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We work together with referral lawyers and share fees as permitted by The Florida Bar.
For our last cover photo highlighting important historical Florida industries, we are focusing on the widely popular industry of sport fishing. Florida is considered by many to be the fishing capital of the world, and for good reason. No other state can boast the number of days fished by anglers, revenue generated, and the many International Game Fish Association records held. Florida also supports a vibrant commercial fishing industry that provides high-valued species such as grouper and snapper from both the Atlantic and Gulf coasts. Taken collectively, Florida’s recreational and commercial fisheries account for an astounding $12 billion each year in revenue and over 100,000 jobs.

The photo we are highlighting on our cover is graciously provided by Hubbard’s Marina in Madeira Beach. The Hubbard family has been fishing in our local waters since 1928, and is still family owned and operated after four generations. The photo shows an unknown couple circa 1963 catching a tarpon in the Gulf of Mexico on a fishing charter, captained by Wilson Hubbard. Photo credit: Hubbard’s Marina.
Summer is Coming

Thank you for allowing me to use this column to share with you over the past five years.

I may be one of the few people in America who hasn’t seen a single episode of *Game of Thrones*. But I can empathize with the show’s writers. Surely writing the final season — and, in particular, the final episode — of a wildly popular TV series must be difficult.

So too is writing this Editor’s message. Ordinarily, a new *Lawyer* editor is appointed each year by the incoming HCBA president. Somehow I managed to turn a one-year job into a five-year job. But summer is coming.

The end of summer, of course, means the end of the Bar year, and the end of this Bar year means the end of my five-year stint as editor of the *Lawyer*. To be sure, the total readership of this column is slightly less than the average viewership for a *Game of Thrones* episode (though the combined audience for both totals north of 30 million people). And I’m not quite sure my column has generated the same cult following. Even so, it’s hard to find a way to wrap up a column I’ve enjoyed writing.

At the risk of this column falling flat, as did the series finale of *Game of Thrones*, I will just end with three observations from my five years as editor.

First, the Bar has no shortage of outstanding leaders. During my five years, I’ve had the privilege of serving under Ben Hill IV, Carter Andersen, Kevin McLaughlin, Gordon Hill, and John Schifino. From my perspective, the HCBA tremendously benefitted from their stewardship.

No doubt the same will be true of incoming HCBA president, Grace Yang.

Second, with respect for my predecessors (and my successor, Dineen Wasylik), being editor is easy. That’s because the HCBA has an outstanding communications team — most notably Stacy Williams. When I was first asked to be the editor, I was nervous because I knew nothing about running a magazine. The truth is I didn’t need to. All the hard work — arranging for feature articles, finding advertisers, working on layout, dealing with the printer, etc. — is done by Stacy.

I’ve always felt a little uncomfortable that the editor gets front billing in the magazine when all the hard work is done by others. We are fortunate to have, what is in my opinion, the best local Bar publication around, and that is thanks to Stacy and the rest of the HCBA’s communications team.

Third, the HCBA’s Bar members are second to none. One of the real joys of editing the *Lawyer* is getting a sneak peek at all the terrific work our HCBA lawyers do. You can literally open any issue of the *Lawyer* — this issue is no exception — and read about the difference our HCBA lawyers are making in our community.

By far, the hardest part of being editor has been writing this Editor’s message. This will now be my 30th one. At first, I vowed I wouldn’t share my opinions or write about personal things. For better or worse, that seemed to go out the window after the first year. Thank you for allowing me to use this column to share with you over the past five years.
As lawyers, we have a responsibility to promote justice and to make justice equally accessible to all people. Indeed, we took this oath when we were admitted to the Bar — “I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay anyone’s cause for lucre or malice.” We should therefore all make time to provide pro bono legal services to a client with limited means.

**What is Pro Bono?**

“Pro bono” comes from the Latin pro bono publico, which means “for the public good.” The Florida Bar describes the parameters of pro bono for practicing attorneys in Rule 4-6.1. The Rule states that lawyers should aspire to render — without charge or expectation of a fee — at least 20 hours of pro bono legal services per year.

**Why Is Pro Bono Important?**

Based on U.S. Census data and studies by the federally funded Legal Services Corporation, The Florida Bar Foundation estimates that 90 percent of the legal needs of low-income Floridians go unmet. Rule 4-6.1 recognizes that lawyers have the special skills and knowledge needed to fill this gap and help low-income Floridians secure access to justice. So why should we take on a pro bono client?

First, we have an ethical obligation to provide pro bono service. It’s simply the right thing to do. Florida has thousands of children in foster care, and thousands of Floridians remain on a Medicaid waiting list to receive community and home-based services. Many of these children and disabled face significant legal challenges without counsel that will significantly impact their lives. In our bankruptcy courts, for the year ending September 30, 2016, the Middle District of Florida ranked second nationally in the overall number of pro se filings per judge with 525, and first in the number of pro se Chapter 13 filings with 240. Florida has a mortgage modification program under Chapter 13 that can keep people in their homes, and pro se litigants have difficulty fully grasping this. The difference between going it alone and having a lawyer on your side is night and day. A lawyer providing pro bono services can save someone’s life.

Second, in addition to addressing our ethical obligations, pro bono work is an important part of a successful law firm’s business model. A meaningful pro bono program benefits recruiting. Law students have grown more interested in firms that provide an opportunity to engage in work that is...
Continued from page 4

important to them. Similarly, a law firm that supports pro bono work will improve retention because lawyers stay at firms where they are afforded the opportunity to engage in meaningful work. Pro bono also provides important “in-the-field” training for young lawyers. Finally, pro bono work is important for business development. Corporate clients are paying more attention to their law firm’s pro bono commitment, and are expecting meaningful engagement by outside counsel in the provision of legal services to those with limited means.

What is the Thirteenth Judicial Circuit Doing About It?

The Thirteenth Circuit has a proud history of pro bono service. Hillsborough County lawyers are regular recipients of the Tobias Simon Award — The Florida Bar’s highest pro bono service award (six of the past 16 recipients hail from Tampa). We must continue this strong tradition.

Hillsborough County offers many opportunities to its lawyers to engage in meaningful pro bono work. Bay Area Legal Services is a local nonprofit law firm that provided legal services to over 17,000 low income individuals and families last year. Crossroads for Florida Kids, Inc. is a local nonprofit that provides pro bono legal services to children and young adults in our foster care system. Project HELP, a program run locally by Shutts attorney Ella Shenhav, allows attorneys to volunteer and provide free legal services to the homeless at Metropolitan Ministries. The Thirteenth Judicial Circuit established its Veterans Treatment Court to assist veterans suffering from military-service related illness who enter the criminal justice system. The veterans need counsel and advocates as they navigate the courts. These programs, and many others, need our help.

Do yourself a favor. Make time for pro bono service. Find an organization that fits you. Exceed the 20 hours suggested by Rule 4-6.1. Pro Bono serves an important public good and will make you a happier and healthier lawyer.


Thanks to All our FOX 13 Ask-a-Lawyer Volunteers!

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

- Richard Alexander
- Dale Appel
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- Alan Borden
- John Brewer
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- Ricardo Duarte
- Mark Edelman
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YLD President’s Message
Jason Whittemore – Wagner McLaughlin

A Special Thank You

Thanks to our members, the strength of the YLD has never been greater!

It has truly been an honor to lead such an outstanding group of individuals as this year’s YLD president. To say that time has flown by would be an understatement. I have had the privilege of serving on the YLD board for seven years. In that time, I’ve witnessed an unwavering commitment from our members to promote the mission of the YLD.

Like the YLD presidents who served before me, I am proud to be leaving the YLD stronger than it was at the beginning of my term. There is one reason for that — our members. Our success is directly tied to the support of our membership.

I truly believe we have the best YLD in the State of Florida. We have become a model for other YLD divisions throughout the State and a trendsetter on the most pressing issues facing our profession.

This year continued the YLD’s commitment to giving back to our community. Whether it was through the John F. Germany Young Readers “Read to Dream” initiative or donating countless hours to support pro bono services to our Hillsborough County residents, our members stepped up to give what little free time they had to those in need.

The YLD also continued its mission of promoting wellness in our profession. As lawyers, we regularly find ourselves struggling with finding a balance between our work life and our personal life. Unfortunately, most of us put our personal well-being behind the well-being of our practices. I am proud of the YLD’s focus on promoting the mental and physical

Continued on page 9

YLD Judicial Appreciation Luncheon

“View from the Bench: The Election and Appointment Process” was the title of this year’s YLD Judicial Appreciation Luncheon at the Chester H. Ferguson Law Center on May 2. Three recently elected and appointed judges spoke at the luncheon: Judge Jack Gutman, Judge Robin Fuson, and Judge Tom Palmero. At the luncheon, the Division also presented its first annual Outstanding Government/Non-profit Lawyer Award to Melissa Foss of the Thirteenth Judicial Circuit.

Thank you to the judges who attended this annual event, and congratulations to Melissa Foss on her well-deserved award!

The YLD would also like to thank its luncheon sponsor: Milestone Reporting.
health of our members and look forward to seeing where our membership takes this initiative in the coming years.

There are more individuals to thank than I have words to write in this article, but I do want to recognize a number of people who were vital to the success of the division this year. A special thanks goes out to the members of the YLD Board: Jeff Wilcox, Melissa Mora, Katelyn Ferry, Rick Duarte, Chris Arnold, Drew McCulloch, Suketa Shah, Traci Koster, Tiffany McElheran, Brett Metcalf, Alex Palermo, Lyndsey Siara, Linda Stanley, Laura Tanner, Anisha Patel, John Dicks, and our Judicial Liaison: The Honorable Samantha Ward. I also want to thank our committee chairs and committee members for all their hard work throughout the Bar year. The YLD is what it is because of individuals like these who donate their time and efforts to promoting our mission.

Last, but certainly not least, I’d like to thank our HCBA staff for helping make this a successful year: John Kynes, Laurie Rideout, Stacy Williams, Angie Harris, Derek Jardeleza, and the rest of the HCBA staff. We cannot thank each of you enough for your support of the YLD.

As I finish my term, I have no doubt that the YLD is in good hands. I look forward to supporting Jeff Wilcox and next year’s board as they continue the work of our division.
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Judicial Luncheon – Civil Panel

Held on March 27 with over 120 attendees, the annual Judicial Civil Panel Luncheon included panelists Chief Judge Ron Ficarrotta, Judge E. Lamar Battles as the moderator, Judge Martha Cook, Judge Gregory P. Holder, Judge Paul L. Huey, Judge Emily Peacock, Judge Elizabeth G. Rice, and Judge Cheryl Thomas. Topics included damages and the “standard preferences” for all the civil divisions, among other issues discussed during the question-and-answer session. Thank you to the judges for participating and providing insight to the attendees!
When Jeff Vinik purchased the Tampa Bay Lightning in 2010, he promised to transform the franchise into a “world class” organization — on and off the ice — and to make a significant positive impact in the Tampa Bay community.

Over the past decade, the Lightning’s phenomenal success on the ice has been well-documented in the media.

But perhaps equally impressive is the Lightning’s tremendous impact in the Tampa Bay community through the Lightning’s Community Heroes program, which Jeff and his wife, Penny, established in 2011.

