, usually in the form of life insurance. Active duty members have very affordable coverage through the Servicemember’s Group Life Insurance (SGLI), but the state court cannot order a member to designate the beneficiary for this federal policy. Make sure to structure your agreements and orders in a way that the security for the support is enforceable.

Divorces involving Veterans are ripe for malpractice claims and you need to make sure that all details are handled competently. Know what you don’t know, and don’t be afraid to educate yourself and ask for help!

Author: Kristin Kirkner – Kirkner Family Law Group, P.A.
“Professionalism is the pursuit and practice of the highest ideals and tenets of the legal profession. It embraces far more than simply complying with the minimal standards of professional conduct. The essential ingredients of professionalism are character, competence, civility, and commitment.”

The Thirteenth Judicial Circuit is and always has been a model of professionalism. In furtherance of its commitment to professionalism, the Thirteenth Judicial Circuit maintains the comprehensive Thirteenth Judicial Circuit Professionalism Committee (“Professionalism Committee”).

The Professionalism Committee initiates and coordinates professional activities in Hillsborough County and is also responsible for overseeing and training a subcommittee designated as the Local Professionalism Panel. The composition and structure of the Professionalism Committee is set forth in Thirteenth Judicial Circuit Administrative Order S-2020-010.

The Chief Judge serves as the Chair of the Committee. The Chief Judge appoints an Executive Chair and, in consultation with the Executive Chair and the President of the Hillsborough County Bar Association (HCBA), appoints various subcommittee chairs, including the following:

- **Professionalism and CLE Events Subcommittee Chair** – Responsible for ensuring the Thirteenth Circuit provides sufficient professionalism training opportunities and recognition events for lawyers and judges;
- **Professionalism Promotion Subcommittee Chair** – Responsible for ensuring that activities of the Professionalism Committee are made known to the local bar and attorneys practicing within the Thirteenth Judicial Circuit through local legal publications and other marketing and media outlets;
- **Medical-Legal Professionalism Code Subcommittee Chair** – Responsible for coordinating updates to the established guidelines for responsible, respectful and ethical interaction between lawyer and physicians and their patients in cases pending before the court; and
- **Local Professionalism Panel Subcommittee Co-Chairs** – Responsible for oversight and management of the Local Professionalism Panel.

Professionalism Awards
- **Subcommittee Chair** – Responsible for accepting nominations for the Professionalism Award established to annually recognize both a public and private sector attorney for consistently demonstrating honesty, integrity, fairness, courtesy, and an abiding sense of responsibility to comply with the standards and rules of professionalism in the practice of law;
- **Medical-Legal Professionalism Code Subcommittee Chair** – Responsible for coordinating updates to the established guidelines for responsible, respectful and ethical interaction between lawyer and physicians and their patients in cases pending before the court; and
- **Local Professionalism Panel Subcommittee Co-Chairs** – Responsible for oversight and management of the Local Professionalism Panel.

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In addition to the Chief Judge, the Professionalism Committee is composed of at least 15 other circuit or county judges or quasi-judicial officers from the Thirteenth Judicial Circuit, the President of the HCBA, a representative from sections and divisions of the HCBA, a representative from virtually every voluntary bar association and Inn of Court within the circuit, a representative from the American Board of Trial Advocates and the Hillsborough County Association of Criminal Defense Lawyers, a representative from Stetson University College of Law and Western Michigan University Cooley Law School, and a representative from the Attorney General’s Office, City Attorney’s Office, County Attorney’s Office, Public Defender’s Office, Regional Counsel’s Office, and the State Attorney’s Office.

The Professionalism Committee is just one example of the Thirteenth Judicial Circuit’s commitment to professionalism, and it is in every sense consistent with the definition of professionalism set forth by the Florida Bar Standing Committee on Professionalism and the Henry Latimer Center for Professionalism.

1 See “Professionalism Handbook,” Florida Bar Standing Committee on Professionalism and Florida Bar Henry Latimer Center for Professionalism.

