

ST. PETERSBURG BAR ASSOCIATION

# PARACLETE

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*William F. McQueen, father of SPBA President Bill McQueen,  
as a young officer in the US Army during WWII*



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*The mission of the St. Petersburg Bar Association is to serve the legal community, to strengthen the noble calling of the practice of law, and to foster excellence in the profession.*

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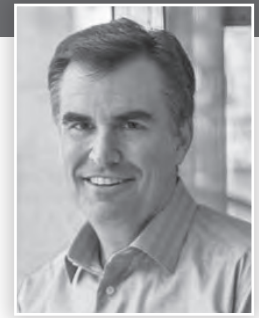
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# We Leave No One Behind

By Bill McQueen



This month we honor our veterans for their service and sacrifices on behalf of our country. On a personal note, my father, William F. McQueen, came to St. Petersburg as an orphan to be raised at the Masonic Home of Florida, which in the 1920's was a combination orphanage/old folk's home. He later attended high school at the Florida Military Academy (now Stetson University College of Law) on an athletic and music scholarship. Soon after high school graduation, WWII broke out and my father enlisted to serve his country. At the young age of 22, he became a tank commander and served under General George S. Patton. He fought in the European theater, including the Battle of the Bulge (see cover photo).

My father never spoke much about his military service. However, it was obvious that those years had a profound impact on his life. I do recall one particular story. On a reconnaissance mission, his tank was hit by artillery and he was the only man to survive. Severely injured and cut off from the American lines, he fortunately was rescued by a German family who hid him in their basement for several days until his fellow American soldiers could rescue him. After events like that, my father knew the importance of looking out for his fellow service members and never leaving behind anyone who is in trouble.

In the movie *Gladiator*, Russell Crowe, as the soldier Maximus, shares with his fellow prisoners immediately before their first battle with the gladiators in the Coliseum, "If we stay together... we survive!" Often, attorneys are viewed as soldiers or gladiators as we fight for the rights of our clients. Though the consequences of our failure to stay together typically is not as severe as for soldiers for whom such failure means death or grave physical injury, we still

need to look out for one another on our fields of legal battle.

For many in our profession, these daily battles are taking their toll on our fellow attorneys. The recent ABA National Task Force on Lawyer Well-Being Report notes:<sup>1</sup>

*"To be a good lawyer, one has to be a healthy lawyer. Sadly, our profession is falling short when it comes to well-being. The research suggests that the current state of lawyers' health cannot support a profession dedicated to client service and dependent of the public trust. Change will require a wide-eyed and candid assessment of our members' state of being, accompanied by courageous commitment to re-envisioning what it means to live the life of a lawyer. In 2016, the ABA published their study of nearly 13,000 practicing lawyers. It found that between 21 and 36 percent qualify as problem drinkers, and that almost one-third are struggling with some level of depression, anxiety, and stress. The parade of difficulties also includes suicide, social alienation, work addiction, sleep deprivation, job dissatisfaction, complaints of work life conflict, incivility, a narrowing of values so that profit predominates, etc. Notably, younger lawyers in the first ten years of practice experience the highest rates of problem drinking and depression. Too many face less productive, less satisfying, and more troubled career paths."*

As shared at the September General Membership Meeting, your Association wants to achieve a cultural shift in our local legal community to help our members with the issues outlined in the ABA Report. Our focus this year

is on the physical, mental, and financial wellness of each and every member of our local bar. If we can achieve this cultural shift, our members will become

the best that they can be and enjoy being "Healthy, Happy and Holistic Attorneys." To help our fellow members reach this goal, we are instituting several initiatives, including membership luncheons with topics focused on different aspects of wellness, weekly One Minute Wellness Tips emailed to our members, our Wellness Wednesday Walks at Crescent Lake, and *Paraclete* Wellness articles. We also would like to encourage all members to read this year's SPBA Wellness Book – *50 Lessons for Lawyers*

– *Earn More, Stress Less* by Nora Riva Bergman. Consider starting a weekly lunch discussion at your firm focused on each short lesson. Books will be raffled at each membership luncheon and will be available for purchase at the bar office.

My hope is that you will pledge with me to not only achieve your own wellness, but to ensure that we also look out for our fellow attorneys and never leave behind anyone who is in trouble. Just remember, if we stay together, we not only survive...but we can thrive!