As the signature philanthropic initiative of the Lightning Foundation, the Community Heroes program awards a $50,000 grant to a representative of a local charity at each home game.

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Since the program’s inception, the Lightning have honored 323 Community Heroes and donated $16.25 million through 661 gifts to 438 unique local charities, many of which are legal-related organizations.

For their extraordinary work in the community, the HCBA named Jeff & Penny Vinik the 2019 Liberty Bell Award winners.

The Liberty Bell Award has been presented annually by the HCBA since 1964 and is intended to honor a citizen who does not practice law but who has worked tirelessly to preserve and strengthen our system of justice.

Past award winners include: Gen. Norman Schwarzkopf; Betty Castor; Rev. Leon Lowry; Jane Castor; Tony Dungy; Bob Martinez; and George Steinbrenner.

Former HCBA President Carter Andersen made the announcement at the annual Law Day Membership Luncheon at the Downtown Hilton this past May.

In his remarks, Andersen praised the Viniks and talked about some of the legal-related groups that have benefited from the Community Heroes program, such as Bay Area Legal Services; The Spring of Tampa Bay; Tampa Police Explorer Program; Gift of Adoption; Crossroads for Florida Kids; Mary Lee’s House; and Guardian ad Litem of Tampa Bay.

“Thank you for keeping your promise and your ongoing commitment to Tampa,” Andersen said about the Viniks and the significant impact the Community Heroes program has had.

* * *

The Law Day Luncheon also provided an opportunity to highlight the outstanding work of the HCBA’s Law Week Committee, which was co-chaired by Dane Heptner and Stephanie Generotti.

The ABA’s national Law Day theme this year was: “Free Speech, Free Press, Free Society.”

Heptner told the 500 luncheon attendees that more than 100 HCBA volunteer lawyers helped lead mock trials, courthouse tours, and classroom discussions this past March.

And almost 3,800 Hillsborough County students participated in Law Week activities this year, including the art contest, Heptner said. (More details and photos from the Law Day luncheon are on page 34.)

Meantime, the luncheon also marked the unofficial end to the 2018-19 Bar year.

And under the outstanding leadership of President John Schifino and the HCBA Board members, it has been an exciting and eventful year for sure.

From the annual Bench Bar Conference in the fall; all the membership luncheons; the outstanding CLE programs; the HCBA Pig Roast/Food Festival and 5K Pro Bono River Run this spring; and the Foundation’s Law & Liberty Dinner, there was something for everyone.

And that does not include all the other successful events put on by the HCBA’s superb Young Lawyers Division, which was ably led by Jason Wittemore.

Looking ahead, I’m confident incoming President Grace Yang will continue the good work that has helped make the HCBA the wonderful organization it is today as she leads the HCBA in 2019-20.

Here’s hoping everyone has a great rest of the summer.
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Disrupting the dangerous cycle of juvenile recidivism in Hillsborough County remains a top priority for my office and our local criminal justice partners. A 2016 report by The Children’s Campaign, a nonpartisan public policy think tank, sparked calls for reform by criticizing Hillsborough as an outlier in juvenile justice in Florida. Previous steps taken in Hillsborough did not go far enough to effectively disrupt juvenile delinquency and recidivism. We lagged behind comparable jurisdictions and neighboring counties in the underutilization of juvenile civil citations, and we outpaced all 66 other counties in Florida with the highest number of kids charged as adults (referred to as “direct files”). Not to mention, we were tone deaf to the crescendo of mental health-related cases careening through our courtrooms.

Faced with these legitimate criticisms, we got to work. In 2017, we significantly expanded and made permanent the patchwork of juvenile civil citation programs into the comprehensive Juvenile Arrest Avoidance Program (J.A.A.P.) — a pre-arrest program that sanctions offenders without formal prosecution. Since it was implemented, J.A.A.P. has been effective. The utilization rate for our local program has exceeded 80 percent, with an average of 750 citations issued each year. Initial statistics

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showing low recidivism are extremely encouraging. Earlier this year, we expanded the list of eligible offenses to include family violence (e.g., sibling against sibling), leaving only five offenses ineligible for a citation. Working with our law enforcement partners, the courts, the Public Defender, and the Clerk of the Court, we continue to evaluate ways to expand the program, including for subsequent offenses.

Over the past two years, we have drastically reduced juvenile direct files by 51 percent. This tremendous improvement brings Hillsborough in line with national standards and improves the long-term safety of our community by affording more juvenile offenders the chance of rehabilitation before effectively writing them off through the adult system.

In partnership with Big Brothers & Big Sisters of Tampa Bay, we recently launched a pilot mentorship program that pairs juvenile offenders with community leaders to steer those youths away from the criminal justice system. This program seeks to change the trajectory of young teenagers charged with intermediate-level offenses by providing much needed guidance, support, and stability to their lives.

Working with the other criminal justice stakeholders, we established a juvenile mental health court in January 2019. This problem-solving court, a-first-of-its-kind pilot program in Florida, will provide the necessary access to treatment, consistent and intensive supervision, and academic and family support for young offenders with mental health issues.

Holding juvenile offenders accountable while maximizing long-term public safety by steering them away from the downward spiral of our system remains a challenge — as it has been for decades. Our commitment to solving these complex problems, however, has not waned. We are building on our successes, using data-driven solutions to improve prosecutorial effectiveness, and finding new ways to redirect juvenile offenders into productive members of our community. Together, with the support of our criminal justice partners, we know that we are on the right path to become a model for juvenile justice reform across Florida and our entire country.

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**TRIAL LAWYERS**
Corporate Counsel Section Fifth Annual Tampa Bay Pro Bono Partners Reception

HCBA’s Corporate Counsel Section held its Fifth Annual Tampa Bay Pro Bono Partners Reception on March 28 at the Chester Ferguson Law Center. With the goal of partnering local attorneys and corporate counsel to provide pro bono service to those in need, this free event offered networking, drinks and hors d’oeuvres, and exciting door prizes to the attendees.

Lauren Guerin, Esq., Citibank, N.A.; Ella Shenhav, Esq., Shutts & Bowen; and Sunjay Trehan, Esq. participated as keynote speakers, with the Hon. Michael Williams providing a message of judicial support. Thank you to all those that attended and worked on this great project!
Hala A. Sandridge Takes Office as President of The Florida Bar Foundation

HCBA Member Hala A. Sandridge took office July 1, 2019, as the president of The Florida Bar Foundation. Sandridge, co-managing shareholder of the Tampa office of Buchanan Ingersoll & Rooney, is a member of the firm’s board of directors and chair of its appellate practice group. Last year, Sandridge was reappointed by then Gov. Rick Scott to the Florida Supreme Court Judicial Nominating Commission.

Sandridge has received numerous pro bono awards including the HCBA’s Jimmy Kynes Pro Bono Award in 2000; The Florida Bar President’s Pro Bono Service Award in 2002; the Distinguished Pro Bono Award from Bay Area Legal Services in 2007; and the Have a Heart Pro Bono Service Award in 2009.

Congratulations to Sandridge on her statewide position!

Bruce H. Bokor Awarded The Gerald T. Hart Outstanding Tax Attorney of the Year Award

Clearwater – Bruce H. Bokor, a named partner in the law firm of Johnson, Pope, Bokor, Ruppel & Burns, LLP, is a co-recipient of The Florida Bar Tax Section’s Gerald T. Hart Outstanding Tax Attorney of the Year award along with Leslie J. Barnett of Barnett Bolt in Tampa. The statewide award was presented on Saturday, May 4, at the annual Tax Section meeting of The Florida Bar in Orlando. Bruce and Les have known each other since high school and have remained close friends and colleagues.

Each year, the Tax Section selects an individual, or this year’s case, two individuals, who has made major contributions to the advancement of the practice of tax law and who exemplifies the highest standards of competence and integrity.

“This is definitely a double win – not only have my peers recognized me but I share this great honor with a lifelong friend and colleague,” says Bokor.

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The Twelfth Annual Circuit Pro Bono Services Awards Ceremony was held on April 18, 2019, at the Chester H. Ferguson Law Center. The following were honored for their outstanding contributions of pro bono legal services for the poor: attorneys A.J. “Stan” Musial, Jr., Jenay Iurato, and Natasha Khoyi; paralegal Mickey Reigger; the law firm of Carlton Fields; and the Association of Corporate Counsel – Tampa Bay Chapter. The award nominations were submitted to the Thirteenth Judicial Circuit Pro Bono Committee, chaired by the Honorable Wesley D. Tibbals and vice-chaired by the Honorable Barbara Twine Thomas. The ceremony was hosted by the Committee, the Bay Area Legal Services’ Volunteer Lawyers Program (VLP), and the Hillsborough County Bar Association. It was sponsored by platinum sponsor Foley & Lardner, LLP; gold sponsors Carlton Fields, Crossroads for Florida Kids, Hill Ward Henderson, and Quarles & Brady, LLP; and silver sponsors Hillsborough Association of Women Lawyers, and Tampa Bay Hispanic Bar Association.

HCBA’s Jimmy Kynes Pro Bono Service Award: A.J. “Stan” Musial, Jr.

A.J. “Stan” Musial, Jr. has dedicated his career to providing pro bono services to those in need. Musial joined Bay Area Legal Services’ Volunteer Lawyers Program (VLP) in 1994, and has provided representation to 29 clients in addition to mentoring countless attorneys. He has provided over 2,400 hours of pro bono service through the St. Paul Legal Consultation and Referral

Continued on page 21
Clinic. Musial has played an integral part in helping to establish similar clinics throughout the Diocese of St. Petersburg. He has also provided a decade of service to callers to the HCBA Ask a Lawyer Program aired on FOX 13 each month and, in recent years, he has provided pro bono service to a teen in foster care through Crossroads for Florida Kids, Inc.

Musial has served on the Thirteenth Judicial Circuit’s Pro Bono Committee since 1998, including as a Training Coordinator supporting the Committee’s pro bono recruitment efforts. He recently celebrated his 20th year as a member of the Committee. In 2002, Musial received the HAVE a Heart’s Outstanding Pro Bono Service Award for Case Referral Panel. Musial received Gold Letters in 2011, 2016, 2017 and 2018 from the Chief Justice of the Florida Supreme Court in recognition of his provision of 100 or more pro bono hours of service for the previous year. In 2012, Musial received The Florida Bar President's Pro Bono Service Award for the Thirteenth Judicial Circuit.

In addition to his professional contributions, Musial is committed to serving his parish and the community. Musial was one of the founding members of the Order at St. Paul’s Knights of Columbus and has served as Advocate and Secretary and has been recognized several times over the years as Knight of the Month and named the 2011-2012 Knight of the Year. In addition, Musial has served as a religious education instructor and youth group volunteer for over 20 years. Musial’s commitment to youth programs is exemplified by his involvement in youth soccer in Northwest Hillsborough County from 1985-2005, where he served as the president of Greater North Tampa Soccer and, later, Hillsborough County United, for which he was one of the founders. In 1992, Musial was recognized for his work on the Hillsborough County Park Bond Steering Committee, and he contributed to the construction of many of the parks in Hillsborough County.

Musial believes that it is incumbent upon attorneys to use the attributes they have been blessed with to help those in need, whether or not they have the financial ability to pay for it. He has committed his life to that philosophy. He explained, “The oath we all take, to ‘never reject, from any consideration personal to ourselves, the cause of the defenseless or oppressed’ says it all. Pro bono service is our obligation. I have found that meeting that obligation has been very rewarding.”

