



The Docket

SARASOTA COUNTY
BAR ASSOCIATION
AUGUST 2018
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FLORIDA BAR NEWS

Babette Bach receives Lifetime Achievement Award

SCBA member Babette B. Bach, Esq., received the Lifetime Achievement Award from the Florida Bar Elder Law Section during the Florida Bar's annual convention in Orlando on June 15. Bach was presented with the award by current chair Collette Small (at right) and past chair Emma Hemness, who gave a personal introduction. In her acceptance speech, Bach spoke about the importance of having a progressive management style that inspires loyalty from staff and clients. Babette's family and law firm staff were in attendance for the award ceremony in Orlando. Babette is a Florida Bar Board Certified Elder Law Lawyer and a Certified Elder Law Expert by the National Elder Law Foundation. Babette was the Chair of the Florida Bar Elder Law Section from 2009 to 2010 and the Chair of the Sarasota County Bar Association's Estate Planning and Probate Section from 2016-2017. She is the founder of Bach, Jacobs, & Byrne, P.A. in Sarasota.



PHOTO BY SEAN BYRNE

SCBA NEWS

Dues Statements Coming Soon!

Membership renewal is coming up on September 1. SCBA members should expect to receive their 2018-19 renewal notices by email on August 15. Just click on the link in the email you receive (there is no need to sign in to your account). You can pay by credit card, or print the invoice and mail us a check.

As always, we thank you for your continued support and dedication to our organization. We look forward to serving you for another year!



ESTATE AND PROBATE LAW

'Til revocation upon divorce do us part

By **DAVID B. HEEDY, Esq.**
Shumaker, Loop & Kendrick, LLP

With the rise of the federal estate tax exemption amount in recent years, tax savings structures have become increasingly unnecessary in the minds of the middle class, with wealth transfer mechanisms such as individual retirement accounts (IRAs), life insurance policies, annuities, and other beneficiary-designated assets taking over as the dominant estate planning tools. Consequently, the beneficiary designation form is repeatedly of major significance to an individual's estate plan, and therefore a document that is both heavily litigated and legislated.

On June 11, the Supreme Court decided *Sveen v. Melin*, on a vote of



David B. Heedy, Esq.
Shumaker, Loop & Kendrick, LLP

8-1, holding that a Minnesota law that automatically nullifies the designation of a spouse as the beneficiary on a beneficiary-designated asset upon divorce (a "revocation-upon-divorce" statute) can be applied retroactively without violating the Contracts Clause of the U.S. Constitution.

The Uniform Probate Code introduced revocation-upon-divorce statutes in 1990 with an intent-driven public policy rationale — as the Sveen opinion suggests, "the average Joe does not want his ex inheriting what he leaves behind." In 2012, Florida adopted its own revocation-upon-divorce statute, § 732.703 of the Florida Statutes, to join what currently stands at 26 states.

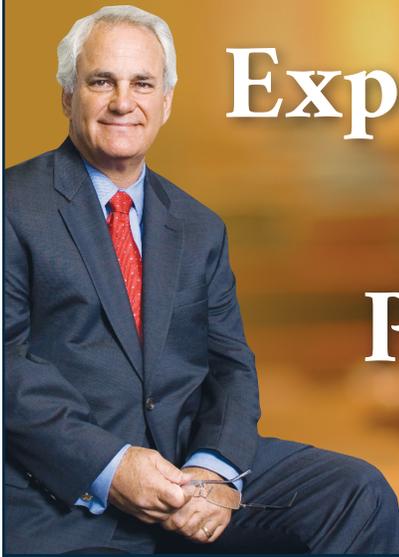
The Contracts Clause, located *See DIVORCE, Page 17*

Save the Date

Installation Dinner & Awards Ceremony

Thursday, September 20

Please save the date and join us for the Installation Dinner & Awards Ceremony on Thursday, September 20, at Michael's on East. **Nancy E. Cason** will be sworn in as the 71st president. Florida Bar President Michelle R. Suskauer is the keynote speaker.



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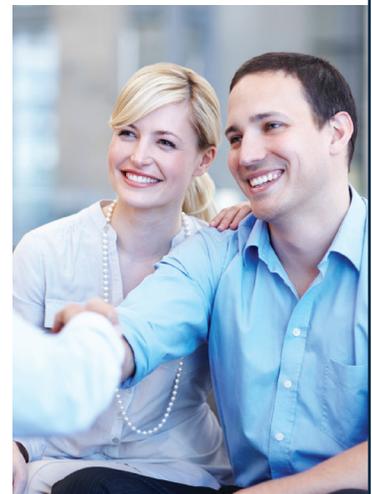
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Dedicated members made for an outstanding year

I am sure that every Bar president's final Docket column mentions how he or she cannot believe how quickly the year went by. This year is no exception. It has been an honor and a pleasure to serve as your president and I know we had an exceptional year due to our wonderful volunteer leaders. I want to think our entire board of directors for their time and commitment in helping maintain a very successful Bar in addition to pushing it forward. With the help of board member **Jason Gaskill**, assisted by member Robert Lincoln, we were able to live stream general membership meetings to South County. We will continue to push forward in utilizing technology to improve your membership experience. I also want to give a special shout-out to **Stacey Dillard-Spahn**, who spearheaded our good governance initiative to help your board make good governance part of the culture of the SCBA. Others deserving of special recognition include **Charlie Ann Sypret** and **Chief Judge Charles Williams** for the writing, directing, and producing of *We Are Sarasota*. The state Bar is looking at this program as one that can be

SCBA PRESIDENT'S COLUMN



W.E. Chip Gaylor, Esq.
Muirhead, Gaylor, Steves & Waskom, P.A.

replicated throughout the state. **Nancy Cason** and **Jennifer Gross** organized our successful Bench/Bar conference. **Allison Archbold** spearheaded our Wellness program. **Eric Christy** served as an amazing president of the YLD and organized our trip to the United States Supreme Court, where I had the pleasure of moving the admission of 23 Sarasota County attorneys into the Supreme Court Bar. **Dan Policastro** served as a wonderful president of the South County Division, where they had record attendance at their events.

We also had a good year financially, receiving another clean audit. Many thanks to Treasurer **Drew Clayton** and Finance Chair **Mark Haskins**. **Dana Keane** kept us on track with regard to our annual awards program, and I was personally pleased to see her run and be elected to a second term on the board. Of course, nothing could have been accomplished without a strong "second in command" and Nancy Cason was always there for us. We are in good hands moving forward.

A huge thank-you goes to **Dan Tullidge**, our extremely competent

and devoted editor of The Docket. This is a huge task and Dan served with distinction. He kept us all in line and on time!

Last, but not least, our Executive Director, **Holly Lipps**, is simply amazing. Her dedication and love of the organization is palpable. She is one of the best thinkers and problem solvers I have ever known. She accomplishes so much, with so little, and with a "can do" attitude, ready smile and infectious laugh. I also thank her husband Bryan for being so understanding of the long hours, as well as pitching in when she needs another set of hands. I also like the fact that she allows our former executive director, her mother, Jan Jung to attend some of our functions. It is a wonderful family tradition.

My best wishes to all of you. Being an attorney is both noble and important. You make a difference in the lives of your clients and community. Be proud of what you do, but take care of yourself. We owe it to ourselves, our families and friends, and our community to be around as long as we can — doing good works and making a difference.

Bar Membership Survey: The results are in!

By **NANCY E. CASON, Esq.**
Sypret Meshad

Yes, at long last, the SCBA Membership Survey results you have been waiting for are now in! I would first like to thank all of the almost 150 members who took the time to complete the survey. Congratulations to **Richard Lippert**, winner of the iPad Mini, and **Mary King** and **Salvatore Scro**, who won the \$100 Visa gift cards! Admittedly, it was somewhat of a long survey, but as part of the team that finalized the survey format, rest assured that each of the questions and answer options were carefully examined and refined to ensure the topic and response options were directly relevant and important to our unique Bar Association. By the same token, the SCBA did not create the wheel on all of the survey content. Rather, the original format is one provided to the SCBA by the American Bar



Nancy E. Cason, Esq.
Sypret Meshad

Association (ABA) and is currently being used by Bar Associations all over the country to assess just what voluntary Bar Association members want out of their memberships as Bar Association memberships, on a nationwide whole, are in a historic period of change and evolution.

The survey results were tallied and analyzed by Molly Flood, a strategic planner for the ABA, who reviewed the results with the Board and lead this year's SCBA Long Range Planning Meeting, which took place in late June. Flood reported that our results were pretty typical of that of Bar Associations our size nationwide, both good and bad. The Membership input from the survey and the Board's vision based on same for the membership, will now be incorporated into an official SCBA Long Range Strategic Plan, which, when adopted, will be carried out by the Board of Directors over the next three years. The final adopted SCBA

Strategic Plan will be the subject of an upcoming Docket Article this fall. But for now, below are the top five most important takeaways from the SCBA Membership Survey.