---

*Bill McQueen is a founding partner of Legacy Protection Lawyers and practices primarily in the areas of Estate Planning & Administration, Asset Protection, and Business Exit Planning.*

1. American Bar Association., Report from the National Task Force in Lawyer Well-Being, [http://www.americanbar.org/groups/lawyer-assistance/task\\_force\\_report.html](http://www.americanbar.org/groups/lawyer-assistance/task_force_report.html)

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By Jennifer J. Kennedy

Several members of my family, including my husband, proudly served in the U.S. Armed Services. My husband works at the John A. Haley Veterans' Hospital. My children have been taught to acknowledge and respect those who have served and continue to sacrifice for this Country. I considered myself to be relatively in touch and enlightened when it came to "veterans' issues." However, in thinking about this article, I realized that I can, and should, do more. I was surprised to discover that there are over 1,500,000 veterans in Florida, according to the National Center for Veterans Analysis and Statistics.

It seems like, as a society in general, we are drawn to "causes." When something bad happens – like the recent devastation caused by Hurricanes Harvey, Irma, and Maria – I am always inspired by the charity and compassion people demonstrate. But, it also seems like once the initial impact of the crisis is over, our interest fades. Perhaps it's simply because life gets in the way. But causes, tragedies, and issues that I heard people rally passionately behind a few months ago are now seemingly forgotten. Something else catches our collective attention.

I thought about this situation because veterans and veterans' issues do not generally grow out of a crisis or single event. Veterans are not causes to be championed and then forgotten – they are people who put their lives in jeopardy to protect us all, and many of them need our help. Perhaps they are sometimes overlooked because they are our neighbors, fellow church members, and co-workers.

On a recent road trip, my seven-year-old daughter noticed an older man at a rest-stop, wearing a military hat with a

couple of pins that caught her attention. After she told me she thought his pins were pretty, I explained to her that the gentleman had been a soldier and fought to keep our country safe. She walked over, looked up at him, and said, "Excuse me. Thank you for keeping us safe." He looked down at her, smiled the biggest smile, and gave her a hug. He looked over at me and said, "Thank you." He seemed truly touched by this small gesture. My daughter, who is too young to understand war and sacrifice, understood that she made him happy and that, in turn, made her happy.

This interaction and preparing to write this article, made me think about what more I could do to help veterans. There are many organizations that help veterans and need volunteers. A quick internet search revealed the following charities providing services to veterans and their families:

**Disabled American Veterans (DAV)** – A nonprofit charity that provides support for veterans. According to its website, the organization provides more than 670,000 rides for veterans attending medical appointments and assists veterans with more than 292,000 benefits claims annually. In 2016, DAV helped attain more than \$4 billion in new and retroactive benefits to care for veterans, their families and survivors. DAV is looking for volunteer drivers to take veterans to their doctor appointments, the grocery store, or other errands. <https://www.dav.org/help-dav/volunteer/volunteer-locally-help-veterans/>

**The U.S. Department of Veterans Affairs** - According to its website, 100% of donations go toward supporting veterans and you can choose which fund your money will support. <https://www.volunteer.va.gov/apps/VolunteerNow/>

**Children of Fallen Patriots Foundation** – Founded in 2002, the Foundation provides college scholarships and educational counseling to military children who have lost a parent in the line of duty. [www.fallenpatriots.org](http://www.fallenpatriots.org)

**Fisher House Foundation** – Fisher House operates a network of homes at major military and VA medical centers nationwide where military and veterans' families can stay for free while a loved one is receiving medical treatment. [www.fisherhouse.org](http://www.fisherhouse.org)

**Hire Heroes USA** – Hire Heroes USA provides job training for veterans from other veterans who have business experience. [www.hireheroesusa.org](http://www.hireheroesusa.org)

- **Homes for Our Troops** – Started in February 2004, this nonprofit organization builds and adapts homes nationwide for servicemen and servicewomen who have returned from Afghanistan and Iraq with disabilities. [www.homesforourtroops.org](http://www.homesforourtroops.org)
- **Honor Flight Network** – The nonprofit organization flies veterans to Washington D.C. for free to visit memorials built in their honor. [www.honorflight.org](http://www.honorflight.org)
- **Hope for the Warriors** – Military wives founded this organization in 2006 to enhance the quality of life for Iraq and Afghanistan service members who sustained physical and psychological wounds. The organization provides comprehensive support programs for veterans, service members, and military families that focus on career transition and education, health and wellness counseling, and community building initiatives. [www.hopeforthewarriors.org](http://www.hopeforthewarriors.org)
- **Operation Gratitude** - This organi-

zation says thank you to veterans, wounded warriors and their caregivers, as well as active duty personnel by sending care packages that include snacks, hygiene supplies, and handmade items. [www.operationgratitude.com](http://www.operationgratitude.com)

- **VA Voluntary Service** – Founded in 1946, the VAVS provides for our nation's veterans while they undergo care at VA facilities. [www.volunteer.va.gov](http://www.volunteer.va.gov)
- **Veterans Support Organization** – Since 2001, the Florida based nonprofit has provided employment and financial assistance to leading veterans support agencies. It helps veterans at various stages of transitioning out of military service. [www.theveteranssupport.org](http://www.theveteranssupport.org)

A local veteran's hospital, The Bay Pines VA, has a list of requested donation items, including:

- Gift Cards (Walmart, Target, Subway, McDonald's, etc.)