Outstanding Pro Bono Service by a Lawyer: Jenay Iurato

Jenay Iurato is a co-managing member with her husband at the Iurato Law Firm, PL, practicing in civil and commercial litigation, contracts, corporate law, labor and employment law and health law. Iurato is passionate about preventing and raising awareness for human trafficking. In 2018, Iurato provided more than 350 hours of pro bono legal services by serving as trial/co-counsel with Brent Woody, Esq., founder of the Justice Restoration Center, a non-profit serving human trafficking clients in this manner. Iurato also donated over 150 hours in 2018 serving as a guest speaker on various panels regarding human trafficking, serving as a guest lecturer on human trafficking at Stetson School of Law and at W. Michigan University Cooley Law School’s Tampa Bay campus, and speaking at other community organizations and churches regarding human trafficking. In 2013, she served as the keynote speaker at the HCBA’s 17th Annual Bench Bar Conference Luncheon titled, “Stand Up For Justice,” where she spoke about human trafficking. She served as a panelist speaking on violence against women and human trafficking at the USF Women in Leadership and Philanthropy eighth Annual Symposium in 2013. In 2014, Iurato served as a panelist

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at the HCBA’s Immigration and Nationality Section Luncheon to speak on human trafficking in the Tampa Bay Area. She also served as a moderator for a breakout session at the Florida Office of the Attorney General’s 4th Annual Summit on Human Trafficking.

Iurato serves on the Advisory Board of the International Association of Human Trafficking Investigators (2013-present), is a member of the Tampa Bay Community Campaign Against Human Trafficking/FREE Network (2012-present), serves on The Florida Bar’s Diversity and Inclusion Committee (2016-present); is a past president of the THBA and serves on the THBA board of directors (2006-present), and serves on Stetson University College of Law’s Board of Overseers. Iurato has received a great deal of recognition over the years, including recognition as a Florida Super Lawyer (2015-present) and as one of Florida Trend’s Legal Elite (2014, 2015, 2017 and 2018).

Outstanding Pro Bono Service by a Young Lawyer: Natasha Khoyi

Natasha Khoyi is an attorney with Ford Harrison where her practice focuses on a broad spectrum of issues faced by employers, trade secret litigation, discrimination matters, and other disputes. Khoyi is actively involved in Project H.E.L.P., a weekly pro bono clinic for the homeless and indigent. She has shown an unwavering commitment to Project H.E.L.P., dedicating nearly 100 hours to the Project clinics in 2018, as well as taking on several matters stemming from the clinic and continued to represent those clients outside of the confines of the clinic.

In addition to her extensive pro bono work on behalf of the clients of Project H.E.L.P., Khoyi recently undertook an appeal on behalf of the Guardian Ad Litem Program and succeeded in obtaining a favorable resolution for the Program. Khoyi also provides pro bono services to various individuals in a variety of other areas, and has recently been named the pro bono coordinator for the Reece Smith Inn of Court. Khoyi has proven to be tireless in her efforts and dedicated to those in need.

Outstanding Pro Bono Service by a Paralegal: Mickey Reigger

Mickey Reigger has been an invaluable member of the Tampa Bay Paralegal Association for the past five years. She plays an active role in the organization’s activities and is an asset to the Wills for Heroes program. Reigger’s passion and respect for our first responders can be found in her countless hours volunteering and promoting events. She brings not only her years of experience to the Will for Heroes events but also her energy, positive attitude, and infectious laugh. A member of the Tampa Bay Paralegal Association’s Pro Bono Committee since 2014, Reigger is committed to providing pro bono service to our community.

Outstanding Pro Bono Service by a Law Firm: Carlton Fields

Carlton Fields, founded in 1901 in Tampa, provides a full range of legal services across the country and around the world in the areas of commercial litigation, class action defense, real estate and commercial finance, appellate and trial support, real property and title litigation, construction, securities, insurance, health care, tax, intellectual property, creditors’ rights, cybersecurity, and product liability. Carlton Fields has played an instrumental role in the success of many pro bono projects, including VLP’s Case Referral Panel, Intake Clinic, Mentor Panel, Community Counsel Program, and the No Place Like Home (NPLH) project, a pre-disaster project designed to assist clients in clearing title to real property or mobile homes in advance of a disaster, so as to qualify for any necessary funds to rebuild in the event of natural disaster.

Carlton Fields is committed to providing pro bono services to the community. The earliest record of pro bono service to BALS by a Carlton Fields attorney dates back to 1983, when BALS began tracking pro bono hours. In 2018 alone, Carlton Fields rendered 9,730 pro bono hours. As a charter signatory to the Law Firm Pro Bono Challenge, Carlton Fields expects their lawyers and paralegals to devote at least 50 hours annually to pro bono work, for which they provide billable credit. Their most experienced lawyers set the tone for others, with many shareholders performing well over 100-200 hours of pro bono service per year. As Shareholder Sylvia Walbolt explained, the firm’s philosophy is that “it’s critical that lawyers, particularly senior lawyers, not only talk about pro bono, but actually do pro bono. It tells young lawyers that this is important.”

Outstanding Pro Bono Service by an Organization: Association of Corporate Counsel – Tampa Bay Chapter

The Association of Corporate Counsel – Tampa Bay Chapter (ACC-Tampa Bay) provides an invaluable service

Continued on page 23
to the Volunteer Lawyers Program (VLP) of Bay Area Legal Services and, particularly, the Judge Don Castor Community Law Center project by providing in-house corporate attorneys with a working knowledge of business law issues, so they can identify relevant legal issues of concern for charity clients and provide meaningful advice in a very limited period of time. With over 350 members, ACC-Tampa Bay is a growing, thriving chapter of the Association of Corporate Counsel, the preeminent organization for in-house attorneys around the world. Through their Community Outreach/Pro Bono Committee, ACC-Tampa Bay strives to contribute pro bono legal work and public service, and has a long-established community service program. ACC-Tampa Bay members, many with substantial business and transactional expertise, are able to provide valuable legal and technical assistance to nonprofit and community groups in our local communities.

The ACC-Tampa Bay volunteer attorneys bring a for-profit business perspective to small charitable nonprofits that they would not otherwise have the ability to access on their own. David Cohen, President of ACC-Tampa Bay explained, “Pro bono is one of the cornerstones of ACC-Tampa Bay’s mission. As prominent members of the community, it is important that we provide members with the opportunity to give back while serving the overall good of the public.” To date, ACC-Tampa Bay attorneys have donated more than 260 hours of service to the VLP.

The Thirteenth Judicial Circuit Pro Bono Committee commends the extraordinary service of the 2019 award recipients.

Author: Rachel May Zysk - The Suarez Law Firm

WELCOME NEW HCBA MEMBERS
APRIL/MAY 2019

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Theresa Androff
Nathaniel Stephen Bahill
T. Hardee Bass III
Darryl S. Beckman
Scott H. Beene
Sebastian P. Berdychowski
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Cody Bilgrien
Christopher Breton
Elizabeth Brusa
Martin Emmett Burke
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Shannon Ciesluk
Steven Cline
Carl Joseph Coleman
Alyssa Lynn Cory
Christopher Costa
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Corey Dorne
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Keller Fisher
Ashley G. Friedrich
David Fusco
Jennifer Galloway
Oxalis B. Garcia
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Lydia M. Gazda
Amir Ghaeenzadeh
Jonathan S. Gilbert
Jacob S. Gordon
Matthew Grant
Sanad Hamad
Timothy A. Harvey, Jr.
West A. Holden
Jennifer Hutchins
Kristin Johnson
David Keel
Peter Knize
Zoila Lahera
Robert Louis Lamb
Theresa J. Latham
Daniel Patrick Leary
Robin H. Leavengood
Heather Anne Lee
Laura Jo Lieffers
Meaghann Ligori
Rontavian A. Mack
Lauren Leigh Maggert
Trudi Manzi
Carolyn Meadows
Kristen Mella
Vishesh Narayen
Nicole A. Neugebauer
Susan D. Nichols
Linda Norbut
Juanda DeNess Padgett
Christina Paylan
Chantal M. Pillay
Josephine B. Rahn
Michele Ramos
Angela B. Rauber
Taira Salahutdin
Ryan Michael Scully
Judge Lila Stello
Lauren McCarty Stevens
Lauren Storch
Adolfo Valero
Carter Wallace
Katelyn B. Wright
As I walked through the security door, Judicial Assistant Ginger Corda welcomed me to the Second District’s Tampa branch for my interview with the court’s newest member, Judge Andrea Teves Smith. Ms. Corda — who was Judge Smith’s assistant at the 10th Judicial Circuit before her appointment here — brought me in with a heartfelt handshake and a pleasant hello. Judge Smith awaited me at her office door with a warm smile.

Judge Smith’s new second-floor office is strikingly diminutive, even compared to the staff attorney office on the third floor that I vacated many years ago. That said, her office is cozy, welcoming, and already fully adorned with the keepings of a longtime resident. Family pictures, inspiring quotes, and college-themed knick-knacks fill every corner (Go Gators!). I settled into one of the two high-back chairs nestled into the tight space in front of her curiously-familiar U-shaped desk and we got to chatting.

Judge Smith’s story is an interesting one. Her mother was a nurse and her father a doctor in the Boston area in the late 1960s when her father was drafted into the U.S. military. He was ordered to serve a three-year tour in Japan, but her mother was already too far along in pregnancy with their second child (Judge Smith) to safely make that trip. So, Judge Smith’s mother briefly moved back to Norton, New Brunswick, Canada, for the support of her parents until she and their children could safely join her husband overseas. Thus, Judge Smith is the only one of her siblings to be born in Canada, with both her older brother and younger sister born in America. The family reunited in Japan but later all returned to the States. They spent some time in South Carolina, Tennessee, Key West (which Judge Smith’s Canadian mother ultimately, and understandably, nixed as “too hot”), and Miami, before they “found home” in Bradenton when Judge Smith was in first grade.

Judge Smith decided early on that she would be a lawyer. She had even settled on Stetson Law by the tender age of nine. Her grandfather was a judge in the Philippines and her father’s family was rife with politicians. Growing up, Judge Smith and her father would constantly banter about and test each other’s convictions and theories. She recalls reading the “Encyclopedia Brown” series of children’s books by Donald J. Sobol in which “everyone’s favorite boy detective” solves mysteries, partially crediting those books with cultivating the investigative spirit that would later shape her legal career.

Judge Smith had even settled on Stetson Law by the tender age of nine. But first, Judge Smith had to get through school. Her choice for undergrad — the University of Florida — seemed natural, as her older brother went there and she loved football, cheering through high school. At UF, she became a marketing major as she developed a love for mathematics and business. Later, at Stetson Law, she took every available tax class because there “were things that you could put your arms around, and there were numbers, and answers that you could get to.” Her intent was to become a commercial litigator — she wanted to understand the numbers and how things work, so she could well represent her clients.

She may have preordained her schooling, but Judge Smith had no obvious connections that could help predict she would begin her career in Polk County. During her third

Continued on page 25
year of law school, she interviewed with the Lakeland firm of Peterson & Myers, P.A., and it was an instant fit. She would spend the next nineteen years with the firm, doing commercial litigation, collections work, and fittingly, appeals.