■ **Demographics of survey participants:** Of those who responded to the survey, approximately 31% have been practicing less than five years, (8% of those fell into the less than one year category), 16% practicing 6–10 years, 26% practicing 11–20 years, and the largest group, representing 27% of the survey participants, have been practicing for more than 21 years. Correlating those numbers to age ranges, roughly 47%, almost half, would be considered "millennials" (born between 1981–2000) and a mix of "generation X" (born 1965–1980), the rest, the other half of "Generation X", "baby boomers" (born between 1946–1964) and the "mature silent"

See **SURVEY**, Page 13



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Looking back with thanks and ahead with confidence

It has been a privilege serving on the YLD Board of Directors the past seven years and as President over the course of this year. It is humbling to work with such committed and talented board members and committee chairs, who have each worked tirelessly to put on the many social, educational, and networking activities without a hitch. As my time as President comes to a close, I have tremendous confidence that the next year will be a spectacular success under the leadership of Erin Itts. In addition to the years of service she's given to the SCBA, she has specifically spent this year sowing the seeds that will lead to a bountiful year for our legal community.

YLD PRESIDENT'S COLUMN



Erin H. Christy, Esq.
Williams, Parker, Harrison, Dietz & Getzen, P.A

The YLD strives to foster relationships between attorneys in an effort to increase professionalism, promote business, and harbor friendships that will last as long as, and without a doubt beyond, our careers. This group has brought me some of my closest friends and people I look to for practice advice as well as good ol' fashioned life advice. I will always look to my time spent in service to the SCBA as a season of receiving, as I have certainly gathered at least as much, but quite possibly more, than I have given.

As new attorneys join our bar every month, I encourage them to get involved with the SCBA as soon as possible. Over the last year, YLD committees came together in a variety of ways to provide opportunities for our legal community to connect. September kicked off the year with the appropriately named "Kickoff Luncheon"—an efficient way to learn how to get involved. At that event, we had over 40 young lawyers enlist to volunteer their time to more than a dozen committees,

providing pro bono services, educating school-aged children about the importance of the law, and creating CLEs to help us all further our business goals. Without these members, events such as the high school Mock Trial Competition, Law Week, and the Judicial Luncheon would have been impossible.

The credit for this successful year is certainly attributed to the YLD Board and to all of the event committees and volunteers. The incoming YLD Board will provide more of the same as a group made up of brilliant, patient, and hard-working young lawyers. I sincerely thank you all for your commitment to the mission of the YLD and your service to the YLD Board. Finally, a big thank-you to **Holly Lipps** for everything she does to keep us organized, energized, and motivated!

If you have any suggestions for new events or new ways the YLD can benefit its members, I am always anxious to hear them and encourage you to reach out to me or to incoming President **Erin Itts** to share your thoughts.

SAVE THE DATE

YLD Kickoff Luncheon
September 6, 12:00–1:15 p.m.
Art Ovation Hotel

Sarasota, Manatee YLDs get together for cruise

By **DUSTIN WAGNER, Esq.**
Lutz, Bobo & Telfair, P.A., LLP

On June 21, the Manatee County YLD and the Sarasota County YLD came together and departed on the LeBarge Cruise for a memorable joint social.

We are proud to report that the event was a great time for all and that everyone was on their best behavior. To date, LeBarge has not issued a single repair invoice, so great job, everyone, for keeping it "between the buoys."

For those of you who missed out, there was live music, food and beverage options (for purchase), plenty of elbow room and — we were on a boat! Maybe next year we will have all the bells and whistles for this event and it will be catered. Hint, hint.

Nevertheless, the turnout was great. The evening was festive. Once everyone downed a few ice-waters, the partisan wigs slowly started to fade and the banter was effortless.

We did not end the night in a big circle singing in harmony. However, there is always next year and it was still a great way for many people to connect with their county neighbor colleagues.

A huge thanks is owed to

We are proud to report that the event was a great time for all.

everyone from Manatee and Sarasota YLD who helped coordinate this event, including, but not limited to, **Dan and Amanda Tullidge, Bryony Swift** and our sponsors, **US Legal Support and Carr, Riggs & Ingram, CPAs and Advisors.**



Amanda Tullidge, Dan Tullidge, Colton Castro, Laura Castro, Liz Stamoulis and Mark Creech enjoy the cruise aboard LeBarge.



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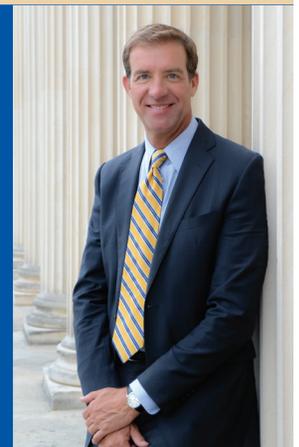
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Island picnic will cap year of memorable events

It is with great pride that I write my final Docket Article as your South County Division President. We have had an amazing year and it's thanks to you. Our primary goal for this past year was simple: to have well-attended events. We saw high member participation as the best way to provide value to our members. So that's what we set out to do.

I couldn't be happier to share that we met our goal. I realize it's somewhat intangible, but each event was well attended. From our signature events to our fledgling service project, you all came out and made each event fun and worthwhile. Thank you.

I would also like to extend special thanks to our Board. We are fortunate to have a dedicated group serving on the SCD Board. They showed up for our monthly 7:30 a.m. board meetings and pitched in tirelessly. They offered their connections, their resources, and most importantly they offered their time. Thank you, **Steve Boone, Susan Hines, Bryan Kessler, Tony Mowry, Catherine Gemma, Robert Harrison, Brady Sharrer, and James Keim.**

I'd also like to thank **Chip Gaylor.** Chip has not only done a wonderful job leading the Sarasota County Bar Association this year, but he was actively involved in many of the SCD events. He was there at the Kick Off

SOUTH COUNTY PRESIDENT'S COLUMN



Dan Policastro, Esq.
The Law Office of Dan Policastro, P.L.

Dinner, Service Project, our Membership Luncheon, and our Snake Island soiree. I'm sure he already had his plate full running a 900-plus member organization and managing a busy law practice, but he made the time for us. Thank you, Chip. We appreciated your support and we are all very proud of you.

Of course I'd like to thank **Holly Lipps.** Holly is the backbone of our organization. We could not have done this without her, and greatly appreciate her help and advice.

I'd also like to thank **Beth Waskom.** Beth has worked relentlessly on the Courthouse Project, and has made major progress this past year. The county is working with a group of architects and a contractor to develop a comprehensive plan. We expect shovels in the dirt as soon as 18 months from now. The dream is becoming a reality. Thank you, Beth.

I would be remiss in not thanking the judiciary. We are proud to have strong ties and a good working relationship with our local Bench, and we greatly appreciated the judges who made the time to attend our events. In particular, I'd like to thank the South County judges. **Judge Kimberly Bonner, Judge Don Hall and Judge Maryann Boehm** were all a pleasure to work with, and Judge Bonner went above and beyond with her involvement in the Courthouse Project. Thank you for contributing

to a great Bar year.

Finally, we have several members who aren't on the board, but offer large contributions each year. **Skip Berg** is one who easily comes to mind, but there are others. For example, **Kerry Mack** has done a wonderful job getting her entire firm involved at our events, and there are other members who appear at pretty much every event we offer. Thank you for your dedication to our organization. We appreciate you.

I look forward to continuing to serve on the Board as the Past President next year, and turning the reins over to **Susan Hines.** Susan has already put a lot of time in to planning her year, and I know she is going to do a great job. Thank you for the opportunity to serve as your President. The help and support of everyone made the job easy and rewarding.

SAVE THE DATE

SCD Kickoff Dinner

Wednesday, Sept. 12, 2018

5:30 p.m.

Mission Valley Country Club

HEALTHCARE LAW

Representing Florida licensed health care providers

By **STEVEN D. BROWNLEE, J.D., M.B.A., M.D.**

Williams, Parker, Harrison, Dietz & Getzen, P.A.

Do you represent physicians or other Florida licensed health care practitioners? Given the large number of health care providers and facilities in Florida, it is likely that no matter what type of law you practice, at some time you will represent a licensed provider. In representing those types of clients, you should be knowledgeable of the unique issues that can arise due to legal obligations especially applicable

to licensed professionals. The sets of rules and statutes regulating a profession are generally referred to as the practice acts (e.g. Physician Practice Act, Nurse Practice Act, Dentist Practice Act, etc.).