**Author:**
Jaret J. Fuente - Carlton Fields
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On December 20, 2019, the president signed the Setting Every Community Up for Retirement Enhancement Act of 2019 (“SECURE Act”) into law.¹

The SECURE Act has been touted as one of the most significant pieces of retirement legislation in over a decade and has made significant changes in the way Americans plan for retirement.

The passage of the SECURE Act serves as an opportunity to remind clients to review beneficiary designations on retirement accounts. The SECURE Act may alter a client’s choice of beneficiary and may lead a client relying on the stretch IRA as an estate planning device to form trusts to ultimately reexamine their entire estate plan.

Prior to the SECURE Act, the stretch IRA served as a life/estate planning strategy that prolonged the beneficial tax status of inherited IRAs to the beneficiary by allowing those monies in the decedent’s IRA to be distributed over the expected lifetime of the beneficiary. This would allow for an extended deferral of taxes. As previously mentioned, this strategy has been affected by the SECURE Act, as it generally mandates that IRAs inherited by non-spouses be paid within 10 years of the plan holder’s date of death. The beneficiary may choose to take no distributions until the 10-year anniversary of the plan holder’s death, but that would mean that the entire inherited amount would be distributed at that time. This may be enough to cause individuals to reexamine their plans, as unlike other gifts, IRAs come with a tax burden.

Payable on death accounts have generally been somewhat troublesome, as these typically pass outside of probate, without regard to the client’s will, or their trust. This is why it is imperative that you always know what designations your clients have made as regards to those accounts. Having that information available will allow you to properly advise clients on any potential unforeseen and unwanted consequences brought on by making designations, including issues brought on by leaving funds to trusts that do not contain language designed to deal with any potential tax issues.

However, even those that have previously set up trusts that contain conduit or accumulation language may want to review those designations. The death of the stretch IRA means that the majority of beneficiaries of “Conduit Trusts” will have access to the funds much sooner than the Grantor may have originally anticipated. That outcome may be enough to prompt clients to review their estate plan.

All in all, the SECURE Act has impacted more than just retirement planning. The new rules and limitations put in place also impact the distribution schemes of inherited IRAs and can have significant tax impacts on beneficiaries. Encouraging your clients to review their beneficiary designations to make sure they are still up to date post-SECURE ACT is necessary to ensure that their estate plan is up to date and still reflects their wishes.


Author: 
Luis A. Silva, 
LL.M. (Tax) – Faehner, PLLC
Securities Law Section Luncheon/CLE

On January 30, the Securities Law Section held its “Annual Luncheon with the Regulators.” The Section thanks its speakers: Elisha Frank, SEC Assistant Regional Director from Miami; Alisa Goldberg, Chief, Bureau of Registrations at Florida Office of Financial Regulation; and Dawn Calonge, Surveillance Director at FINRA, who took the time out of their busy schedules to provide an update to the group and answer questions.

The Section also thanks its luncheon sponsor:

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The Law of Drones is not a new Netflix mini-series. Rather, it was a remarkable presentation by Sasha Lohn to a packed Senior Counsel luncheon of over fifty lawyers and judges in January. Lohn is the General Counsel and Executive Director of the Sun Coast Police Benevolent Association. She previously served for more than four years as the General Counsel for the St. Petersburg Police Department.

Under Florida law, a drone is a powered, aerial vehicle that does not carry a human operator; uses aerodynamic forces to provide vehicle lift; can fly autonomously or be piloted remotely; can be expendable or recoverable; and can carry a lethal or nonlethal payload.1 In other words, drones are small, remotely operated airborne systems.

Sasha explained that drones provide an incomparable opportunity for law enforcement agencies to keep the public and their personnel safe. For example, the DJI Matrice 600 Hexacopter, complete with accessories, is available for about $5,0002 and the DJI Tello is only $99.3 Sasha bravely demonstrated the operation of the Tello at the luncheon.