Judge Smith enjoyed practice but had always dreamed of following in her grandfather’s footsteps and becoming a judge. That dream became reality when, in 2013, Governor Scott appointed her to the circuit bench in Polk County. Judge Smith recalled that the transition from practice to the judiciary came surprisingly natural to her, although criminal law was entirely new. She loved being, and earning a reputation as, an interactive judge. Her style was to engage in discussion on legal arguments and to challenge the parties’ positions. It was both the most interesting and most rewarding part of her work, she says, and it helped her to reach the right decisions.

With the encouragement of her circuit court colleagues, Judge Smith applied to the appellate court bench for the first time in 2015. She continued to apply as positions opened, each time having a little more experience under her belt and increasing her odds of earning the appointment. She fondly recalled her one stint as an associate judge on the Second District, sitting with Judges Villanti and Badalamenti. Jokingly, she shared that she must not have “upset the panel” and “they must have said good things about me” for her to have earned a permanent spot.

Of course, that opportunity came with the recent retirement of Judge Marva Crenshaw. Governor Scott appointed Judge Smith to the Second District on January 7, 2019; she began her service with the court on February 1.

About her new appellate position, Judge Smith shared with a chuckle, “I know that it’s a lot of reading, but it’s a lot of reading.” She meticulously plans adequate time for reading all the materials and the research involved in each case. Also surprising to her is that the Second District’s family atmosphere exceeds its reputation, and that the court runs like a “well-oiled machine” despite the complexity of its parts. Adjusting to the differing technology that the Second District uses has been a challenge, but one that she’s embracing. Judge Smith praises her great staff as easing the adjustment to her new responsibilities.

When away from the court, Judge Smith spends time with her two daughters (one in college, the other in high school) and her husband. Her favorite activity — aside from following football — is skiing. She’s been on a ski trip nearly every year since she was nineteen years old, with Lake Tahoe and Whistler being some of her favorites.

In her past careers, Judge Smith earned a reputation among colleagues for tenacity and fearlessness (almost to a fault, she jokes). When asked to describe herself in three words, she responded “determined, thorough, and fair.” After meeting her, I don’t doubt any of these descriptors. These admirable traits will certainly serve the court, the bar, and her constituents well.

Welcome to the Second District, Judge Smith!

1 Second District Court of Appeal Space and Locations Needs Study: https://www.2dca.org/content/download/214657/1913285/2nd%20District%20Court%20of%20Appeal%20Space%20and%20Location%20Needs%20Study%20final%2012-22-16.pdf.


Author: Jared M. Krukar - DPW Legal
On April 17, the Appellate Law Section held a CLE entitled “A Round-Up of Recent Appellate Decisions and A Look Ahead at Emerging Appellate Trends.” Matt Conigliaro, Esq., of Carlton Fields in Tampa, gave the informative overview to the attendees.

The Section wishes to thank its luncheon sponsor, LexisNexis.
Hillsborough County Bar Association 100 Club

Law firms with 100% membership in the HCBA

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THAT'S A WRAP! A SUCCESSFUL YEAR FOR THE 2018-2019 BAR LEADERSHIP INSTITUTE
Bar Leadership Institute
Chairs: Nicole Gehringer – Harris, Hunt & Derr, P.A. and Donald C. Greiwe – de la Parte & Gilbert, P.A.

The HCBA’s commitment to supporting young lawyers is inspiring, and we are sincerely grateful for our experiences over the past year.

Time flies when you are having fun, and the past nine months have certainly flown by for the 2018-2019 HCBA Bar Leadership Institute (BLI) class! By welcoming young lawyers and encouraging professional engagement, the BLI continues to serve as an invaluable opportunity for young and new lawyers in the HCBA. We have gratefully followed the footsteps of prior BLI classes as we explored the Tampa Bay region through the lens of leadership and progress.

We have also embraced new acquaintances and professional relationships both within and outside the HCBA. Not only have we spent quality time with each other (including a scenic boat tour of Port Tampa Bay and an exclusive bus ride through MacDill Air Force Base), but we have also enjoyed opportunities to meet and meaningfully interact with HCBA leaders. As part of the BLI, class members have the privilege of being mentored by members of the HCBA Board of Directors, all of whom have eagerly welcomed us and generously given their time. We were also invited to attend meetings of the HCBA Board of Directors and the HCBA Young Lawyers Division Board of Directors, offering us unique and invaluable insight to HCBA governance.

The BLI program depends in large part on the leadership of each year’s co-chairs, all of whom are recent graduates of the BLI themselves. Our 2018-2019 co-chairs have facilitated a wonderful experience by organizing our modules throughout the community, encouraging our social engagement with the program, and serving as a resource for information and guidance. Although two of our four co-chairs ultimately departed to pursue exciting endeavors outside Hillsborough County, we have been fortunate to meet and spend time with all of them through this year’s program.

Continued on page 29
THAT’S A WRAP! A SUCCESSFUL YEAR FOR THE 2018-2019 BAR LEADERSHIP INSTITUTE
Bar Leadership Institute

Continued from page 28

The HCBA’s commitment to supporting young lawyers is inspiring, and we are sincerely grateful for our experiences over the past year. As we reflect on the program and take our next steps as young lawyers, I am confident that the 2018-2019 BLI class will continue the HCBA’s tradition of excellence and professionalism.

Author:
Kendra McCan Lyman – Hill Ward Henderson

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In early 2017, the Fourth District Court of Appeal was tasked with deciding a rather novel question under Section 713.31, Florida Statutes. In *Newman v. Guerra*, the Fourth DCA found itself faced with determining who to award attorneys’ fees to under Section 713.31 when a contractor filed a fraudulent lien, but later succeeded on the underlying claim for breach of contract and quantum meruit. 208 So. 3d 314 (4th DCA 2017). The Fourth DCA ultimately held that “[e]ven if a party prevails on a fraudulent lien claim, the party must be the prevailing party in the case as a whole to be entitled to attorney’s fees under section 713.31.” *Id.* at 319.

*Newman* stemmed from a dispute related to the construction of an addition and outdoor kitchen. The contractor performed the work as requested for several months, but stopped work after the homeowner failed to make payments as due. The contractor then filed a claim of lien against the property. After an evidentiary hearing, the trial court struck the lien as fraudulent, finding that many of the charges used to support the lien were not lienable. In doing so, the trial court found that the claim of lien was “compiled with such willful and gross negligence that it amounted to a willful exaggeration.”

Despite finding the lien was fraudulent, the trial court ruled in the favor of the contractor on its breach of contract and quantum meruit claims. Both sides then sought an award of attorney’s fees and costs under Section 713.31. The trial court denied the homeowner’s motion, finding that the contractor prevailed on the significant issues in the case. An appeal followed.

On appeal, the Fourth DCA began by citing the “significant issues” test from the Florida Supreme Court: “the party prevailing on the significant issues in the litigation is the party that should be considered the prevailing party for attorney’s fees.” *Id.* at 317 (citing *Mortiz v. Hoyt Enters., Inc.*, 604 So. 2d 807, 810 (Fla. 1992)). Citing the Florida Supreme Court again, the Fourth DCA stated that a trial judge has broad equitable discretion to make a determination at the conclusion of a case as to who, if anyone, had prevailed on the significant issues in the litigation. *Id.* at 317-18 (citing *Trytek v. Gale Indus., Inc.*, 3 So. 3d 1194 (Fla. 2009)).

Using this framework, the Fourth DCA next turned to the history of § 713.31. The previous version of the statute would have made the filer of a fraudulent lien automatically liable for attorneys’ fees. But, an amendment to Section 713.31 in 2007 changed the statute to provide for a “prevailing party” standard rather than automatic attorneys’ fees. The Fourth DCA continued to find that both the plain language of § 713.31, and the 2007 amendment, along with the equitable nature of the statute, all weighed in favor of a finding that the “significant issues” test should be used to award attorneys’ fees to the prevailing party. After applying the test to the issues at hand, the Fourth DCA held that the trial court did not err in denying the homeowner his costs and fees, because despite prevailing on the fraudulent lien question, the homeowner was not the “prevailing party” on the “significant issues” of the case. *Id.* at 319.

Author:
Ali Mirghahari – Sivyer Barlow & Watson, P.A.
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Construction Law Section CLE Luncheon

On April 18, the Construction Law Section participated in an informative CLE on “The Often Overlooked Missing Link in Determining Damages.” Kevin D. Dennis, CPA, CFF, CGMA, CMA, senior managing director for Ankura’s Tampa office, discussed the need for greater coordination between counsel and damages experts regarding the causal link between liability and damages.

The Construction Law Section thanks its luncheon sponsor: Orange Legal.
2019 Law Day Membership Luncheon

More than 500 HCBA members and guests attended the annual Law Day luncheon on May 8. Our featured speaker was Katie Sanders, managing editor of Politifact, and Florida Bar Board of Governors member Mike Tanner gave brief remarks to the attendees on the recent legislative session. HCBA also presented several awards at the luncheon, including its annual Liberty Bell Award to Jeff and Penny Vinik. The award recognizes non-lawyer citizens whose community service strengthens the effectiveness of the legal system (read more about the Vinik's many contributions to our community in the Executive Director’s message on page 12.)

Additionally, Detective Matt Gaither with the Hillsborough County Sheriff’s Office and Detective Scott Savitt with the Tampa Police Department were honored with the 2019 Law Enforcement Officer of the Year Awards. Lastly, three high school students were recognized for their winning Law Week art entries, which were displayed at the luncheon.

The HCBA sincerely thanks its luncheon sponsor, The Bank of Tampa, for its support and involvement.

Congratulations to the 2019 Law Week Art Contest winners:

- Third Place Winner: Charlotte Yang from Plant City High School
- Second Place Winner: Taisha Schellhorn from Blake High School
- First Place Winner: Evan Simmer from Blake High School

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

Thanks to all the sponsors, attendees and participants that helped make the 16th Annual Judicial Pig Roast & 5K Race on April 13 such a success! 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 and best décor and more than 250 runners raised 2,100 pro bono hours in pledges. What a great event for a great cause!

PIG ROAST AWARDS

- Best Pig Slop (for best food): Trenam Law
  Runner up: Shutts
- Best Pig Sty (for most creative booth):
  Sessums Black Caballero Ficarrotta
  Runner up: Judges of the Thirteenth Judicial Circuit

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Thanks to all the sponsors, attendees and participants that helped make the 16th Annual Judicial Pig Roast & 5K Race on April 13 such a success! 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 and best décor and more than 250 runners raised 2,100 pro bono hours in pledges. What a great event for a great cause!

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CONGRATULATIONS TO ALL THE WINNERS
5K INDIVIDUAL AWARDS
- Overall Male Winner: Chris Rapozo
- Overall Female Winner: Amy Tanaka
- Fastest Male Judge: Hon. Christopher Nash
- Fastest Female Judge: Hon. Linda Allen

5K TEAM AWARDS
- First Place: Wilkes & McHugh
- Second Place: HCBA Bar Leadership Institute Class of 2018-19
- Third Place: YLD Board of Champions

PRO BONO PLEDGE AWARDS
- “Rosemary” Proven Producer: Natasha Khoyi
- Individual Pledge: Stephen Todd
- Team Pledge: HCBA Bar Leadership Institute
- Pro Bono River Run Challenge Cup: Gunster

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Lara J. Tibbals Appointed to Board of The Florida Bar Foundation

HCBA Member Lara J. Tibbals was appointed by The Florida Bar to the Board of The Florida Bar Foundation, beginning July 1, 2019. Tibbals currently serves as Of Counsel in Hill Ward Henderson’s Litigation Group.