Issues frequently arise from the interplay between legal matters occurring outside of one's profession, often in one's personal life, which have an effect upon their profession. This is true not only for licensed health care professionals, but also for other licensed professionals (e.g. accountants, title agents, realtors, etc.) who are subject to jurisdiction from other Florida agencies such



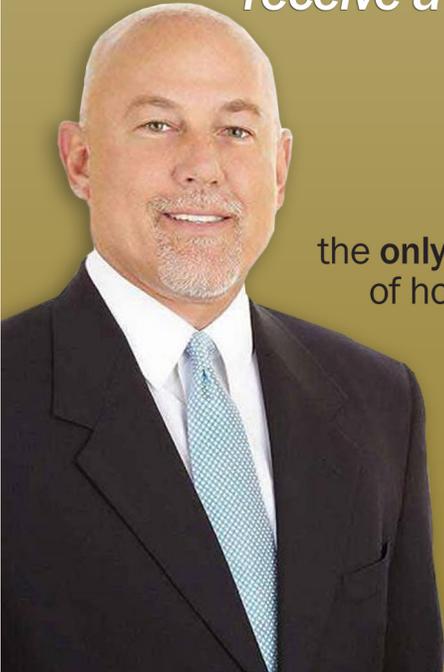
Steven D. Brownlee,
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as the Department of Business and Professional Regulations (DBPR). This article addresses only some of the issues arising for health care licensees. If you have questions or concerns when representing licensed professionals, you should consult with an attorney who practices administrative law and/or health law.

Trusts and estates attorneys for deceased physicians' estates should be aware of the legal requirements respecting medical records. Under Florida law, licensed physicians have an ongoing obligation to their patients with respect to medical

See **HEALTHCARE**, Page 14

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Best (and worst) of 2018 in film and TV – Part 1

By **DOUG CHERRY, Esq.**
Shumaker, Loop & Kendrick, LLP

A truly great moment or performance can elevate a film or television show. The swordfight between Liam Neeson’s and Tim Roth’s characters at the end of *Rob Roy* is a good example, and left me with a higher opinion of an otherwise bland film. The opposite is also true. Lois Lane’s midflight, voice-over poem in *Superman: The Movie* is truly cringe-worthy (“I don’t know who you are. Just a friend from another star.”) and an automatic fast-forward moment in my household. Here are a few stand-outs in the first half of 2018.

THE BEST

■ **Touring the new digs in *Incredibles 2*:** Director Brad Bird’s (*The Iron Giant, Tomorrowland*) favorite attraction at the Magic Kingdom must be Carousel of Progress. He has a talent for creating worlds based on yesteryear’s vision of the future. Both *Incredibles* films nail a retro universe where superhero lore meets the swaggering vibe of ’60s Bond films like *You Only Live Twice*. How fun was the scene where the Parr family entered their new home, with stylish features such as RC-operated waterfalls with movable floors! Runner-up moment: Jack Jack vs. Raccoon.

■ **The interrogation scene in *Annihilation*:** Much like Alex Garland’s *Ex Machina*, his critically hailed follow-up is science fiction at its most thought-provoking and enigmatic finest. Taking place in the “Shimmer,” the film contains images that are often both beautiful and



Doug Cherry, Esq.
Shumaker, Loop & Kendrick, LLP

grotesque. (SPOILER ALERT): The scene where Natalie Portman and her companions are interrogated by a paranoid cohort and encounter a mutated bear is unforgettably bone-chilling, and channels John Carpenter’s *The Thing*.

■ **Teddy Perkins in *Atlanta*:** The second season of Donald Glover’s half-hour comedy-drama continues to surprise with its willingness to buck the traditional conventions of television. Case in point, this episode turns downright creepy when Lakeith Stanfield’s Darius visits a mansion to collect a piano he found on eBay and encounters a truly bizarre character (surprisingly played by a prosthetically concealed Glover).

■ **The first five minutes of *Avengers: Infinity War*:** Picking up a few desperate minutes after *Thor: Ragnarok*’s post-credits scene, this Marvel film immediately sets the stage where the stakes are high. Thor is picked up like a rag doll and dismissively silenced by a minion’s mere hand gesture. Two major characters (along with the remaining Asgardian civilization) are murdered and Hulk gets soundly pummeled. In the wrong hands, Thanos could have been a big purple joke of a character, but Josh Brolin creates an excellent villain who believably could take on the Avengers (nice try, Ultron!). Runner-up moment: “We almost have the glove off!”

■ **The Man in Black’s tragic decision in *Westworld*:** Much of Season 2 of *Westworld* was hard to get into, and a step down from the first brilliant season. The vengeful (and

now unlikeable) Dolores’ delivery of ominous lines just got tiring, as was watching Bernard’s confusion and despair. The series finally began to hit its epic stride in episode 8 *Kiksuya*. Yet the best moments appear in episode 9, where we get a deeper look into the Ed Harris character’s back story. (SPOILER ALERT): When he shoots his daughter Emily under the mistaken(?) belief that she is a host, it is the stuff of Greek tragedies. Runner-up moment: The final post-credits scene. “I predicted that” said no one ever.

■ **Stanley Kubrick meets *Ready Player One*:** Steven Spielberg’s adaptation didn’t quite capture the joyful nostalgia of Ernest Cline’s fantastic novel, but a highlight was the stand-out sequence where the protagonists enter a virtual re-creation of Kubrick’s masterpiece *The Shining*.

■ **Matthew Macfadyen in *Succession*:** If you enjoy dark humor, check out this HBO series about a dysfunctional American global-media family. Scene after hilarious scene of the filthy rich behaving badly, with family dynamics so uncomfortable that one might think Ricky Gervais was a producer. Macfadyen (Mr. Darcy in 2005’s *Pride and Prejudice*) steals pretty much every scene he is in with his role as gold-digger Tom. It is really quite hard to explain how fun this character is to watch, but I strongly recommend catching this unique performance. Runner-up moment: Thanksgiving dinner at the Logan Roy household.

■ **The Kessel Run in *Solo: A Star Wars Story*:** While not in the same class of recent *Star Wars* films as *Last Jedi*, *Force Awakens* or *Rogue One*, *Solo* was still a fun popcorn ride. It is pretty hard not to screw things up when you don’t take any creative risks (and I am still scratching my head at the backlash against *Last Jedi*). The filmmakers didn’t disappoint when they finally delivered to fans the Kessel Run sequence first mentioned by Harrison Ford over 40 years ago. Chewie takes the co-pilot seat of the Falcon for the first time and the soundtrack spins highlights from the original trilogy (the score’s track is aptly titled “Reminiscence Therapy”).

■ **The cast of *The Terror*:** This AMC series, a fictionalized account

See **BEST & WORST**, Page 17



The Parrs check out their new retro-futuristic home in *Incredibles 2*.



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3. Does the attorney have over 20 years of experience working **for** the insurance companies so that they have gained an insight into **how** to oppose and/or sue the insurance companies?
4. Is the attorney Board Certified in Civil Trial Law?
5. Is the attorney AV rated by Martindale Hubbell?
6. Does the attorney have the financial strength to take on significant injury cases?
7. Is the attorney located in the 12th judicial circuit?
8. Will the attorney pay you a referral fee in accordance with the rules regulating the Florida Bar on every case no matter how big or small?*
9. Is the attorney available to speak with you at any point during the referral to give you status updates as you request?
10. Is the attorney willing to take on challenging cases that other law firms or attorneys may not be willing to handle or would turn down due to the amount of work involved?

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*Rules regulating the Florida Bar permit a 25% referral fee without any involvement of the referral attorney other than making the introduction to the client. Any additional fees require court approval and involvement of the referring attorney in the handling of the personal injury matter.

Equal pay issues infiltrate all industries

By **JESSICA M. FARRELLY, Esq.**
Icard, Merrill, Cullis, Timm, Furen
& Ginsburg, P.A.

In the News

Big Law. Wall Street. Technology. Healthcare. Entertainment. All of these industries have recently been in the spotlight for equal pay issues. In June, Jones Day was sued by a former female hiring partner who alleges the firm's secret compensation system and subjective performance reviews are designed to hide pay discrimination against women. Other law firms subject to similar suits include Morrison & Foerster (sued in federal court in San Francisco in April), Ogletree Deakins (sued in the Northern District of California in January) and Chadbourne & Parke, LLP, which recently settled a 2016 lawsuit filed in the Southern District of New York. The three former Chadbourne partners reportedly received between \$250,000 and \$1 million apiece. Early this year, a federal court judge allowed a class action lawsuit of 2,300 women to proceed against Goldman Sachs, alleging it systemically pays women less than men, and gives them weaker performance reviews that impede their career growth. Google faced a similar amended lawsuit this year alleging unfair pay practices adversely affecting women in engineering, management, sales, and teaching roles. That systemic pay discrimination lawsuit is based, in part, on Google's company-wide policy to ask about prior salary history and use it to set starting salary, a practice the plaintiffs allege perpetuates a historical pay disparity between men and women. Earlier this year, Hollywood news spread like wildfire when it was disclosed that Mark Wahlberg was paid \$1.5 million to reshoot his scenes in "All the Money in the World," while co-star Michelle Williams, who was reportedly represented by the same agency, was paid a per diem of \$80, totaling less than \$1,000.