Drones with nonlethal payloads can be used to prepare for or monitor the safety and security of major events; search large or dense areas; and determine staffing or deployment strategies in times of crisis. They can get footage to learn what is happening and go over or around a school or a stadium. But lethal payloads can be frightening. Sasha showed a YouTube video demonstrating the lethal power of drones featuring their “Killer Drone,” created by two crazy Finnish farmers who equipped their drone with a chain saw, and watched as it attacked pine trees, icicles and even snowmen.4

Under current Florida law, the authority to regulate the operation of drones is vested in the state except as provided in federal regulations, authorizations or exemptions. Thus, municipal and county ordinances are preempted.5

A law enforcement agency may not use a drone to gather evidence or other information. However, there are exceptions: to counter a high risk of a terrorist attack; or if there is reasonable suspicion that swift action is needed to prevent imminent danger to life, or serious damage, or the escape of a suspect. Of course, there is an exception if the law enforcement agency first obtains a search warrant signed by a judge authorizing the use of the drone. There are other exceptions for business, for the property appraiser, aerial mapping, and delivering cargo.6

The lawyers and judges in attendance were delighted with Lohn’s marvelous presentation and the opportunity to learn more about the law of drones in Florida.

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1 Section 934.50(2)(a), Fla. Stat.  
4 https://youtu.be/6Viwvetf0gU?t=29s (last visited March 31, 2020).  
6 Section 934.50, Fla. Stat.

Author: Thomas Newcomb Hyde — Attorney at Law

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Senior Counsel Section Luncheon

On January 27, the Senior Counsel Section held a fascinating luncheon on drones and the legal ramifications related to their use. Sasha Lohn, the general counsel and executive director of the Sun Coast Police Benevolent Association and former general counsel for the St. Petersburg Police Department, spoke on the topic and even demonstrated a drone for the attendees! (Read more about the luncheon on the previous page.)
Looking for ways to get more work done and increase profits — without living at your law office? The traditional way most lawyers approach these goals is to hire an associate and start delegating. Associates are great — they are eager-to-learn workhorses. However, they also come with a salary that must be paid even if business is slow, not to mention all the other overhead expenses like office space, benefits, and bar dues. All too often an associate stays for a few years, then moves on to another firm or opens his or her own shop.

Hiring a traditional associate isn’t the only way to increase productivity and profits. Many modern attorneys are turning to outsourcing and working with freelance lawyers.

Outsourcing is a smart way to get more work done and better serve clients. Freelance lawyers (traditionally called contract lawyers) are a great way to get the help you need, when you need it, without driving up your overhead.

What kind of work can you send to a freelance lawyer?

Freelance lawyers can assist on any work you might otherwise delegate to a paralegal or a traditional associate, as they are subject to the same conflict of interest and confidentiality rules. They can help with research, drafting, and managing discovery. They can also help with time-consuming tasks like writing new blog posts for your law firm website or just providing an extra set of eyes on a document before it is submitted to the court. If you need help with court coverage, there are many freelancers who do appearance work as well.

What is the talent level of freelance lawyers?

Freelance lawyers have an incredibly diverse array of backgrounds and expertise. They include everyone from recent graduates to former judicial clerks, stay-at-home parents, military spouses, big law alums, and even some retired or semi-retired lawyers. Many have decades of experience and deep expertise that you can tap into to benefit your clients’ cases — without having to teach them the ropes.

What are the benefits of working with freelance lawyers?

Outsourcing can improve your bottom line by leveraging the time and talent of freelance lawyers. You can expand your practice or even gain additional expertise for clients in different practice areas. By working with freelancers, you can better meet your clients’ needs.

Outsourcing is a competitive advantage allowing the ease of expansion and contraction of your firm with skilled freelance attorneys at reasonable rates. Those rates do not include typical benefits of health insurance and other perks required of associates. Those savings can be passed along to clients.

Outsourcing frees up valuable time to do other things like manage your business, go to court, or enjoy personal time out of the office. Freelance lawyers provide the ultimate flexibility to staff up when you’re busy without the permanent overhead of full-time associates.