Congratulations to Tibbals on her statewide position!

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Law & Liberty Dinner

The 14th Annual Law & Liberty Dinner featured one of the nation’s most beloved actors — Henry Winkler, who spoke about his acting career and philanthropic projects, as well as how overcoming dyslexia helped him find his true self. Mr. Winkler’s fascinating presentation on overcoming adversity entertained and educated the more than 600 guests at the Hillsborough County Bar Foundation’s annual fundraising event on May 2.

Local news anchor Keith Cate of New Channel 8 hosted the evening’s ceremonies.

Money raised at the Law & Liberty Dinner will benefit Are You Safe, Inc.; Crossroads for Florida Kids, Inc.; Gift of Adoption Florida (Tampa); L. David Shear Children’s Law Center of Bay Area Legal Services, Inc.; The Spring of Tampa Bay; Voices for Children of Tampa Bay; and the West Florida Center for Trafficking Advocacy – Justice Restoration Center.

The Foundation would like to especially thank the event’s Marquee Sponsor – The Yerrid Law Firm, and the Premier Sponsor – The Bank of Tampa.
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The Sixth Amendment to the Constitution of the United States reads, “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the Assistance of Counsel for his defence.” That (taken in conjunction with the Fifth Amendment’s right to due process) has been interpreted by our Supreme Court to mean that anyone charged with a crime for which he or she is subject to incarceration is entitled to a lawyer, whether or not he or she can afford one. See Gideon v. Wainright, 372 U.S. 335 (1963).

Not only is a criminal defendant entitled to counsel, but the defendant is entitled to the counsel of his or her choice, see United States v. Gonzalez-Lopez, 548 U.S. 140 (2006), subject only to considerations such as conflicts of interest, scheduling, counsel’s authorization to practice law in a given jurisdiction, and counsel’s willingness to represent the defendant (pro bono or by fee arrangement). The remedy for erroneously depriving a defendant or his or her first choice of counsel is reversal of the conviction.

Recently, Harvard Law Professor and Residential Dean Ronald S. Sullivan Jr. received a heap of criticism, was the subject of a Change.org petition, and saw his deanship vanish at Harvard, all because he agreed to represent Harvey Weinstein. The Change.org petition that was levied against Sullivan read in part, “For victims of sexual assault and rape on this campus who already feel disempowered by the sheer lack of activity in reprimanding such behavior, the developments of Dean Sullivan’s professional work are not only upsetting, but deeply trauma-inducing.”

After the petition was filed, Harvard refused to renew Sullivan’s residential deanship, citing “deterioration of the climate in the house” since Sullivan began representing Weinstein. Not long after, Sullivan withdrew from Weinstein’s defense. It is notable that Sullivan previously represented the Jena Six and ex-NFL Patriot Aaron Hernandez, as well as the family of Michael Brown (securing a civil settlement for the Brown family).

Sullivan’s case highlights what has become a crossroads in our criminal justice system: Should we allow “mob rule” to dictate who is entitled to assistance of counsel, society has lost.

If we allow the public to dictate who is entitled to assistance of counsel, society has lost.

Note: The opinions contained in the above article are those of Matthew A. Smith alone and do not reflect those of the HCBA nor the Office of the State Attorney 13th Judicial Circuit.

Author: Matthew A. Smith - Office of the State Attorney, Thirteenth Judicial Circuit
The Diversity Committee held its annual CLE luncheon on April 25 at the Chester H. Ferguson Law Center. The first part of the CLE focused on disparate sentencing among minorities throughout America’s history of Jim Crow Laws, the Freedom Riots, segregation, the de-segregation of the South, and the many civil rights leaders that paved the way for great change at the cost of their freedoms — and sometimes their very lives. The second part of the CLE focused on the present-day work of the American Civil Liberties Union (ACLU) and its mission to confront the racial and ethical disparities in the criminal justice system through its Racial Justice Task Force.

Tammy Briant, J.D., former dean of student affairs at Stetson University College of Law, and still current adjunct professor teaching Civil Rights Law, led the first part of the CLE. Her presentation set a historical foundation for understanding inequalities and the disparate treatment of black and brown citizens in the U.S. justice system. Briant embodies the statement, “Can’t go anywhere without knowing where I have been.” She does this by traveling on a bus with her law students to visit the historical sites of the deep South, by walking solemnly over the Edmund Pettus Bridge (the movie “Selma” highlighted this historical event and location where freedom fighters were beaten by state troopers), and by learning the history of the freedom fighters by visiting with them and having them share their personal stories.

For the second half of the CLE, Racheal Streitfield, Esq., vice president of the ACLU’s Greater Miami Chapter, and chair of the Police Practices Committee for Racial Justice Task Force, presented on her report “Unequal Treatment: Racial and Ethnic Disparities in Miami-Dade Criminal Justice.” The report focused on the arrest records of all defendants for 2010-2015, which the ACLU collected from the Clerk of Court in Miami. The report’s goal was to locate and track the racial disparities in bond charges filed, and sentencing lengths, as well as the way that nuisance crimes are enforced by police based on race and ethnicity. The results of the report can be

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The report found that “race and ethnicity shape a person’s involvement in the criminal justice system and in the system’s outcomes.” The goal of this report is to educate law enforcement on the importance of implicit bias training, so that these statistics can change, and to ensure everyone is treated equally under the law, no matter what racial or ethical background they have.

Both of these speakers embody the truth that you must know your past, so that you can use the lessons learned to build a better tomorrow for everyone.

Author:
Amy Casanova-Ward - State Attorney’s Office

The Diversity Committee held its annual CLE luncheon on April 25 at the Chester H. Ferguson Law Center.

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SUMMER 2019 | HCBA LAWYER
Florida lawmakers sent a variety of healthcare bills to Governor DeSantis this session. If enacted, these bills will have a tremendous impact on our State. Perhaps the most significant is House Bill 21.

HB 21 will: (1) eliminate the Certificate of Need (CON) process for general hospitals, complex medical rehabilitation beds, and tertiary hospital services in Florida effective July 1, 2019; and (2) eliminate the CON process for specialty hospitals that focus on particular groups, such as women or children, psychiatric patients, and substance abuse patients effective July 1, 2021.

As a result, any person wishing to build or replace a general hospital, convert a specialty hospital to a general hospital, increase the number of complex medical rehabilitation beds, or establish tertiary services in a hospital (including inpatient complex medical rehabilitation beds) need only go through the Florida Agency for Healthcare Administration licensure process.

Over the year, the Florida CON program has undergone a variety of changes. In 2000, CON review was eliminated for home health agencies. Seven years later, CON review was eliminated for adult cardiovascular services licenses have increased. This has led some to speculate that it is likely that our State will see a spike in the number of general hospitals, complex medical rehabilitation beds, and tertiary hospital services in the near future.

Notably, Florida hospital licensure statutes remain in effect. So if a hospital restricts its medical and surgical services to primarily or exclusively cardiac, orthopedic, surgical, or oncology specialties, it may not be licensed or relicensed.

Some speculate that our State will see a spike in the number of general hospitals, complex medical rehabilitation beds, and tertiary hospital services.

1 Tertiary hospital services include pediatric cardiac catheterization; pediatric open-heart surgery; organ transplantation; neonatal intensive care units; comprehensive rehabilitation; medical or surgical services which are experimental or developmental in nature to the extent that the provision of such services is not yet contemplated within the commonly accepted course of diagnosis or treatment for the condition addressed by a given service; heart, kidney, liver, bone marrow, lung transplantation, pancreas and islet cells, and heart/lung transplantation; adult open heart surgery; and neonatal and pediatric cardiac and vascular surgery.

2 Effective July 1, 2021, the bill eliminates the requirement to obtain a CON before establishing a new class II, III, or IV hospital. Class II hospitals include children’s and women’s hospitals; Class III hospitals include specialty medical, rehabilitation, psychiatric, and substance abuse hospitals; and Class IV hospitals are specialty hospitals restricted to offering Intensive Residential Treatment Facility Services for Children.

3 Ch. 2000-256, Laws of Fla.

4 Ch. 2007-214, Laws of Fla.


In March, the U.S. Department of Labor (DOL) published its new proposed overtime rule, which raised the Fair Labor Standards Act (FLSA) minimum salary rate to $35,308 per year ($679 per week) for jobs that fall under the “white-collar” exemptions (also known as the executive, administrative, or professional exemptions). Under the white collar exemptions, employees are exempt from the hourly and overtime requirements if they perform certain job duties and are paid above the minimum salary rate. Under the current exemption, the minimum salary rate is $23,660 per year ($455 per week).

In 2016, the Obama administration proposed changing the overtime rule to: (1) increase the minimum salary to $47,476 per year, (2) change how the “duties” requirement is applied, and (3) automatically update the minimum salary rate every three years. Many employers protested the rule, and a group of 21 states sued to stop it from taking effect. Just days before the rule was set to take effect, a Texas federal judge entered a nationwide injunction that blocked the DOL from implementing the controversial rule. Ultimately, the rule was invalidated in 2017 by the same Texas judge. Thereafter, the DOL asked the public for feedback on ways to revise the Obama administration’s rule.

On March 7, 2019, the DOL, under the Trump administration, issued a proposed rule that is well below the salary level set by the Obama-era DOL. The new rule proposes a nearly 50 percent increase from the current salary level of $23,660 to $35,308. It does not change how the regulations apply the “duties” test, nor does it include automatic increases to the minimum salary rate, although the DOL anticipates updating the salary rate every four years through notice-and-comment rulemaking. The DOL estimates that the proposed rule will make more than a million workers eligible for overtime pay. This represents a significant reduction from the Obama-era rule, which would have affected around four million workers.

Employers should also keep in mind that an employee must meet the minimum salary rate and perform the appropriate duties to qualify for the overtime exemption. Employers who currently have exempt white collar workers who earn more than $455 per week, but less than $679, yet satisfy the duties requirements, can comply with the new rule by either increasing the employee’s salary to the new level, limiting hours so employees do not work overtime, or reclassifying employees as non-exempt.

2 29 C.F.R. § 541.100–541.400.

Author: Nicole Santamaria – Jackson Lewis, P.C.
Do you have to file a motion for rehearing to preserve the issue of a trial court’s failure to make statutorily required findings in family law proceedings? You guessed it—it depends. The Second District, along with the First, Third and Fifth Districts, require a motion for rehearing to preserve this issue. The Fourth District recently clarified their position on this issue, stating that a motion for rehearing is not required to preserve the issue of a trial court’s failure to make statutorily required findings. Fox v. Fox, 262 So. 3d 789 (Fla. 4th DCA 2018).