EEOC Priority

Equal pay has been a longstanding enforcement priority of the U.S. Equal Employment Opportunity Commission (EEOC). Enforcement



Jessica M. Farrelly, Esq.
Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A.

actions filed by the EEOC under the Equal Pay Act (EPA) increased by a multiple of five from FY 2014 to FY 2017. Targets of such lawsuits include a Nebraska bank, an Arkansas juvenile correction and detention center, a health clinic in Denton County, Texas, and a Delaware pizza restaurant that withdrew two offers of employment to high school students after they asked why the male candidate was offered .25¢ more per hour than his female friend. Recently, the EEOC entered into a \$2.66 million settlement with the University of Denver's Sturm College of Law following allegations that female law professors were paid less than their male counterparts. Earlier this year, a federal court in North Carolina also approved a \$45 million settlement reached by the EEOC with Family Dollar Stores involving allegations that female store managers were paid less than similarly situated male managers.

Federal Law

Protection from pay inequality is provided under both the EPA and Title VII. The EPA, enacted by Congress in 1963, prohibits employers from discriminating "between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which [it] pays wages to employees in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions." 29 U.S.C. §206(d) (1). The EPA overlaps with Title VII which generally prohibits discrimination based on sex. ("It shall be an unlawful employment practice for an employer to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's...sex..." 42 USC § 2000e-2 Section 703(a)(1)).

State Laws/Salary History Bans

At the statewide level, more than 40 states and local jurisdictions have enacted or introduced bills to supplement the EPA in an

effort to close the gender pay gap. Massachusetts, New York, and California led the charge. Massachusetts' Pay Equity Act, which just took effect on July 1, makes it illegal for employers to pay men and women different rates for "comparable work." Wasting no time, the top flutist of the Boston Symphony Orchestra filed a lawsuit under the Act on July 2, alleging her compensation is only 75 percent of her closest comparable colleague, the orchestra's principal oboist, who is a man. Similarly, Oregon's Equal Pay Act, effective January 1, 2019, requires employers to reward "work of comparable character" equally, regardless of sex. Additionally, Vermont and Connecticut are the most recent states (along with various cities and counties, including San Francisco and New York City) to prohibit salary history inquiries. Prohibitions in these state laws and ordinances range from not allowing employers to inquire about or consider a job applicant's salary history during the hiring practices, to not allowing employers to release the salary history of any current or former employee to that person's prospective employer without written authorization from the employee (unless it is otherwise required by law, part of a publicly available record, or subject to a collective bargaining agreement), to prohibiting employers from disciplining employees for discussing their own wages or the wages of other employees, conduct which is already unlawful under the National Labor Relations Act. Penalties for violations of these laws can be steep. They provide for recovery of compensatory and punitive damages, and attorneys' fees. Fines also vary. Delaware's law imposes civil penalties of up to \$10,000 for each violation; infractions of New York City's law could result in penalties of up to \$250,000.

Action Plan

Even though Florida is not currently one of the many states with its own pay equity law or salary history ban, law firms and employers of all kinds should nevertheless be mindful of promoting pay equity and reevaluating their compensation

See **PAY**, Page 16

FOR A FRESH START



CHAPTER
7 & 13
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SURVEY

Continued from Page 1

(born between 1927–1945). So essentially, an almost equal split between our two newest generation of lawyers, and a mix of Generation X and the two, shall we say, “more experienced” generations of lawyers.

As to firm size, 30% of the survey respondents were solo practitioners, 31% 2–5 attorneys, 10% 6–10 attorneys, 11% 11–15 attorneys, 4% 16–20 attorneys and 14% 16–20 attorneys. Legal trends nationwide are showing a complete paradigm shift in the practice of law, with bridging the generational gap, reconciling in a positive and productive way, the expectations and experiences of newer and older lawyers, being the biggest challenge the legal profession is now facing. Although our SCBA, due to the demographics of Sarasota County in general, is a bit older on the age front, the respondents in the survey represent all of the generations of lawyers in our SCBA almost virtually equally.

■ **Time is now our most precious asset:** It used to be money, but no more. Generally speaking, the lawyers of the baby boomers and mature silent generations (and to some extent, those of Generation X, myself included) grew up and were mentored and trained under the “old school” well-established legal norm, namely, being personally mentored by more very experienced lawyers in a traditional firm setting of partners and associates, working long hours in the office, including “facetime” in the office on nights and weekends, and billing hours was a top priority. The firm partnership tracks and individual associate partnership potential were focused around lawyer productivity, typically measured by billable hours and collections. Work-life balance was not something you could expect as a lawyer. Now, both our newest generation of lawyers and more experienced generations both agree, work-life balance is key to lawyer happiness (and sanity for that matter). As such, as a Bar Association, the SCBA will devise its strategic plan, program services and events that are very cognizant of our members’ time. We will streamline General Membership Meetings down to just a few a year and let the YLD and the individual practice Sections take the lead on providing CLE and

The SCBA is completely re-evaluating all of the current programs and services and will, over the next year, be implementing an SCBA Member Benefits Committee.

networking opportunities to SCBA lawyers in the context of what they need in their own individual practices and practice areas. Gone are the days of quarterly General Membership Meetings just for the sake of holding a meeting “because that is what we have always done.” Starting this year, the SCBA will hold only a couple a year and instead will be implementing a “Signature Event” that will be purely social in nature and intended to bring all generations of lawyers together for an evening of pure fun for our members and spouses/significant others. This Signature Event will change each year based on feedback from our membership. For the 2018–2019 year, the SCBA will be bringing back the Barristers Ball, (which has not occurred in over 15 years) currently slated for May 2019. The next Bar year, a family friendly picnic event.

■ **Members want actual tangible value for their Membership.** Gone are the days when new lawyers graduated from law school, started their career with a mid-sized to large firm and joined the local voluntary Bar Association because “it’s just what you do.” Given the fact that nearly 70% of the demographic of the Florida Bar in general is small firm or solo practitioners, (like 61% of our survey respondents) now new and old members alike need a compelling reason to join the local voluntary Bar Association. That compelling reason is that the Association provides actual tangible benefits that local lawyers cannot get anywhere else. To this end, the SCBA is completely re-evaluating all of the current programs and services and will, over the next year, be implementing an SCBA Member Benefits Committee. This Committee will focus exclusively on obtaining LOCAL benefits (i.e.: discounts for local service providers, restaurants, hotels, legal service vendors, etc.) exclusively for SCBA Members. Ideally, we would like to see our members receiving savings from these new membership benefits that pay for the cost of the membership.

■ **The most important benefit/activity the SCBA can provide is to foster a sense of community among local lawyers:** This was an overall theme express in the comments throughout the survey results. Lawyers can get CLE credit

anywhere, (and the survey says that most of our members get most of their CLE from organizations other than the SCBA). Thus, for the SCBA to continue to be a progressive leader in Bar Associations throughout the state of Florida, our programs and events need to focus on fostering a sense of community among local lawyers, bringing lawyers of all generations together so there is a feeling of camaraderie. It is much more pleasurable to do business with a lawyer that you know well, and thus fostering meaningful lawyer relationships, friendships, mentorships, and hosting events that focus on lawyer togetherness will be a focus of the SCBA in its Strategic Plan.

Technology: Of course, no survey would be complete without a mixed result on technology-related issues. To meet this expectation, and with a keen eye on our members’ most valuable asset of time, the SCBA will be experimenting with cutting-edge technology that would allow meetings to be simulcast through technology so SCBA members from all over the county can attend select Section meetings virtually, instead of having to come mostly to downtown Sarasota County. And finally, The Docket — some of you like the electronic version, but many of the comments beg for a comeback of the hard-copy newsletter. Your Board will also be looking into possible ways to establish methods of communication that appeal to the entire membership, maximizing technology where it is most appropriate, without losing the interconnectedness that comes from face-to-face communication.

In conclusion, your SCBA Board of Directors is very appreciative of all the time our membership put into responding thoughtfully to the survey. Rest assured the responses and comments from the membership will be used to guide the Board in the Strategic Planning process, with the ultimate goal of developing and implementing a Long Range Strategic plan that will set the SCBA up for success in meeting the challenge of embracing generational differences and developing and implementing only the best programs, services, benefits and events that meet the ever-changing needs of our unique and wonderful SCBA membership base.

HEALTHCARE

Continued from Page 7

records. A representative of the deceased physician's estate must retain medical records for at least two years after the physician's death¹. Often that responsibility falls upon the executor of the deceased physician's estate. Further, the executor must publish by newspaper a notice informing the deceased physician's patients how they can obtain their medical records². That same notice must also be submitted to the Board of Medicine within one month from the date of death of the physician. Due to these obligations, it is important that attorneys take proactive measures with physician clients to ensure that their executors have access to both paper and electronic medical records.