Authors:
Rinky S. Parwani - Parwani Law, P.A. and Kristin Tyler - LAWCLERK
Tampa American Inns of Court

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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.)

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Young Lawyers Division Holds Annual CLE

On February 27, the Young Lawyers Division held its annual “Pizza and a CLE.” This year, the Division focused on the important topic of wellness, with speaker Lisa Giarratana, LCSW, a mental health therapist and the owner/founder of Mosaic Wellness Collective, LLC. Giarratana discussed how lawyers can understand and utilize elements of mindfulness to manage the demands of the legal profession and increase fulfillment — both personally and professionally.
The rules governing the Qualified Charitable Distribution ("QCD") seem to change every few years, and last year was no exception. Individuals who are required to take Required Minimum Distributions ("RMDs") from their IRA, but do not require the income, often look for strategies that will help neutralize the tax effects of that distribution. A QCD is a tool that could be used to lessen or, in some cases, eliminate the effects of RMD income that would otherwise be subject to federal income tax.

The QCD enables IRA owners who are 70½ and older to transfer up to $100,000 per year of IRA assets to public charities without being subject to federal income tax on the distribution. The amount of the distribution also counts towards the individual’s RMD for that tax year. To qualify as a QCD, an IRA distribution must meet the following criteria:

- The taxpayer must be at least 70½ years of age on the date of the distribution.
- The QCD must be made directly to a 501(c)(3) organization that is eligible to receive tax-deductible contributions. (Note that donor-advised funds, some private foundations, and many supporting organizations do not qualify.)
- The distribution must have otherwise been eligible for a full charitable deduction as defined by IRC § 170. This is to ensure the taxpayer does not receive any benefits as a result of the QCD and eliminates gifts to "split interest" charitable vehicles, such as a Charitable Lead Trust.
- QCDs can only be made from individual IRAs or Roth IRAs (though making a QCD from a Roth IRA is likely moot). SEP IRAs and employer retirement plans are ineligible.

The “Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019,” which went into effect on December 31, 2019, modified some of the rules governing RMDs and QCDs. The SECURE Act raises the age individuals must start taking minimum distributions from their IRAs from 70½ to 72. This rule is applicable to individuals who reach age 70½ after December 31, 2019. The SECURE Act also eliminated the age limit for making tax-deductible contributions to IRAs — a nod to extended life expectancies and later retirement age for working individuals.

Interestingly, the SECURE Act didn’t change the age taxpayers are eligible to make a QCD. Taxpayers can still make up to $100,000 in QCDs per year beginning at age 70½. While these QCDs will not count against future RMDs, they will reduce the total amount in the IRA (tax-free), thereby potentially reducing the amount of future RMDs. It is important to note, however, that the statute incorporates an “anti-abuse” rule for individuals who take a deduction on contributions made to their IRAs and “double-dip” by also attempting to make a QCD (attempting to reclassify what was intended to be a charitable contribution as an IRA contribution).

Despite these changes, the QCD remains a valuable tool for individuals to lessen the tax consequences of RMDs while supporting the mission of their favorite charities.

Author: Nicolette F. Rea – Community Foundation of Tampa Bay

1 Public Law No. 116-94 (Dec. 20, 2019).
The criteria used to evaluate reliability of scientific or technical testimony is the same for non-scientific, experience-based testimony.

In May 2019, the Florida Supreme Court adopted the standard set forth in *Daubert* for expert testimony. Three distinct, yet somewhat overlapping, inquiries are made to determine admissibility: (1) the qualifications of the expert, (2) relevance of the expert's opinion, and (3) reliability of the method used in forming the opinion. In addition, the expertise and opinion must be helpful to the trier of fact concerning matters beyond the understanding of an average lay person.