The arguments made on each side of the conflict are valid. In Fox, the majority reasoned that family law proceedings are unique, and for many families, a final judgment is not the end of the road. Instead, the final judgment sets the foundation for enforcement, modification and contempt proceedings. Such postjudgment proceedings can be significantly more complicated when the original final judgment lacks adequate findings. Has there been a substantial, material, uncontemplated and involuntary change in circumstances since the entry of the final judgment? Having detailed findings within the original final judgment will certainly help us in answering that question. The majority also notes that family law cases have a high volume of pro se litigants who are unlikely to know of or understand the technicalities of preserving issues on appeal. The majority explained that “to evade review of a trial court’s failure to make required findings because someone either forgot or failed to move for rehearing frustrates the very purpose of those findings.” Fox, 262 So. 3d at 794. This is a valid point.

On the other hand, is it fair to carve out an exception for family law cases when an exception to the preservation retirement exists for fundamental error? Which outcome promotes judicial economy? In Fox, Judge Kuntz reminds us that “the requirement that a party preserve an issue is based on fairness to the litigants, the court, and the judicial system.” Fox, 262 So. 3d at 798. When the lack of findings can (hopefully) be easily cured by the trial court, shouldn’t the trial court be provided the opportunity to correct the error and set forth the appropriate findings? Perhaps this opportunity will also eliminate other potential appellate issues by providing adequate explanation of the trial court’s ruling.

Although the conflict remains, Fox provides us with a detailed overview of the conflict between the districts, as well as an enlightening analysis of the arguments on each side of the “duel between reversible error and preservation.” Fox, 262 So. 3d at 791. As for us, as family law practitioners, the best practice to promote fairness, judicial economy, and accuracy in our daily “duels” is to file a detailed motion for rehearing outlining all potential appellate issues.

Author:
Kim A. Hamill – Older, Lundy & Alvarez

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MVAC Volunteers at Stand Down Event

The HCBA Military & Veterans Affairs Committee participated in a Stand Down event at Bay Pines VA Medical Center in early April. The volunteers reported that the event was well-attended with a steady stream of homeless veterans passing through and getting information from their table. Thank you to the MVAC members who participated!
October 1962, Hillsborough County, Florida. I was a third grader at Temple Terrace Elementary School. My sister Joyce, brother Bob, our parents, and I were watching Walter Cronkite on the CBS evening news reporting some nefarious conduct by the Soviet Union off the shores of Cuba. My parents gently explained that we were going to have to take special supplies to school each day for a while. Frankly, I didn’t quite understand the gravity and peril of this 13-day heavyweight standoff. I just knew that instead of taking my Superman lunch box to school with a peanut butter and jelly sandwich, an apple, and an orange, I was taking a pillow, blanket, canned, nonperishable goods like baked beans and green beans, large canisters of water and juice, and witch hazel for infection. We also brought Clorox bottles to disinfect the water. I thought taking a pillow and blanket was kind of cool. We also practiced duck and cover drills under our desks.

All of this hit close to home because my father Eli was enlisted and served in the Army Air Force during WWII, stationed at Drew Field in Tampa, and flew a Mustang P51 over Germany. Now, its 1962, and MacDill was likely a potential target because of its proximity to this conflict with the Soviet Union. I’m glad I didn’t know then what I know now. Thankfully, President Kennedy and his brain trust were able to establish a quarantine that ultimately caused the Russians to disarm.

MacDill was a hub of deterrence and airpower projection during this perilous time, as was McCoy Air Force Base in Orlando. Two RF-101C Voodoo squadrons were deployed to MacDill and executed 83 low-flying aircraft reconnaissance missions. The MacDill photo lab expanded and shuttled film directly to Washington, D.C. MacDill hosted more than 200 aircraft and crews, including the 306th Bomb Wing B-47 strategic bombers, RB-66 and RF-101 tactical reconnaissance aircraft, KB-50J refuelers, and F-100 and F-84F fighters. By October 24, the U.S. Army’s 8/15th Artillery established MIM-3 Hawk mobile Surface to Air missile batteries at MacDill, Patrick and Homestead AFBs to defend our airspace. The Soviets downed a U-2 aircraft during this confrontation.

The brave airmen of MacDill and McCoy provided the reconnaissance effort that discovered the Russian ships and missile site construction. A McCoy reconnaissance aircraft flew over Cuban airspace and obtained proof that the Soviet Union was deploying nuclear missiles to Cuba. Several pilots flew 82 U-2 missions to obtain the photographic intelligence that brought the Cold War to the brink, just 90 miles from South Florida. The reconnaissance mission expanded to MacDill, and fighter, bomber, and air defense units were dispatched to MacDill. Douglas RB-66B Destroyer (S/N 53-475) of the 363rd Tactical Reconnaissance Wing. The 363rd Wing deployed RF-101 and RB-66 aircraft to MacDill AFB in 1962.

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Most historians remember Francis Gary Powers, whose U-2 was shot down over Soviet Airspace in 1960. He survived. Most people know nothing or very little about Major Rudolf Anderson, Jr., who was killed when his U-2 flown out of McCoy was shot down during the Cuban Missile Crisis. Major Anderson, the only casualty, was considered a hero. Many believe and have written that his death may have contributed to both superpower leaders realizing the situation was nearing the point of no return, leading to the peaceful end of the standoff. Major Anderson was posthumously awarded the first Air Force Cross for his sacrifice.

Air Force RF-101 crews continued to fly missions from Tampa until even mid-November, after the U.S. blockade had succeeded. All Soviet missiles were ultimately removed, and the potential nuclear disaster and Armageddon were quelled. The Cuban Missile Crisis of 1962 came to an end thanks to the brave Airmen of MacDill and McCoy, to whom we are forever grateful. And alive.

Sources: Mr. Stephen Ove, historian for the 6th Air Mobility Wing, MacDill AFB, FL, and Courtesy of the 6 AMW History Office.

Author: George E. Nader – Trenam Law

Military Spouse Appreciation Luncheon

In honor of Military Spouse Appreciation Day, the Military & Veterans Affairs Committee hosted a special luncheon on May 1, open to the entire HCBA family. HCBA members who have served in the military, are serving in the military, or were a military spouse were invited to attend and listen to a panel discussion about life as a military spouse. We thank the panelists for speaking on this important subject, and thank our current and former military members and their spouses for their service!
Attorneys’ communications with one another should at all times reflect professional integrity and civility.

“Professionalism and Civility. Anything less will not be tolerated.” This appears on plaques and nameplates in the chambers of judges throughout the State. It is reiterated in Practice Requirements of Judges, and it is a demand placed upon all attorneys practicing within the State of Florida. Attorneys are taught from the first day of law school that the courtroom is where respect, cordiality, and professionalism are at their highest demand. And for the most part, attorneys do conduct themselves in a manner that comports with these expectations while inside a courtroom. Where professionalism and civility are falling short is outside the courtroom.

Today, more than ever, attorneys are demonstrating their worst qualities in their communications and interactions with opposing counsel. With the ease and accessibility of email, the ability to instantaneously type one’s thoughts and simply hit ‘send,’ without any forethought has greatly increased the likelihood that attorneys will find themselves on the wrong side of disciplinary proceedings. In 2011, The Florida Supreme Court informed the legal community that “concerns have grown about acts of incivility among members of the legal profession,” and as a result, the Court found it necessary to revise the Oath of Admission to The Florida Bar to include a civility pledge: “To opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications.” Attorneys can, and are, disciplined for violating the Oath.

The Professionalism Handbook is the guiding source for attorneys regarding professional responsibility. In it are the Professionalism Expectations, the Guidelines for Professional Misconduct, and the Rules Regulating The Florida Bar (Rules). Professionalism Expectation 2.2 states, “Candor and civility must be used in all oral and written communications. (See R. Regulating Fla. Bar 4-8.4(c)).” Expectation 2.3 states, “A Lawyer must avoid disparaging personal remarks or acrimony toward opposing parties, opposing counsel, and third parties or the court. (See R. Regulating Fla. Bar 4-8.4(d)).”

The Florida Supreme Court demands professional courtesy and civility among Florida’s lawyers. This demand exists, at all times, in every attorney’s professional and private life. There are no exceptions. Respect and civility between counsel should be commonplace and something the legal profession prides itself on. The Florida Supreme Court has made it clear in its discipline of attorneys over the past several years that unprofessional misconduct will not be tolerated. See Florida Bar v. Norkin, 132 So. 3d 77 (Fla. 2014).

A license to practice law is a privilege, not a right. Attorneys are expected to conduct themselves in a manner consistent with the high standards of our profession. Anything less can result in a loss of that privilege. The legal profession is an honorable practice and maintaining professionalism outside the courtroom, as well as within, is vital to the integrity of the profession.

Author: Lindsey Guinand – The Florida Bar

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The Florida Constitution’s homestead exemption provides almost bullet-proof protection for homeowners against creditors. The exemption is construed liberally in the homeowner’s favor and can even trump Florida’s fraudulent transfer statute. It is, however, subject to certain limits when the homeowner is in bankruptcy.

Section 522(o) of the Bankruptcy Code reduces the homestead exemption if — at any time during the 10-year period before bankruptcy — the debtor converted non-exempt assets into the home with the intent to hinder, delay, or defraud a creditor. Two very-recent Florida bankruptcy court decisions have applied § 522(o) to restrict or eliminate the debtor’s claimed homestead exemption.

In Bentley, the debtor “went to extraordinary lengths to hide a valuable 1930 Cord Phaeton, sell it secretly, use the proceeds to pay off her home mortgage, and then filed bankruptcy all to keep [a creditor] from getting paid on a $50,000 loan she made to the debtor’s son in 2007.” The bankruptcy court found the debtor used non-exempt cash from the secret sale of the Cord to pay off the mortgage on her home and did so with the actual fraudulent intent to deprive a creditor of the monies (or the Cord). Thus, the court sustained the trustee’s objection under § 522(o) and reduced the debtor’s homestead exemption by $112,767.04 (the amount of the Cord sale proceeds plus prejudgment interest).

In Rensin, in 2009, the FTC sued the debtor and his entities alleging they defrauded consumers out of $14 million. A judgment was entered in favor of the FTC in 2010. In 2017, the debtor filed his chapter 7 petition. Before filing for bankruptcy, the debtor bought and sold multiple properties, including a Florida house (later claimed to be his homestead in bankruptcy). The debtor bought the Florida home in 2015 for $940,000 using non-exempt funds. The acquisition was done under the usual badges of fraud, which the bankruptcy court adopted. Further, based on the evidence presented, the court found the debtor purchased the Florida home with the actual intent to hinder and delay his creditors. So, the debtor’s homestead exemption was denied — in its entirety — under § 522(o). The debtor was also ordered to turn over all of the Florida home’s sale proceeds (sale occurred prior to the ruling).

1 Art. X, § 4, Fla. Const.
2 See Havaco of Am., Ltd. v. Hill, 790 So. 2d 1018 (Fla. 2001) (Florida Supreme Court confirmed the broad interpretation of Florida’s homestead exemption and held the exemption applies even when the debtor acquired the property with a specific intent to hinder, delay, or defraud creditors).
5 Id. at *10.
7 Id. at *2.
8 Id. at *3.
9 Id.
10 Id. at *2.
11 Id. at *15.
12 Id.
13 Id. at *1.

Author: Lauren Stricker – Shutts & Bowen LLP
As digital assets like Bitcoin have become more popular in the online economy, the legal community, as well as government agencies, have struggled with determining whether these assets fall within the definition of a security under federal securities laws. If you (like me) still do not fully understand how the technology behind digital assets functions, at least help in answering whether these assets should be considered “securities” has arrived.