The career consequences for health care professionals (including physicians, nurses, chiropractors, dentists, psychologists, therapists, pharmacists, etc.) arrested for, charged with and/or adjudicated for certain crimes, are particularly harsh. In some circumstances there are significant fines and penalties, and even revocation of licenses. Thus, these clients often need legal representation on two fronts, one for the criminal matter and a second for the licensing matter. A licensing attorney can help protect the client's license, the ability to practice one's chosen profession, and the income gain from the practice.

Licensed professionals must report all final adjudications, whether misdemeanor or felony, to the Department of Health. Failure to report to the Department in writing within 30 days after the licensee has been convicted or found guilty of a crime, or entered a plea of nolo contendere, regardless of adjudication, in any jurisdiction is punishable³. Frequently, this becomes an issue with licensees arrested for driving under the influence (DUI).

It is important to recognize that licensed health care professionals can lose their licenses due to a statute that prohibits licensure

1. Section 456.057, Florida Statutes; Rule 64B8-10.001, Florida Administrative Code

2. Rule 64B8-10.001(2), Florida Administrative Code.

3. Sec. 456.072(1)(x), F.S.

renewal following certain crimes⁴.

The disqualification statute covers a broad realm of violations including those related to fraud and controlled substances. The impact of the statute on license holders (including renewals) and license applicants is significant and should not be underestimated.

Felony convictions, and pleas of guilty or nolo contendere, under certain Florida Statutes' Chapters will result in the denial of license renewals and applications for licensure. The specific Chapters are 409 (Social and Economic Assistance), 817 (Fraudulent Practices), and 893 (Drug Abuse Prevention and Control). Some of the common violations in Chapter 817 include making false statements, mortgage fraud, and fraudulent use of credit cards. Some of the common violations in Chapter 893 include unlawful use, possession, manufacture, delivery, or transportation of controlled substances. The statute also contains provisions that disqualify licensees and applicants based on federal crimes including felony convictions and pleas of guilty or nolo contendere under either the Federal Controlled Substances Act or the Medicaid and CHIP Payment laws. Thus, a broad array of convictions/pleas outside of what might be considered health care could cause licensees to lose their licenses or prevent applicants from getting licenses.

Accordingly, it is important to consider this statute when you negotiate plea deals with the prosecution. You may be able to plead to crimes under a different statute that do not disqualify your client from re-licensure. You may be able to persuade the prosecution to accept a plea agreement with crimes in categories other than the three disqualifying chapters. That can happen because there are often redundancies or overlaps in statutes, and the charge could fall into another similar statute. If so, your client could plea to conduct in a non-disqualifying statute.

Another area where felony and misdemeanor criminal charges and adjudications can affect a health care provider's ability to work comes from background screening through Florida's Agency for Health Care Administration (AHCA). The

See **HEALTHCARE**, Page 16

4. Sec. 456.0635, F.S.

CLERK'S CORNER

Filing court docs? Try à la carte instead of combo platters

Before electronic court records and efiling, Clerks kept a docket where they manually made entries into a docket book to note the filing of each pleading, motion, or other paper filed into a court case paper

CLERK'S CORNER



Karen E. Rushing
*Clerk of Court
and County
Comptroller*

file. The creativity used by the filer in naming the document had little effect on the Court or the Clerk because rarely were the docket book entries used for anything but a historic list of all that was in the paper case file or to locate the file. **THE WORLD HAS CHANGED.** And the Court and the Clerk need your understanding and help. Listed below is **WHAT YOU CAN DO TO PLEASE THE COURT AND THE CLERK** ☺

One score and eight years ago, in the world of the old docket book, as mentioned above, rarely were they used to review a case unless someone needed to view the paper case file. The docket book was used to determine where the case file might be; was it checked out to the Judge, did an attorney obtain an order for release or was the actual case file in a courtroom for a hearing? No one knew unless they viewed the docket book. It was the "official locator" of the original record known to all of us in the system as the "case file."

With the passage of time, the rules of court have changed, administrative orders have changed and so has the use of the docket. With mandatory efilings, via the ePortal, the need for document description standardization became a priority and a challenge for the Courts, Clerks and attorneys.

Why is standardization so important? All documents have titles and all titles have codes. Document codes are tied to a set of treatments that must occur with a document. Example: set a hearing, release funds, redact information, record the document, etc. Combining several documents together and creating a "combo platter" causes many problems. A combo platter is a single document that includes multiple titles within the same document. For example – Notice of Appearance, Notice of Plea of Not Guilty and Notice of Discovery filed as one document.

First, there is no code for a combo platter. Generally, your document will be entered into the system as the first title on the document. If the treatment required for the various titles used in the combo platter is different, and the document is entered into the system by the first title shown, problems will occur with your combo platter.

See **CLERK**, Page 15

■ Williams Parker is pleased to announce the addition of attorneys **Nicole F. Christie**, **Nicholas A. Gard**, and **Bailey S. Lowther** to the firm. Christie represents clients in residential and commercial real estate matters. Gard focuses on corporate and tax law. Lowther is a civil trial attorney who focuses on complex litigation matters, including probate and trust litigation and business litigation.

■ Berlin Patten Ebling, PLLC is pleased to announce that **Mallory A. Moretti**, Esq., has joined Berlin Patten Ebling, becoming the fourteenth attorney in the firm's growing practice. Mallory Moretti practices primarily in the areas of residential real property transactions, including but not limited to real estate closings, contract and lease preparation, and negotiation.

■ The **Capstone Group** and the law firm of **Williams Parker Harrison Dietz & Getzen** have entered into a long-term development project regarding the law firm's property at 200 S. Orange Ave. Both parties are deeply committed to Sarasota's downtown core as the region's hub for commerce, arts, culture, and urban living. The parties anticipate a mixed-use development featuring residential and commercial space to complement and enhance the area, including an office building to become Williams Parker's new headquarters. The law firm will remain in its current office space until the new building is complete.

■ **Mark A. Sessums** has been unanimously elected Vice President of the Florida Chapter of the American Academy of Matrimonial Lawyers for the 2018-2019 year. Mark has also been named to the Super Lawyers List each year since its inception in 2006.

■ Williams Parker is pleased to announce that attorney **Elizabeth P. Diaz** has been elected a partner of the firm, effective July 1.

■ **Richard J. Cole, III, Esq.**, of Cole & Cole Law, P.A. has successfully completed the requirements for national certification in Consumer Bankruptcy Law by the American Board of Certification. He has also been selected as a Florida Super Lawyers Rising Star in 2018. Rich-

In Memoriam

ROBERT
JAMES
"BOB" CARR

June 12,
1933 –
July 2, 2018

ard also serves as Co-Chair of the ABI's Consumer Committee.

■ Icard Merrill is pleased to announce that ten of the firm's attorneys have been selected to the list of 2018 Florida Super Lawyers and Florida Rising Stars. 2018 Super Lawyers are: **Charles J. Bartlett**, Business Litigation, **Drew Clayton**, Securities Litigation, **Thomas F. Icard, Jr.**, Construction Litigation, **Robert G. Lyons**, Alternative Dispute Resolution, **William W. Merrill III**, Land Use/Zoning, **Alyssa M. Nohren**, Real Estate, **Jaime L. Wallace**, Family Law. Selected to 2018 Florida Rising Stars are: **G. Matthew Brockway**, Land Use/Zoning, **Bradley J. Ellis**, Land Use/Zoning, **Anthony J. Manganello III**, Personal Injury – Defense

■ **Bill Robertson**, CEO and personal injury attorney with the full-service law firm Kirk Pinkerton, P.A. has been selected for the 2018 Florida Super Lawyers list.

■ Williams Parker land use attorney **Charlie Bailey** recently participated in the infrastructure groundbreaking ceremony for the Quay Sarasota Waterfront District. Bailey represents GreenPointe Communities, owner and developer of the \$1 billion mixed-use redevelopment of the nearly 15-acre former site of the Sarasota Quay.

■ **Norman Vaughan-Birch**, a board certified civil mediator and arbitrator with the full-service law firm Kirk-Pinkerton, P.A., has been selected for the 2018 Florida Super Lawyers list.

EMPLOYMENT

ASSOCIATE ATTORNEY - Norton Hammersley, a full-service, AV Rated downtown Sarasota law firm, continues its growth and is seeking an Estate Planning/Corporate Attorney with an LL.M. in taxation and 2-plus years of estate planning/corporate experience. Candidate must be licensed in the state of Florida. Competitive compensation and benefits, including 401K and health insurance. Please send confidential cover letter, resume and salary requirements to Sandra King via e-mail: sking@nhslaw.com

CLERK

Continued from Page 14

Second, a combo platter is likely to be difficult for the Court to find in the docket. Single titled documents attached to their image are much preferred by the Court. It allows easy access to the document of interest. How can you help fix the problem? It is very simple; uncouple your combo platters into separate documents.