- Non-perishable food (peanut butter crackers, water, juice boxes, Ramen noodles, etc.)
- Phone cards
- Clothing
- Personal care items (Deodorant, toothbrush, toothpaste, shaving cream, shampoo, etc.)
- Coffee supplies
- Household supplies

Our family has decided to research the charities listed above and choose one to support. My intention is to involve the children and make it a family project. We are also going to channel our inner "coupon bargain shopper." You know you have seen those people on TV – the ones who buy 30 bars of soap for \$1 and hoard them in their garage. I always think to myself, "What are you going to do with 30 bars of soap, 20 bottles of shampoo, and 40 tubes of toothpaste?" Well, now I know what I am going to do. We now have a box in our house. Anytime we see some of the items listed above at the grocery

store as "buy one get one free," we are going to place the items into the box and donate them to The Bay Pines VA.

I would encourage everyone to do what they can to support our veterans. If you are unable to donate your time and/or money, remember that a simple recognition and thank you is important too. What I learned from the interaction between my daughter and the veteran at the rest-stop is the importance of a simple thank you. Sometimes things really are that easy – a simple recognition and thank you can have a huge impact.

---

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# VA Disability Denials Alleging Pre-Existing Conditions – Don't Take “No” For An Answer



By John V. Tucker

Pre-existing conditions are all over the news these days in the health insurance world. Yet, it is not just insurance companies using pre-existing physical or mental conditions to deny claims. The U.S. Department of Veterans Affairs (VA) has a long history of denying claims for service-connected disability compensation alleging that a veteran had conditions which pre-existed military service. VA often does not follow its own regulations when evaluating pre-existing conditions and wrongful denials are common. This article will help veterans and their attorneys understand the law and common VA errors involving pre-existing conditions to navigate the path to a successful appeal.

## The Presumption of Soundness

Uncle Sam examines everyone going into the military to see if they are fit for duty. For most, it probably seemed like the doctor was just checking boxes to clear them for boot camp or officer candidate school. That may be, but those physicals are the best proof that a veteran had no pre-existing conditions or that any pre-existing conditions had little or no symptoms. Why? Both the U.S. Code and VA regulations provide a clear “presumption of soundness” for anyone that entered service after an initial physical.

For VA purposes, when determining entitlement to service-connected compensation for disabilities, Section 1111 of the United States code states:

**Presumption of Sound Condition...** every veteran shall be taken to have been in sound condition when examined, accepted, and enrolled for service, except as to defects, infirmities, or disorders noted at the time of the examination, acceptance, and enrollment, or where clear and unmistakable evidence demonstrates that the injury or disease existed before acceptance and enrollment and was not aggravated by such service.<sup>1</sup>

This creates a rebuttable presumption that someone who entered military service was sound in body and mind when they entered service. The only exception would be those conditions noted at the time of the induction physical.

## The Burden is on VA to Rebut the Presumption

Interpreting § 1111, the Federal Circuit Court of Appeal has long held that the Secretary of Veterans Affairs may rebut the presumption of soundness. However, to rebut the presumption, VA must prove by clear and unmistakable

evidence that an injury or disease that manifested in service was not only pre-existing, but that the pre-existing condition was not aggravated by service.<sup>2</sup> The Court of Appeals for Veterans Claims has held that the Secretary’s burden is an “onerous one.”<sup>3</sup>

Clear and unmistakable evidence is evidence that “cannot be misinterpreted and misunderstood, i.e., it is undebatable.”<sup>4</sup> “[T]he burden is not on the claimant to show that his disability increased in severity; rather, it is on VA to establish by clear and unmistakable evidence that it did not or that any increase was due to the natural progress of the disease.”<sup>5</sup> This is crucial. The burden never shifts back to the veteran.<sup>6</sup> Even where clear and unmistakable evidence exists that the condition pre-existed service, the veteran need not produce any evidence of aggravation to prove entitlement to benefits under the presumption of soundness.<sup>7</sup>

## Vets May Prove Aggravation of Pre-Existing Conditions Too

There is another statute, 38 U.S.C. § 1153, which allows a veteran to affirmatively seek benefits based on aggravation which requires the veteran to establish that his preexisting condition worsened in service.<sup>8</sup> This is a distinct burden shift from that contained in 38 U.S.C. § 1111 described above. Under § 1153, a veteran must submit proof to VA that something occurred during their military service that caused an aggravation beyond the normal progression that would be expected. This proof typically takes the form of documentation of the in-service event and a “nexus” letter from a physician explaining the nature of the aggravation and how it was connected to the event that happened during service.