In the commercial context, litigants regularly retain experts to provide testimony concerning damages, to appraise and value property, or to perform financial calculations. Professionals who provide expertise on these topics are usually licensed CPAs, forensic accountants, appraisers, or business valuation experts. Their opinions are generally admissible because the methodologies used to develop their opinions are reliable, involve testing and empirical evaluation, and apply standards published in textbooks or by professional associations or institutes.

Expert opinions are not limited to technical expertise though. Another type of expert opinion often proffered in business litigation is neither scientific nor technical. Rather, these opinions are based on “specialized knowledge.” A person may obtain specialized knowledge and be qualified as an expert as a result of his or her experience in a field. For example, it may be helpful to a trier of fact to learn what constitutes standard or reasonable practice in a given industry, and whether the facts at issue comport with what is reasonably standard or customary. These opinions are more easily susceptible to attack.

The criteria used to evaluate reliability of scientific or technical testimony is the same for non-scientific, experience-based testimony. Experts who rely on their experience as a basis for their expertise are required to explain how that experience led to the conclusion reached, why that experience is a sufficient basis for the opinion, and how the experience is reliably applied to the facts of the case. *Daubert* instructs that “specialized knowledge” connotes more than subjective belief or unsupported speculation.

It is perfectly acceptable for a qualified, non-technical expert to review the facts and documents relevant to a case, and then apply his or her experience and expertise against the information gleaned to develop an opinion. But if there is too great of an analytical gap between the data and the opinion offered, the opinion should be excluded. In other words, there must be a reliable connection between the expertise, the data considered, and the opinion drawn beyond the mere *ipse dixit* of the expert.

Counsel should expect that any non-technical retained expert will be subject to a *Daubert* challenge. Accordingly, it is important to begin preparing for the challenge at the time of engagement. Practitioners should educate the expert as to the legal standard for admissibility and ensure the expert is undertaking a reliable methodology. Hallmarks of reliability include: (1) reviewing the whole file, rather than cherry-picked documents selected by counsel; (2) interviewing relevant witnesses or consulting with other experts; (3) reviewing industry publications; and (4) clearly articulating how the expert's expertise informs the underlying analysis.

1 In re: Amendments to the Florida Evidence Code, 278 So. 3d 551 (Fla. 2019).
Trial & Litigation Section Luncheon

On January 29, the Trial & Litigation Section held an informative luncheon with Stetson University College of Law Dean Michèle Alexandre. She provided a presentation entitled “Evolving Topics in Trial Advocacy and Education.” Thank you to Dean Alexandre for speaking to our attendees. The Section also thanks its luncheon sponsor:

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Trial & Litigation Section Luncheon Photos
(continued from previous page)
In *Zenith Insurance Company v. Cruz*, the First District examined the interplay between statutory language and applicable rules of procedure. The adjuster filed an acceptance of a claim on the Monday following the thirtieth day after the petition for benefits was filed. Zenith Insurance Company argued that the rules of procedure allowed a document to be filed on a Monday if it was due on a weekend. Therefore, for the purposes of determining whether the carrier was responsible for Cruz’s attorney’s fees for not providing benefits within thirty days of service of the petition, the Monday following the thirtieth day should be considered the thirtieth day. As a result, Zenith argued they should not be responsible for the fees of Cruz’s counsel.

In this case, Cruz filed a petition for benefits after 5 p.m. on August 22, 2018. Zenith acknowledged receipt after 6 p.m. that night, and the parties agreed that the date of service should be August 23, 2018. This was an important ruling within the decision, that filing or service after 5 p.m. is considered to be done the next day. Zenith then filed a response denying the entire claim on August 29, 2018. However, on Monday, September 24, 2018, another response was filed by Zenith, which rescinded the denial, and agreed to provide all benefits. The question presented was whether Cruz was entitled to attorney’s fees from Zenith under F.S. 440.34, because more than 30 days passed after the petition was filed and before Zenith filed the reply and provided benefits.