Addressing the issue of combo platters will greatly assist the Court, Clerk and an attorney reviewing the case.

So while combo platters are great to order at your favorite restaurant, for the court record it is best to serve à la carte!

Have you or a member of your firm achieved professional recognition? Have you hired a new attorney? Any other news of note? If so, we would like to hear about it. Email your "News of Note" items to scba@sarasotabar.com.



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PUBLISHER: SCBA Executive Director Holly Lipps

EDITOR: Daniel L. Tullidge, Esq., *Williams, Parker, Harrison, Dietz & Getzen, P.A.*

DESIGN AND EDITORIAL CONSULTATION: Peter M. Gentile, *petermichael associates*

The Docket encourages submissions of interest to SCBA members. Contact the SCBA office via e-mail (scba@sarasotabar.com) or phone (861-8180) for further information. The Docket is published 10 months a year. Deadline is the first Friday of the month preceding the month of publication.

HEALTHCARE

Continued from Page 14

purpose of background screening is to identify and remove professionals from providing care to possibly vulnerable persons who are insured by Medicaid or Medicare. Licensed health care providers must be screened, including criminal history, to determine eligibility for participation as a provider in the Medicare and Medicaid programs⁵. New this year is that even certain contractors who work at facilities licensed by AHCA must be background screened.

Some persons previously disqualified from employment may be granted an exemption from the disqualification⁶. An individual seeking an exemption must demonstrate by clear and convincing evidence that an exemption from disqualification should be granted. A person is not eligible to apply for an “Exemption from Disqualification” until at least three years have elapsed since the completion of all court-ordered penalties following the adjudication. Persons designated as sexual predators, sexual offenders or career offenders are not eligible for an Exemption from Disqualification.

Lastly, labor and employment attorneys must be mindful of how employers contract with physicians to be employees and/or independent contractors. Those compensation arrangements usually fall within the scope of federal and state Anti-Kickback Statutes because payments and referrals flow between the parties. Congress and the OIG developed safe harbor regulations that exempt from prosecution certain compensation arrangements between health care providers/suppliers. Given the breadth of the Anti-Kickback Statute and its equally broad interpretation by the courts and enforcement/regulatory agencies, any time payments or other forms of remuneration flow between healthcare providers or suppliers, it is prudent to structure the arrangement to fit within one or more applicable safe harbors. For example, there is a safe harbor for bona fide employees (as defined by the Internal Revenue Code). This safe harbor applies to both full-time and part-time employees, so long as the employment relationship is, in fact, bona fide. Treating a physician as an independent contractor instead of an employee may prevent the parties from being able to avail themselves of certain protections under the Medicare-Medicaid Anti-Fraud and Abuse Amendments (42 U.S.C. § 1320a-7b) and the Stark law (42 U.S.C. § 1395nn) and regulations (42 C.F.R. §§ 411.351 et seq.) respecting bona fide employment arrangements.

In conclusion, no matter what type of law you practice, if you represent health care licensees you should familiarize yourself with the unique issues arising from the interplay between legal matters occurring outside of one’s profession that have an effect upon their profession. Strongly consider consulting with an attorney who practices administrative law or health law when navigating the intersection of the personal and professional legal matters of licensed professionals.

5. Chapter 435 and section 408.809(4), Florida Statutes, and Rule 59A-35.090 and any screenings done for Medicaid are reviewed in accordance with Chapter 435, section 408.809(4), section 409.907, Florida Statutes, and Rule 59A-35.090

6. Section 435.07, F.S.

PAY

Continued from Page 11

practices. Proactive measures should include:

- Changing the organization’s mindset about compensation and negotiation. Align salaries to a new employee’s worth to the company — not to what a previous employer paid;

- Conducting a review of hiring documentation with an eye toward eliminating salary history inquiries. That includes written job applications, employee handbooks, interview scripts and questions for recruiters, hiring managers, and interviewers;

- Training management. Training should include: how to avoid salary history inquiries, how to respond to requests for verification of employment that seek salary

information or confirmation, and how to reduce implicit bias in determining compensation;

- Conducting an audit of salaries with counsel under the attorney-client privilege and making adjustments where appropriate; and

- Monitoring pay equity legal developments in Florida and the cities and counties within which employers operate to ensure policies and practices remain compliant.

Employers can only gain a competitive edge by getting out in front of the equal pay issue and taking a hard look at their compensation practices. As Chair of the Labor and Employment Law Section of the SCBA and the incoming President of the Sarasota Chapter of FAWL, I urge employers to take these measures not just because they fear a lawsuit, but because it’s the right thing to do.



UPCOMING EVENTS

YLD Kickoff Lunch

September 6

Solo/Small Firm Networking Social

September 13

Real Property Section Meeting

September 18

SCBA Installation Dinner

September 20

Estate Planning & Probate Section

September 26

Family Law Section

September 27

DIVORCE

Continued from Page 1

in Article I of the U.S. Constitution, prohibits states from passing laws that may disrupt the pre-existing contracts if they “operate[] as a substantial impairment of a contractual relationship.” What was once one of the most heavily cited canons in Supreme Court jurisprudence, as can be seen by the myriad of cases cited in the *Sveen* opinion dated from the late 1800s to the early 1900s, the Contracts Clause lost its bite in recent times and has not played a significant role in judicial decision-making for the last few decades. Before the *Sveen* opinion was rendered, some commentators believed that the Court could revive the originalist view of the Contracts Clause.

In *Sveen*, the deceased policyholder, Mark Sveen, married Kaye Melin in 1997, and the following year named Melin as the primary beneficiary on his \$150,000 life insurance policy with MetLife. Sveen designated his two children from a prior marriage as the contingent beneficiaries of the policy. In 2002, Minnesota enacted its revocation-upon-divorce statute, which provided that “the dissolution or annulment of a marriage revokes any revocable disposition, beneficiary designation, or appointment of property made by an individual to the individual’s former spouse in a governing instrument.” The couple divorced five years after the adoption of the Minnesota law, and Sveen died thereafter in 2011, never having changed his designation of Melin as primary beneficiary. MetLife named Melin and the Sveen children as defendants in an interpleader action, leaving the insurance policy proceeds with the courts to decide whether Minnesota’s revocation-upon-divorce statute retroactively disqualified Melin as primary beneficiary. A Minnesota district court granted summary judgment to the Sveen children, but the 8th Circuit reversed, holding that the retroactive application of the statute was in violation of the Contracts Clause.

Justice Kagan, writing for the majority, explained that there is a two-step test to determine if the retroactive application of a state law violates the Contracts Clause. First, does the law operate as a substantial impairment of a contractual relationship? Second, if the law does substantially impair the contract, is

Although the *Sveen* decision confirms the constitutionality of these revocation-upon-divorce statutes, it is important to remember there are a variety of ways in which these statutes will not apply.

the law an appropriate and reasonable way to advance a significant and legitimate public purpose? The Court did not get past the first step in its analysis, holding that Minnesota’s revocation-on-divorce statute did not substantially impair the contract because the law (1) supports the policyholder’s true intent, (2) does no more than what a divorce court could have done, and (3) simply requires “a stroke of a pen” to fill out a new beneficiary designation form to undo the default rule. The lone dissenter, Justice Gorsuch, vehemently sought to put teeth back into the Contracts Clause, reasoning that the Minnesota law not only substantially impaired the contract, it denied its most crucial key term — the beneficiary.

Although the *Sveen* decision confirms the constitutionality of these revocation-upon-divorce statutes, it is important to remember there are a variety of ways in which these statutes will not apply. For example, there are two important exceptions to the application of Florida’s § 732.703 that estate planning and probate lawyers will want to focus on.

First, pursuant to § 732.703(4)(a), the Florida law will not apply to any account subject to federal law, i.e. ERISA-controlled plans, such as 401(k) plans, 403(b) plans, defined benefit and defined contribution plans. Thus, unless the plan document provides otherwise, a former spouse named as primary beneficiary on a decedent’s 401(k) plan may receive all of the retirement plan proceeds regardless of whether the decedent had remarried before his or her death.

Second, as illustrated in *Estate of Hibbard v. Hibbard* (which coincidentally was issued the day after *Sveen*), § 732.703 does not apply to void beneficiary designations of former spouses “[i]f the governing instrument is governed by the laws of a state other than this state”. In *Hibbard*, which had facts identical to *Sveen*, a Middle District of Florida court explained that the decedent purchased the beneficiary-designated asset, an annuity, while he lived in New Hampshire (one of the 24 states that have not adopted a “revocation-upon-divorce” statute) and the document was governed under New Hampshire law under its terms. Thus, pursuant to § 732.703(4)(g), the Hibbard court

held that the decedent’s former spouse was the rightful beneficiary to \$97,000 in death benefits.