Staff from the Securities and Exchange Commission — through its Strategic Hub for Innovation and Financial Technology (FinHub) — recently published a framework for analyzing whether a digital asset is offered and sold as an investment contract, and therefore, a security. The staff’s framework begins with the traditional definition of security, which includes “investment contracts” as well as other instruments such as stocks, bonds, and transferable shares. The framework guidance focuses on analyzing whether the digital asset has the characteristics of an “investment contract” — which the staff points out has frequently been used by the Commission and federal courts to determine whether unique or novel instruments or arrangements, such as digital assets, are securities subject to the federal securities laws.

As noted by the staff, the U.S. Supreme Court’s Howey case¹ and later decisions have held that an “investment contract” exists when there is the investment of money in a common enterprise with a reasonable expectation of profits to be derived from the efforts of others. The “Howey test” applies to any contract, scheme, or transaction, regardless of whether it has any of the characteristics of a traditional security.

When it comes to digital assets, the staff explains that the first two prongs of the Howey test — (1) the investment of money (2) in a common enterprise — are generally satisfied. The main issue under the Howey test is whether a purchaser has a reasonable expectation of profits (or other financial returns) derived from the efforts of others.

For example, a purchaser may expect to realize a return through participating in distributions or through other methods of realizing appreciation on the asset, such as selling it at a gain in the secondary market. Or when a promoter, sponsor, or other third party provides essential managerial efforts that affect the success of the enterprise, and investors reasonably expect to derive profit from those efforts, then this prong of the test is met. But, if a retailer were to create its own digital asset to be used by consumers to purchase products only on the retailer’s network, the digital asset is offered for sale in exchange for real currency, and the digital asset is redeemable for products commensurately priced, then this digital asset would likely not be considered an investment contract.

Any practitioner with a securities practice (or clients within the industry) would be well-advised to read the framework. The full text can be found here: www.sec.gov/corpfin/framework-investment-contract-analysis-digital-assets#_ednref5.


Author:
Eric R. Feld – Wiand Guerra King PA
Securities Law Section CLE Luncheon

On March 28, the Securities Law Section held an informative CLE on “Ethically & Effectively Cooperating in Securities Litigation.” The panelists who participated in the discussion were: Robert Jamieson of Wiand Guerra King; Scott C. Ilgenfritz of Johnson, Pope, Bokor, Ruppel & Burns, LLP; Michael Lamont with Raymond James Financial, Inc.; Frederick Schrils of GrayRobinson; and Robert Persante of Persante Zuroweste Law Firm. We appreciate the panelists for providing their insight on this important matter.
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Judicial Luncheon – Criminal Panel

The Criminal Law Section held its annual Judicial Criminal Panel Luncheon on April 4, with panelists Judge Tom Barber, Judge Mark Kiser, Judge Chris Nash, Judge Laura Ward, and Judge Mark Wolfe from the Thirteenth Judicial Circuit. Thank you to the judges for participating and providing insight to the attendees!

Thank you also to the luncheon’s sponsor: Footprints Beachside Recovery Center.
The North Tampa Bar Association (formerly the Carrollwood Bar Association) is pleased to announce that it is accepting new members.

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Wenzel Fenton Cabassa, P.A. represents employees who are victims of illegal workplace violations in state and federal courts throughout Florida.

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Thanks to all the judges and lawyers who attended the Senior Counsel luncheons in the 2018-2019 season. We are grateful to have had so many members come to hear our interesting speakers.

Our first speaker was Second District Court of Appeal Judge Anthony Black, who told the story of Magna Carta, starting in 1215 at Runnymede where the Great Charter was agreed upon between King John and the English barons. The principles of Magna Carta are echoed in the Declaration of Independence, the United States Constitution, and the protections of life, liberty, and property with due process of law.

Paul Manning arranged for our next speaker, David Bevirt. Mr. Bevirt is the executive vice president of Strategic Property Partners, a Tampa-based firm that is a partnership between Bill Gates’ Cascade Investments and Tampa Bay Lightning owner Jeff Vinik. They are currently developing Water Street Tampa, which offers a vibrant vision for the future of downtown Tampa, with walkable streets connecting homes, offices, shops, and hotels for the people who live, work, study, and visit this new urban neighborhood along the waterfront.

In January, the Senior Counsel Section held a joint luncheon with the Military & Veterans Affairs Committee. Colonel Troy Pananon, the vice commander of MacDill Air Force Base, related the storied history of the air base, as well as the various commands that are presently operating at the base, including the United States Central Command, which is responsible for operations in Afghanistan and Iraq. The “host wing” at MacDill is the 6th Air Mobility Wing and its air refueling squadron, which operates Boeing KC-135R Stratotankers that conduct worldwide aerial refueling. Col. Pananon also demonstrated MacDill’s refueling mission for audience members with a video of in-flight refueling.

Continued on page 69
Hillsborough County Attorney Christine Beck spoke at the Senior Counsel luncheon in March. She answered the question, “What does the County Attorney’s Office do for you?” Beck explained the structure and the mission of the office, which provides legal services to the Board of County Commissioners and the people of our county, including giving legal opinions on county ordinances, as well as prosecuting and defending legal actions by and against the county.

The last speaker of the year was attorney and economics expert Dale Appell who spoke on “Understanding Macro Economics to Better Micromanage.” Appell’s dramatic presentation was an economics history lesson from the Great Depression to the “Empire of Debt” of today. Our judges and lawyers were sobered to learn what the future may hold and what perils may lie ahead.

I wish to personally thank Judge Andrew Atkinson, Paul Maney, George Howell, Judge Cynthia Oster, and HCBA Lawyer Referral Service Director Lupe Vasquez-Mitcham for introducing our speakers; Judge John Badalamenti, Judge Barbara Twine-Thomas, David Veenstra, Robert Brazel, and Sasha Lohn for leading the Pledge of Allegiance; and to Richard Fueyo, John Schifino, Alexandra Srsic, Judge Emily Peacock, and Michael Peacock for giving the invocations at our luncheons.

Please join us next year for more great speakers at the Senior Counsel luncheons.

Author: Thomas Newcomb Hyde – Attorney at Law
Are you thinking about starting your own law firm? What’s unique about the HCBA’s Solo & Small Firm Section is that almost all of us have done exactly that, and we want to help others who want to do the same.

Starting your own firm can be an extremely rewarding career move. There are major benefits, of course. Being your own boss and controlling your own destiny, managing your own schedule, and keeping the profits are the obvious ones. There are less obvious ones too, like greater financial flexibility, the ability to challenge yourself as much as you want, developing relationships with people that you otherwise would not have met, and respect from your clients and peers who admire your courage and confidence in creating a business of your own.

There are plenty of downsides though. Losing that steady paycheck is a pretty big one. And not a lot of lawyers receive personal fulfillment from going over a trust account reconciliation. Plus, starting a law firm will consume a lot of your time — time you would rather spend with your family or doing what you love. It will also consume a lot of your money. Fortunately, with E-filing, online legal research, virtual employees, and other technologies, it doesn’t cost as much as it used to, but starting a law firm still isn’t cheap. And you will certainly be spending money months before you start making any.

You will also likely encounter some roadblocks along the way that could never have been anticipated. I’ll share my story: six months into owning my firm, my wife and I had twin daughters. But because they had to be delivered 10 weeks premature, they were immediately sent to the hospital’s neonatal intensive care unit. My wife and I knew that both of us had to be there every day to support them, so we figured out a way to do it. For two months, I would spend the first half of the day at the office, with clients, or in court, and in the afternoon, I would head to the NICU with my laptop. I can remember plenty of days and nights sitting in one of my daughters’ rooms in the NICU writing demand letters. Trust me, this wasn’t how I drew it up in my mind. But you work through the challenges and hopefully come out the other side. Looking back, I don’t regret any of it, and I’d do it all the same.

If you are considering starting your own firm, I urge you to reach out to one of our section members, or come to one of our events, to ask the questions we know are on your mind: Should I start my own firm? Where will I get my clients? How do I set up a trust account? We have all asked those questions ourselves, and we are happy to help you find the answers.

Author: Matthew A. Crist - Crist Legal | PA

Although there are risks, starting your own firm can be an extremely rewarding career move.
With the pressures of trying to efficiently manage everyday tasks, while running back and forth from the courtroom to a client interview in the office, lawyers often live with constantly high levels of stress. Unfortunately, as a result, a lawyer’s important concerns about a case may lead to unprofessional emotions.

An example of this may be illustrated in a Florida Supreme Court disciplinary decision sanctioning a veteran attorney. In *The Florida Bar v. Patterson*, 257 So. 3d 56 (Fla. 2018), an attorney who practiced law for 21 years appears to have allowed the strain of trial practice to overcome his need to always put his client’s best interest first. Patterson was retained to represent an individual in a circuit “civil action alleging invasion of privacy against the City of Homestead, its individual council members, and an investigative firm employed by the city.” *Id.* at 58. Later, the pleadings were stricken “on the grounds that [the plaintiff] had committed perjury.” *Id.*

While the state court case was pending, Patterson had pursued a civil rights claim for the plaintiff in federal court. During the case, Patterson sent a letter to the presiding judge and other members of the judiciary, “express[ing] his belief that influential members of the community had manipulated the outcome of the case and implied that a district court judge was biased in favor of opposing counsel.” *Id.* at 59.

Ultimately, the “circuit court entered a final judgment awarding in excess of $160,000 in attorney’s fees” equally against Patterson and his client. *Id.* Patterson appealed, asserting that “[w]e cannot all be judges, politicians, wealthy businessmen, or local big named law firms with tremendous influence who can supersede all laws on the books.” *Id.* at 59.

After noting additional disparaging statements that were filed, the Florida Supreme Court found that discipline was necessary because this was a case about “an officer of the court who proffered false evidence. . .[and] who has impugned the qualifications and integrity of the judges of this court, the trial court, or other officers.” *Id.* The Supreme Court also concluded that Patterson’s decision to appeal was driven by a conflict resulting from the trial court’s imposition of fees against him: “That interest created a clear and substantial risk of materially limiting Patterson’s independent judgment and loyalty to” his client. *Id.* at 61. In fact, Patterson’s filings “failed to advocate on [his client’s] behalf. . .[and only requested] instead that the court relieve just him from the financial burdens of the circuit court’s order.” *Id.* at 62.

Pursuant to its disciplinary authority under Article V, § 15 of the Florida Constitution, the Florida Supreme Court determined that Patterson’s lack of professionalism violated Ethical Rules 3-4.3, 4-1.7, 4-8.2(a), and 4-8.4(d), and ordered that he should be “suspended from the practice of law for one year.” *Id.* at 66.

Perhaps the best lesson that this case may teach trial lawyers trying to manage difficult circumstances is to adorn one’s office door with the learned expression: “Clients First, Always!”

Author: Caroline Johnson Levine – Office of the Attorney General

Interested in writing an article for the Lawyer magazine? Contact Stacy Williams at stacy@hillsbar.com for more information.
I believe jury trials are important to American Jurisprudence, because these critical events help bring a new perspective to law and democracy. As the world around us evolves, the legal world must adjust accordingly to fit the evolution of laws. There must remain a balance between American citizens and the law, to avoid any possibility of corruption within the government. Maintaining a balance between citizens and the law is essential to strengthening our civic engagement and trust in the law. Jury trials and the resolution of conflicts in an orderly process serves to reinforce trust and faith within our government as a whole.