Subsequently, Zenith argued that Rule 60Q-6.109 of the Rules of Procedure for Workers Compensation Adjudications states that if any act required or allowed to be done falls on a holiday or weekend day, performance of the act is required to be done on the next regular working day. Zenith argued that because the 30th day would have been September 22, a Saturday, that they should have until the following Monday to respond and, because they did respond on Monday and accept the claim, no attorney’s fee should be due to Cruz’s attorney.

The First District held that because 30 days expired on Saturday, and the benefits were not paid or agreed to on or before Saturday, a fee was due from Zenith to Cruz’s counsel under F.S. 440.34. The court held that the rules of procedure cannot be interpreted to change a statutory deadline. The decision recognized some of the changes in the practice that have come with the e-JCC service program, which allows a practitioner or party to file appropriate petitions and responses on a 24/7 schedule. What is not explicitly mentioned is that under the e-JCC system, a response can generally be filed over the weekends and holidays. Under this decision, service after 5 p.m. is considered to be made the following day. However, if the statute allows 30 days, the employer/carrier only has 30 days even if the thirtieth day is a weekend or holiday.

1 ___ So. 3d ___, No. 1D19-1141 (Fla. February 12, 2020).

Author: Anthony V. Cortese, Attorney at Law
**AROUND THE ASSOCIATION**

**Akerman LLP** – Akerman LLP welcomes **Alejandro Fernandez** and **Stephen Leahu** to its Intellectual Practice Group. Fernandez and Leahu, both board certified by The Florida Bar in Intellectual Property and registered patent attorneys, practice in Akerman’s office in Tampa.

**Bay Area Legal Services** – The Board of Directors at Bay Area Legal Services congratulates its officers sworn in for 2020: **Leslie Schultz-Kin**, Chair; **Yohance Pettis**, Chair-Elect; **Tori Simmons**, Secretary; and **Andrew O’Malley**, Treasurer.

**Chad Davis** – Glausier Knight Jones is pleased to announce that Chad Davis has joined the firm as an associate attorney and will assist in its representation of clients with their community association, real estate, and business litigation needs.

**Jonathan “Tre” Dixon** – Carlton Fields is pleased to announce the election of Jonathan “Tre” Dixon to shareholder. Dixon counsels hospitals and other health care providers on regulatory, operational, and transactional aspects of health care law.

**Joe Eagleton** – Joe Eagleton of Brannock Humphries & Berman presented “Preserving the Record on Appeal” at the Florida Bar’s “Appeals for the Pro Bono Practitioner” CLE.

**Rob Gidel** – Phelps Dunbar welcomes its newest partner Rob Gidel to the Tampa office; Gidel specializes in real estate legal services.

**Gretchen Lehman** – Gretchen Lehman, an attorney in Ogletree Deakins’ Tampa office, has been elected shareholder at the firm. Lehman represents employers in all areas of employment law and focuses her practice in the area of employment litigation.

**George J. Meyer** – Carlton Fields is pleased to announce that Shareholder and Construction Industry Group Co-Chair George J. Meyer was appointed to the American College of Construction Lawyers’ (ACCL) Board of Governors. He will serve a three-year term.

**Older Lundy & Alvarez** – Older Lundy & Alvarez has opened a third office location in April, located at 2947 Defuniak Street in Trinity. The new Pasco location is currently the law office of Amanda Colón. Colón will merge her practice into Older Lundy & Alvarez, and she will become a part of the firm’s Marital and Family Law Practice Group.

**Pennington, P.A.** – Pennington, P.A. congratulates **Susan Spurgeon**, who has been named to Pennington’s Board of Directors. Additionally, the firm congratulates **Edward J. Carbone**, who has been elected as Shareholder.

**Mackenzie “Mack” Rocha** – Sessums Law Group, P.A. is pleased to announce the addition of attorney Mackenzie “Mack” Rocha to the firm. Rocha is a 2019 graduate of the University of Florida Levin College of Law, cum laude.