Moreover, another aspect of Florida’s revocation-upon-divorce statute that probate attorneys will want to keep in mind is its enforcement. Section 732.703 is designed to relieve payors, in many circumstances, on policies with beneficiary designations for making an improper distribution of the assets to a former spouse if the designation is not changed to remove the spouse as beneficiary. Therefore, if a former spouse improperly or wrongfully collects the proceeds, the decedent’s estate is forced to sue him or her directly and not the bank or insurance company.

In sum, even in light of *Sveen*, it is still vital for estate planners, family attorneys, and other professionals who work with divorced/divorcing clients to review their estate planning documents, including (and sometimes most importantly) updating beneficiary designations.

BEST & WORST

Continued from Page 9

of Captain Sir John Franklin and the Royal Navy’s lost expedition to the Arctic in the mid-1800s, was a fine piece of work, and often brutally difficult to watch. However, the cast, led by Jared Harris (*Mad Men*) and Tobias Menzies (*Outlander*), was top notch.

THE WORST

■ **The entire plot of *Jurassic World: The Fallen Kingdom*:** Look, I expect to suspend disbelief in a dinosaur movie, but good lord! It seems the entire ludicrous storyline of this undercooked sequel only served to set up two things: (SPOILER ALERT) the director’s desire to film a scene of a dinosaur in a little girl’s bedroom, and yet another sequel where the dinosaurs are loose in the U.S.

■ **The cinematography in *Solo: A Star Wars Movie*:** You paid hundreds of millions on sets, costumes and special f/x. Can we get some light, please? Just one ugly-looking movie.

■ **The direction in *A Wrinkle in Time*:** This is the only film I bailed on this year and a perfect example of how poor direction can destroy an otherwise good story. It seemed amateurish and made me wonder if the cast was ever in the same room.

A look back at 2017-2018 Bar Association year





ESTATE PLANNING & PROBATE SECTION

LEGISLATIVE UPDATE



Richard R. Gans, Esq.
*Ferguson Skipper,
ACTEC Fellow*

Wednesday, September 26, 2018
12 noon -- 1:00 p.m.
Michael's on East

Richard R. Gans, a Board Certified Wills, Trusts & Estates Lawyer and a Fellow of the American College of Trust and Estate Counsel, will cover legislation passed during the most recent legislative session and enacted into law including: changes to the Florida Trust Code related to settlor intent and interest of the beneficiaries; clarifications of trustee duties, liabilities, and powers including provisions related to accounting and breach of trust; the expansion of the decanting statute; and the addition of new safe harbor language for deeds to waive homestead.

CLE Credit has been applied for.

Estate Planning & Probate Section Luncheon

Wednesday, September 26, 2018
\$32.50/person

Please indicate if you require a vegetarian meal _____

Name: _____ Firm _____

Email: _____ Check Number: _____

Deadline for reservations: Wednesday, September 19, 2018

Mail with payment to SCBA, P.O. Box 507, Sarasota FL 34230
"No Shows" and reservations canceled within 48 hours of event will be invoiced

____ Please check here if you have a disability that may require special attention or services. To ensure availability of appropriate accommodations, attach a general description of your needs. We will contact you for further coordination.



Please join the Sara De Soto Chapter as we honor

The Honorable Lee E. Haworth

Recipient of the 2018 NSDAR Medal of Honor

The Medal of Honor is the NSDAR's highest award for citizens who have shown leadership, trustworthiness, patriotism, and service.

Thursday October 25, 2018

6:00pm Welcome Reception & Cash Bar 6:30pm Dinner and Program

Laurel Oak Country Club 2700 Gary Player Boulevard Sarasota, Florida 34240

Per Person: \$100 Table of Eight: \$700

Sponsorships Available

\$250 (Bronze) - Program Listing \$350 (Silver) - Table Signage & Program Listing

\$500 (Gold) - Table Signage, Program Listing, Full Page Ad in 2019 Chapter Yearbook & 2018 Newsletters

Menu Items

Miso Glazed Salmon Shiitake Mushrooms, Baby Kale, Orange Miso Beurre Blanc
Chicken Laurel, Chicken Breast, Roasted Mushrooms, Marsala Wine Demi Glaze
12 Ounce Prime Rib of Beef, Horseradish Cream Sauce, Pop Over Au Jus
Vegetarian Dinner is available upon request
Roasted Fingerlings, Asparagus, House Salad and Key Lime Pie

Kindly RSVP by October 11, 2018

Sara De Soto Chapter Medal of Honor Dinner October 25, 2018

Attendee(s) \$100 X _____ Name(s) _____ Phone# _____ Menu Choice # _____
Attendee(s) \$100 X _____ Name(s) _____ Phone# _____ Menu Choice # _____
Attendee(s) \$100 X _____ Name(s) _____ Phone# _____ Menu Choice # _____
Attendee(s) \$100 X _____ Name(s) _____ Phone# _____ Menu Choice # _____

TOTAL ENCLOSED _____

NOTE: Please give first and last names AND phone #s of ALL attendees, space available on the back of this form

Menu Item Choices: #1 Salmon, #2 Chicken, #3 Beef, #4 Vegetarian

Sponsor Levels: Gold \$500 _____ Silver \$350 _____ Bronze \$250 _____

Please email us your Program Listing and Content

Check # _____ or CC# w/expiration date, name on card, and CVV# _____

Please send your RSVPs to Pat Rook 4082 Vana Dr Sarasota, FL 34241 Contact Us: saradesotochaptrevents@gmail.com



REGISTRATION DEADLINE EXTENDED

SMCALA INVITES YOU TO PARTICIPATE IN OUR NEW & IMPROVED SALARY & BENEFITS SURVEY

The Sarasota-Manatee Chapter of the Association of Legal Administrators is providing your firm with the opportunity to participate in the New and Improved **2018 Salary and Benefits Survey**. The survey will provide statistical information pertaining to salary levels and law firm benefits for staff and associate positions in the Sarasota, Bradenton and Venice areas. The Chapter is soliciting information from all law firms in our local area to provide as much data as possible. **PARTICIPATION IS CRUCIAL!** A copy of the survey with the compiled data and statistical analysis will be available for each participating firm in October, 2018. In plenty of time to provide you with this powerful resource to help with your end-of-year decisions and your 2019 budget.

ALL DATA WILL BE SUBMITTED TO AN INDEPENDENT RESEARCHER TO BE USED FOR THE SOLE PURPOSE OF COMPILING THE AGGREGATE REPORT. THE DATA SUBMITTED TO THE RESEARCHER WILL BE DESTROYED UPON COMPLETION OF THE REPORT.

Please submit the registration no later than August 17, 2018.

Please go to <https://tinyurl.com/y7x8v3s6> to register.

WHY YOU SHOULD PARTICIPATE

Competitive Advantage

Valid, up-to-date law firm-specific, local compensation information provides a clear competitive advantage. Armed with current market data, you don't pay more or less than you need to remain competitive. You have a clear oversight of the local market and can be assured you are making competitive offers.

Decision Making Using the Whole Picture

Law firm compensation data informs the full range of decisions regarding compensation, benefits and rewards. Without it, decisions are made without the benefit of knowing what is trending in our market. Competitive industry data becomes a key element in your firm's decisions for hiring, promotions, salary adjustments and other benefits.

Consistent Pay Levels

Comprehensive compensation data on most legal positions ensure that pay is consistent in your firm, even when pay rates differ by job function.

Knowledge of Local Current Trends

Regular participation in Sarasota-Manatee Chapter of the Association of Legal Administrator's survey provides trend information by position in our community. Law firms are constantly changing and developing and this survey data enables you to understand what is trending in our local market.

Please contact a member of the Salary & Benefits Survey Committee if you would like to receive more information about this opportunity.

Laura Calderon: 941.365.2304

Sandy King: 941.954.4691

Angela Koehler: 941.408.8008

Janet Danziger: 941-748-0151

Heather Zangara: 941.364.2749

KEEP JUDGE BRIAN

ITEN



CIRCUIT COURT JUDGE
12TH JUDICIAL CIRCUIT, GROUP 12

you're invited to
MEET THE JUDGE

at a reception to support the campaign for Judge Iten

HOSTED BY:

Maglio Christopher & Toale, P.A.

address:

1605 Main Street, #710 Sarasota, Florida 34236
located on the 7th floor

when:

August 6, 2018 5:00 pm - 7:30 pm

r.s.v.p

mcairo@mctlawyers.com

Proudly endorsed by: State Attorney Ed Brodsky, Former State Attorney Earl Moreland, Sheriff Tom Knight, Sarasota County Sheriff's Office, Sheriff Rick Wells, Manatee County Sheriff's Office, Former Sheriff W. Brad Steube, Manatee County Sheriff's Office, Former Sheriff Charlie Wells, Manatee County Sheriff's Office, Chief Tom Mattmuller, Venice Police Department, Chief Peter A. Cumming, Longboat Key Police Department, Chief William L. Tokajer, Holmes Beach Police Department, Former Chief W. Jay Romine, Holmes Beach Police Department Former Chief Kevin Vespia, North Port Police Department, Former Public Defender Elliot Metcalfe, Representative Jim Boyd, Florida House of Representatives, Southwest Florida Chapter of the Florida Police Benevolent Association

Correspondence and contributions may be mailed to The Committee to Retain Judge Brian A. Iten
Circuit Judge, Group 12 4345 Charing Cross Rd. Sarasota, Florida 34241

Any person may make a contribution of up to \$1,000 per election cycle. Under Florida law, the term "person" includes corporations, partnerships, trusts and other entities having collective capacity. Spouses may each contribute \$1,000.