Participating in a jury trial allows citizens to believe that they are connected to the legal process. It allows regular people to see firsthand how the law works. It allows jurors a better understanding of how dispute resolution works and it builds faith and trust in judges, lawyers and courthouse personnel. As a young person, your parent cares for your every need, and you have faith that if something goes wrong, your parent will frequently take care of the problem and thereby earn your trust. Jury trials have the same effect on citizens and their government, and citizens vehemently want to be able to have faith and trust in their government. When citizens encounter a tragedy, they want to believe that their government will not fail them. Being made part of the legal process or experience helps citizens to develop that trust.

Additionally, jury trials help to diminish biases from the ruling class. It is important to try and keep everything balanced throughout our society. Case law decisions often demonstrate an evolution in the law, and it compels our government to evolve. What once was held constitutional in 1920, may now be considered unconstitutional in 2020. The world is constantly evolving, and our government’s policies have to keep pace with these changes.

Jury trials also assists lawyers, because there are always new faces in the courtroom, and having a fresh set of eyes can open us to a new way of thinking. This civic experience can create a new analysis or interpretation of the law. Finally, jury trials help encourage involvement in the government. On a daily basis, people tend to go about their lives, without understanding what is happening in their government or how the government works. However, the government needs to continue to hear the voices of the people it serves and this requires citizens to become active participants in the judicial and political process. Destigmatizing jury trials and encouraging citizen involvement in our government can cause our government to become stronger than before.

Therefore, jury trials are important because they assist the continual evolution of government to become stronger and better. It helps build trust and faith in the government and the country can become.

Author: Janita Melendez - WMU Cooley Law School Student

Jury trials and the resolution of conflicts in an orderly process serve to reinforce trust and faith within our government as a whole.
RULINGS ON EMAS AND ADMISSIBILITY OF EVIDENCE FROM UNAUTHORIZED DOCTORS
Workers’ Compensation Section
Chair: Anthony Cortese – Attorney at Law

In three recent appellate decisions, unique rules in the Florida workers’ compensation statute regarding inadmissibility of evidence from unauthorized doctors and the presumption of correctness of the opinion of an Expert Medical Advisor (EMA) were explained and applied.

In the first case, *Falk v Harris Corporation/Liberty Mutual*, 267 So. 3d 578 (Fla. 1st DCA 2019), the EMA doctor, who was retained to address a dispute between two other doctors, elected to defer to the opinion of the employer/carrier’s IME doctor on the relevant issue in dispute. On that basis, the judge ruled in favor of the employer/carrier. On appeal, the First District Court of Appeal reversed and remanded, holding that because the EMA refused to express an independent opinion, the EMA opinion and expert should have been stricken. The First DCA held that a new EMA should be retained on remand.

In the second case, a petition for certiorari was dismissed in *Randstad North America/ESIS v Barr*, 267 So. 3d 564 (Fla. 1st DCA 2019). There, the employer/carrier moved to quash an order appointing an EMA that directed the employer/carrier to provide the EMA with medical records, including the records and deposition of a doctor who treated the claimant before the work injury occurred, a doctor who was not an authorized treating doctor and who was not an IME. The employer/carrier contended that the records were inadmissible under Florida Statutes, Section 440.13(5)(c), and would taint the opinion of an EMA in an irreparable fashion. The Judge of Compensation Claims denied the motion based on the wording of Section 440.13(9)(c), which provides that an Expert Medical Adviser should have “free and complete access to the medical records of the employee.” The First DCA pointed out that to establish entitlement to certiorari relief, the petitioner must show both that the order departs from the essential requirements of the law and that the petitioning party will suffer irreparable harm that cannot be remedied upon appeal. It then denied the petition after holding that irreparable harm would not occur, because an appeal after the final hearing could correct any incorrect final decision.

In the third case, *Rente v. Orange County*, 263 So. 3d 294 (Fla. 1st DCA 2019), the decision below was reversed and remanded because it failed to fully explain the analysis required to find that the 120-day rule for denial of compensability had been complied with. The First DCA also held that the Judge of Compensation Claims erroneously excluded the opinions in a deposition of the claimant’s chiropractor, who had treated the claimant before the work injury occurred. The basis of the exclusion was that the deposition took place after the work injury occurred. The First DCA held that testimony from a physician not enumerated in F.S. 440.13(5)(e) is admissible to the extent it is a factual report of information in the doctor’s records, which includes “a claimant’s complaints, the doctor’s diagnosis, and the prescribed treatment.” *Id.*

Practitioners need to be aware of ongoing interpretations and applications of these unique rules regarding EMAs and admissibility of medical evidence under the Florida Workers’ Compensation Act.

Author: Anthony V. Cortese, Attorney at Law

GET INVOLVED! SIGN UP ON YOUR MEMBER PROFILE AT HILLSBAR.COM.
Amanda L. Bondolino - Amanda L. Biondolino of the Sass Law Firm spoke at two Florida Bar events in April — a live webinar sponsored by the Public Interest Law Section regarding the Fair Housing Act, and on Service Animals in the Workplace at the Advanced Labor Topics 2019 conference, sponsored by the Labor and Employment Law Section.

Amanda McDermott - Rywant Alvarez Jones Russo & Guyton, PA congratulates its newest shareholder Amanda McDermott.

Carlton Fields - Carlton Fields is pleased to announce that construction lawyers Edward Kuchinski and Laura Jo Lieffers have joined the firm. Their hires bolster the firm’s construction practice and come after the recent addition of construction attorney Robin H. Leavengood. Carlton Fields is also pleased to announce that Enrique R. Miranda has joined the firm as an associate in the health care practice.

Amanda Ellen “Mandi” Clay - is pleased to announce the opening of her new law firm Three Thirteen Law, PLLC (www.threethirteenlaw.com). Clay is an experienced commercial litigator, as well as a certified Florida circuit court mediator, and is approved by the U.S. District Court as a mediator for the Middle District of Florida.

Ben Dachepalli - Hill Ward Henderson is pleased to share the news that shareholder Ben Dachepalli was recently appointed to serve a four-year term as a member of the Tampa Housing Authority.

Duane Daiker - Shumaker, Loop & Kendrick, LLP congratulates Tampa partner Duane A. Daiker, who has been appointed to The Florida Bar’s Appellate Practice Certification Standing Committee. Daiker will serve on the committee for the 2019-20 Bar year. The Committee is responsible for the evaluation of the competency, experience, and professionalism of attorneys seeking board certification in the area of appellate practice.

Tim Ford - Hill Ward Henderson congratulates shareholder Tim Ford, who was recently appointed to serve a three-year term on the Governing Committee of the American Bar Association’s Forum on Construction Law.

Jerry M. Gerwirtz - Jerry M. Gerwirtz, chief assistant city attorney for the City of Tampa, has been re-appointed by the United States District Court as a member of the Local Rules Lawyer Advisory Committee for the Middle District of Florida.

GrayRobinson, PA. and Thompson, Sizemore, Gonzalez & Hearing, P.A. (TSG&H) announce a strategic alliance to bolster GrayRobinson’s employment and labor practice and provide TSG&H with additional resources and administrative support for continued growth. The attorneys of TSG&H will be joining GrayRobinson’s Tampa office.

Matthew F. Hall - Hill Ward Henderson is pleased to announce that attorney Matthew F. Hall has been elected to the Ybor City Chamber of Commerce Board of Directors.

Michele Leo Hintson - Shumaker, Loop & Kendrick, LLP congratulates Michele Leo Hintson, a partner in the Tampa office, who has graduated from Leadership Tampa as a member of the Class of 2019.

Christine Howard - Fisher Phillips announces the election of Christine E. Howard, the regional managing partner of the Tampa office, to a three-year term on the firm’s Management Committee. Howard is the first woman to serve on the three-member Management Committee — the equivalent of the board of directors for the 34-office, over 400-lawyer firm.

J. Derek Kantaskas - Sivyer Barlow & Watson, P.A. is proud to announce that J. Derek Kantaskas has joined the firm as partner. His

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To submit your good news, please email Stacy@hillsbar.com.
To view additional HCBA news and events, go to www.facebook.com/HCBAtampabay.
practice will continue to focus on construction law and litigation.

David A. Karp - Carlton Fields is pleased to welcome David A. Karp, an experienced appellate attorney and former journalist. Karp will work from Carlton Fields’ Miami and Tampa offices as a member of the firm’s Appellate Practice and Trial Support practice group.

Andrew Mayts, Jr. - Gray Robinson, P.A. announces that attorney Andrew J. Mayts, Jr. has been appointed to the Stetson College of Law Veteran’s Law Institute advisory board.

Cory J. Person - Hill Ward Henderson welcomes Cory J. Person as a shareholder in the firm’s Litigation and Employment Law groups. His practice primarily focuses on the defense of products liability, premises liability, and complex tort claims.

Tara Petzoldt - Bradley Arant Boult Cummings LLP welcomes Tara M. Petzoldt, who has joined the firm’s Tampa office as an associate in the Litigation Practice Group.

Ryan C. Reinert - The American Board of Certification recently announced that Ryan C. Reinert, an attorney with Shults & Bowen LLP’s Tampa office, has successfully completed the requirements for national certification in Business Bankruptcy Law.

Taylors Ryan - Freeborn & Peters LLP is pleased to announce the continued growth of its Tampa office and the firm’s complex business litigation, professional liability defense, and insurance brokerage practices with the addition of attorney Taylor R. Ryan.

Cynthia N. Sass - Cynthia N. Sass of the Sass Law Firm served as program co-chair of the Advanced Labor Topics 2019 conference sponsored by the Labor and Employment Law Section of The Florida Bar in April.

Sessums Law Group, P.A. - Sessums Law Group is proud to announce they have moved into their newly renovated office located at 3444 S. Westshore Blvd. in South Tampa.

Gregory C. Yadley - Shumaker, Loop & Kendrick, LLP congratulates Tampa Partner Gregory C. Yadley, who was recently appointed by the U.S. Securities and Exchange Commission as a member of the agency’s new Small Business Capital Formation Advisory Committee. At the Advisory Committee’s inaugural meeting on May, Yadley also was elected secretary of the Committee.

Peter Zinobar - Ogletree Deakins is delighted to welcome Peter Zinobar to its Tampa office. In addition to his full-time practice of law, Zinobar will assist the firm’s Executive Committee with strategic expansion in Florida and other key major markets.
JURY TRIALS

For the month of March 2019 (Correction)
Judge: Hon. Lisa Herndon
Attorneys: for plaintiff: Christopher Ligori and David Rosenbaum of Christopher Ligori & Associates; for defendant: Robert Blank, Sara Whitehead of Rumberger, Kirk & Caldwell
Nature of case: Truck accident; rear-end collision resulting in two shoulder surgeries, neck injections and a recommendation for a future shoulder replacement surgery (total damage request of over $3.2 million)
Verdict: Defense verdict

For the month of May 2019
Judge: Hon. Cheryl Thomas
Party: Anthony Ellis
Nature of case: Motorcycle accident
Verdict: In favor of the plaintiff, totaling approximately $3.8 million

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