**Cynthia Sass** – Cynthia Sass of the Sass Law Firm was a panelist on the topic “The Intersection of Employment Law and Criminal Law” at The College of Labor and Employment Lawyers’ Regional Programming Committee event in St. Petersburg. The presentation provided guidance on how to identify and handle employee and employer criminal activity in the workplace.

**Mark A. Sessums** – Mark A. Sessums of Sessums Law Group has been chosen to speak at the upcoming Florida Bar Family Law Section Certification Review. Sessums will speak for the second year on the topic of Evidence.

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For the month of February 2020

Judge: Hon. George G. Angeliadis, Hernando County
Parties: Milinda McDonald v. Benjamin Kaminski
Attorneys: for plaintiff: Amy Ferrera, Leticia Valdes, Brandon Scheele of Morgan & Morgan; for defendant: Adam Shelton, Sneh Patel of Shelton | McKean
Nature of case: Defendant ran a red light. Plaintiff sustained a neck injury with no surgery.
Verdict: Total verdict of $190,000.00. Plaintiff’s PFS triggered attorney’s fees and costs.

For the month of February 2020

Judge: Hon. James Moody
Parties: Heather Cogar v. Mike Prendergast as Sheriff of Citrus County, Florida
Nature of case: Sex discrimination under Title VII and the Florida Civil Rights Act
Verdict: Verdict for the defendant on all claims.
Photography
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11 Terry Bollea (Hulk Hogan) v. Gawker
11 PODS v. U-Haul

DEFENSE
Δ Marcela Borges v. Meritage Home
(As featured on Discovery ID)
Δ MERCO V. TECO

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Ask-a-Lawyer

The attorneys from the Lawyer Referral & Information service were on the job once again in February and March, answering phones as part of Fox 13’s Ask-A-Lawyer program. We appreciate all those who volunteered to take calls and help local residents.

- Mark Edelman
- Dale Appell
- Richard Alexander
- Michael Broadus
- Alan Borden
- Shamika Askew-Story
- Deb Baker
- Luby Myrthil
- Jamila Little
- Lisa Knox
- William Schwarz
- Lorien Smith Johnson
- Rick Duarte
- Scott Schenking
- Valentina Wheeler
- Erik De L’Etoile
- James Giardiana
- Gian Franco-Melendez
- Kemi Oguntebi
- Karl Metzer
- John Brewer
- Keith Ligori
- Meaghanh Ligori
- James Falkhory
- Robert Walton
Lawyer Magazine 30-Year Anniversary: Favorite Covers from 2011-2015

To celebrate the 30th anniversary of the HCBA Lawyer magazine this Bar year, we have been highlighting some of the beautiful covers the magazine has displayed over the years.

For each issue, members can vote through an online survey for their top five covers for each five-year period that the magazine has been published.

In this issue, we are featuring the five favorite covers from 2011-2015, the fifth interval of five years that the magazine was published. (Note: Because there were more than 40 magazines for this period, HCBA staff voted and narrowed down the choices to 12, and then members voted on their favorite five from those choices.)

February 2011 Issue: Photo of Enya, a Florida panther housed at Big Cat Rescue in Tampa. Photo provided courtesy of Big Cat Rescue.

April 2011 Issue: Photo of a great blue heron, taken in the Wetlands Gallery at The Florida Aquarium in downtown Tampa. Photo by Tom Wagner, courtesy of The Florida Aquarium.

September-October 2012 Issue: Linen postcard from 1945, produced by the Curt Teich Company. The Curt Teich Postcard Archives are housed at the Lake County Discovery Museum. Postcard courtesy of HCBA Member Tom Elligett, Jr.

September-October 2014 Issue: Photo of red mangroves, standing in the intertidal waters above an oyster bed in eastern Tampa Bay. Photo courtesy of Carlton Ward Photography.

November-December 2015 issue: Collage of photos highlighting the NHL team, Tampa Bay Lightning, who play in downtown Tampa. Photos courtesy of the Tampa Bay Lightning.

Keep an eye out for another online poll in early June to vote for your favorite covers from 2016 to this year’s covers for the next issue!
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