Political advertisement paid for and approved by Brian A. Iten, non-partisan candidate for Circuit Judge, 12th Circuit, Group 12.



Family Court Professional Collaborative Presents:

FAMILY LAW BOOT CAMP – PART I

Designed For Beginning Family Law Attorneys



**Presenters include: Honorable Judge Donna P. Berlin,
Hearing Officer Laura Hale, Magistrate Rebecca Hunt,
Attorney Tia Jensen & Attorney Lynette Mancuso**

The Family Law Boot Camp – Part I is designed to assist young and new attorneys understand and practice family law. The morning presentations will be by the Sarasota County Judiciary on the issues of jurisdiction, notice and due process, case management, and the applicable family law and judicial administration rules. The afternoon will include presentations by Tia Jensen on the Guardian Ad Litem program, Lynette Mancuso on divorce processes, and Judge Berlin on Contempt and Enforcement. The FCPC is applying for CLEs (at least 1 hr of ethics) and CMEs for this event. Family Law Boot Camp – Part II (Advanced) is scheduled for February 15, 2019.

**FRIDAY, AUGUST 31, 2018
9:00 A.M - 4:00 P.M.
COMMUNITY FOUNDATION OF SARASOTA**

Cost is \$20 for FCPC non-members

To register, go to: <https://conta.cc/2L37YJo>

You are cordially invited to the

10th Annual RED MASS

*At the Red Mass,
special prayers are held for those
who serve in law and public service.*

Wednesday, October 24, 2018 @ 5:30 PM
St. Martha Catholic Church
200 N. Orange Avenue
Sarasota, FL 34236

Celebrated by: Most Rev. Frank J. Dewane

A reception hosted by the Planning Committee of the
Catholic Lawyers Guild will follow at the Fr. Fausto
Parrish Hall at St. Martha

Please send your RSVP for the Mass and/or reception to:
Deacon Paul Consbruck (paul@adoptfla.com)
941-966-6706
Before October 10, 2018

For inclusion in the online Directory of Catholic Lawyers,
please send your business card and \$50 membership fee
payable to "Catholic Lawyers Guild" before October 10, 2018

Catholic Lawyers Guild
c/o Paul Consbruck, Esq.
871 Venetia Blvd, Ste. 202
Venice, FL 34285-8049

For Sponsorship Opportunities, please contact
Jeanne M. Bennett, Esq. (Jeanne@obrienbennett.com)
941-316-9200





Family Court Professional Collaborative - 2018 Annual Conference
Hot Topics in 21st Century Family Law:
Technology Security, Social Media and Hidden Assets



SARA BAY COUNTRY CLUB

When: Friday, October 5, 2018— 8:00 a.m. until 5:00 p.m.

Where: Sara Bay Country Club, 7011 Willow St, Sarasota, FL 34243

Agenda

- 8:00 a.m. - 8:30 a.m. Registration & Check-in; Breakfast Buffet
- 8:30 a.m.- 8:40 a.m. Welcome - Hon. Judge Donna P. Berlin & FCPC President: Stephanie Hefner Roth, LMHC
- 8:40 a.m.-10:00 a.m. Cases, Statutes and Rules Update - Sharon O'Day, JD & Valerie Fisher, LMHC
- 10:00 a.m.-10:10 a.m. Coffee Break
- 10:10 a.m.- 12:10 p.m. Cyber Security: Protecting Client/Patient Information in the 21st Century —Al Brown, JD, LL.M
- 12:10 p.m.-12:40 p.m. Buffet Lunch, FCPC Meeting
- 12:40 p.m. - 2:10 p.m. Uncovering Hidden Assets—Bob Piper, CPA & Chris Wailand, CPA
- 2:10 p.m. - 2:20 p.m. Coffee Break
- 2:20 p.m. - 3:45 p.m. Social Media in Practice & as Evidence—Elizabeth Loeffler, JD
- 3:45 p.m. - 4:00 p.m. Coffee Break / Dessert
- 4:00 p.m.- 5:00 p.m. Judges Panel— moderated by Stephanie Hefner Roth, LMHC

TO REGISTER ONLINE: <https://conta.cc/2K8wFi2>

Name: _____ Firm: _____

Address: _____

Phone: _____ E-mail: _____

Profession: _____ Phone: (____) _____

Food preference: Regular Vegetarian Badge Name: _____

FCPC Membership & Registration:

- **Membership Renewal:** Early-bird 8/01-8/14 : \$195 8/15- 9/14: \$225 9/15 - 9/28: \$250
 (2018 Members renewing for 2019: Price includes Membership fee, Conference attendance, CLEs and CMEs)
- **New Membership Applicant*:** Early-bird 8/01-8/14 : \$195 8/15 - 9/14: \$225 9/15 - 9/28: \$250
- **CEU's for Mental Health Professionals:** \$25 (**CEU's for conference)
- **Support Staff:** Early-bird 8/01 -8/14 : \$145 8/15 - 9/14: \$175 9/15 - 9/28: \$200
 (Includes 2019 FCPC Membership (per By-Laws), Conference Attendance, CLEs and CMEs)
- **Support Staff, Non-Profits & Government Agencies:** : \$50 for conference attendance only
- **Judiciary / Court Administration / Personnel:** (no fee)
- **Membership Renewal Annual Fee only (unable to attend conference):** \$75
- I am interested in Sponsorship &/or Advertising opportunities, please contact me.

**Registration & Membership is open only to professionals practicing in the areas of Law, Mental Health & Finance and qualified for membership in FCPC as per the By-Laws. Please note the annual fee has increased to \$75 and is included in the fee.*

Return form & check payable to FCPC to: Chris Wailand at 330 S. Pineapple Ave, Suite #106, Sarasota, FL 34236

Inquiries: Michelle Cross or call (941) 362-2665 or Michelle@CrossCountrywp.com

*FCPC has applied for CLE's, CME's and CEU's**. Certificates will be provided at the close of the conference. No Refund will be provided. Registrants may provide a substitute or may receive all materials and membership for 2019; substitute names must be provided by September 28, 2018. **The Florida Psychological Association is approved by the Florida Department of Health, Board of Psychology and Board of School Psychology to sponsor continuing education for psychologists. The Florida Psychological Association is approved by the Florida Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling as a provider of continuing education. The Florida Psychological Association maintains responsibility for the program and its content.*



DISCOVER YOUR ENTERPRISE

AVE MARIA SCHOOL OF LAW'S SOLO PRACTITIONER WORKSHOP

Friday, August 17, 2018

9:00 am - 2:30 pm

CLE Credits

Local Solo Practitioner Presentations

Topics of Discussion:

"What I Wish I Knew When I Started"

Marketing Your Law Firm

Financial Planning for Small Businesses

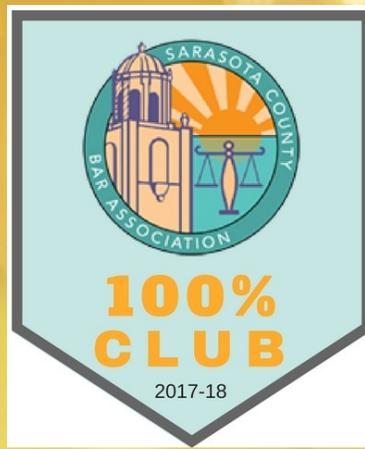
FOR MORE INFO AND TO RSVP: <http://bit.ly/avelawclecourse>

CONTACT ALUMNI AFFAIRS: alumniaffairs@avemarialaw.edu

AVE MARIA SCHOOL OF LAW

1025 Commons Circle, Naples, Florida 34119 ▪ (239) 687-5300 ▪ www.avemarialaw.edu

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We recognize our 100% CLUB MEMBERS:

Adams and Reese, LLP

Band Gates & Dramis, P.L.

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Berlin Patten Ebling, PLLC

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Ferrari, Butler & Moneymaker, PLLC

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Kirk-Pinkerton, P.A.

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The Sarasota County Bar Association 100% Club is a special category of membership that demonstrates an extraordinary commitment to the legal profession and our community from law firms, law departments and legal organizations that enroll 100 percent of their attorneys as members of the Sarasota County Bar Association. If you think your firm qualifies, email a list of your associates to scba@sarasotabar.com.