This must be compared to a veteran who is contending either that no pre-existing condition was present, or more commonly, that any pre-existing condition was insignificant or non-contributory to a later condition which forms the basis of a claim for service-connected disability. For example, VA may claim that a knee injury from high school was a pre-existing condition, which bars payment of benefits. The veteran may contend that the injury healed before they left high school and was not symptomatic for years before a knee injury that happened during their time in service. In this situation, the veteran bears no burden of proof. The VA must not only prove the existence of a pre-existing condition at

the time of induction, but also that the veteran's knee would have advanced to its present condition absent the later boot camp injury. If VA cannot do so by clear and unmistakable evidence, the veteran's claim cannot be rejected.

Nothing precludes a veteran from submitting proof of recovery or being healed from an earlier condition that preexisted service. However, it may be challenging for a veteran to prove a negative, i.e., that they recovered entirely from a condition and had no symptoms. The lack of medical care may be the only proof they can offer. This makes the presumption of soundness a powerful sword to wield in VA service-connected compensation claims.

## Common Appealable Errors Affiliated With Soundness & Aggravation

Unfortunately in the VA system, veterans may not legally hire an attorney to file new claims for service-connected compensation.<sup>9</sup> While they may obtain the assistance from volunteers affiliated with veterans' service organizations (DAV, American Legion, etc.) or pro bono attorneys, veterans often file claims on their own and have little understanding of VA's complex rules and presumptions, such as the presumption of soundness. VA Regional Offices frequently fail to advise veterans about the presumption and often apply the presumption of soundness improperly, resulting in procedural errors that are appealable.

Practitioners should watch for these errors when considering issues to include in a Notice of Disagreement (VA Form 21-0958) or an Appeal to the Board of Veterans Appeals (VA Form 9):

- Failure to fully evaluate comments on the intake physical;
- Failure to consider the statutory presumption of soundness;
- Making decisions that are not based on clear and unmistakable evidence;
- Shifting the burden back to the veteran to prove the lack of a pre-existing condition; or
- Shifting the burden back to the veteran to prove that any pre-existing condition was aggravated.

Success based upon these types of errors typically means a remand by the Board of Veterans Appeals to the Regional Office to properly reconsider the claim. Though it is not required, a veteran has the continuing right to submit evidence to support their position. Combating improper denials based on VA's misapplication of its own rules, such as the presumption of soundness is a strong weapon when fighting for veterans. In light of VA's frequent errors involving pre-existing conditions, practitioners must be sure to have this weapon in their arsenal.

*John V. Tucker is a past-President of the St. Petersburg Bar Association and one of the founders of Tucker & Ludin, P.A. with headquarters in St. Petersburg. He has a nationwide practice representing individuals in ERISA disability and life claims and appeals, including veterans' claims for VA service-connected disability compensation. John can be reached at Tucker@TuckerDisability.com.*

1. 38 U.S.C. § 1111; see also 38 C.F.R. §3.304(b).
2. See 38 U.S.C. § 1111; *Wagner v. Principi*, 370 F.3d 1089, 1096 (Fed. Cir. 2004).
3. *Horn v. Shinseki*, 25 Vet. App. 231, 235 (2012)(quoting *Laposky v. Brown*, 4 Vet.App. 331, 334 (1993)).
4. *Horn*, 25 Vet. App. at 234.
5. *Id.*
6. *Id.*
7. See *Horn*, 25 Vet. App. at 235.
8. See 38 U.S.C. §1153; *Wagner*, 370 F.3d at 1096.
9. A attorney may assist pro bono, but attorneys are prohibited from charging fees before a veteran receives an adverse decision from VA. See 38 C.F.R. §§14.629, 14.636.

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# Accounting for Trust in Florida's Ethical Rules

By Caroline Johnson Levine



Anecdotally, many lawyers appear to favor language arts and tend not to enjoy mathematical calculations. Therefore, it can be an interesting conundrum to manage the practice of law in congruence<sup>1</sup> with the practice of a law firm's financial operations. Unfortunately, a lawyer's failure to manage funds in trust properly, appears to be the leading cause of disciplinary violations by The Florida Bar.

In *The Florida Bar v. Brutus*, 216 So. 3d 1286 (Fla. 2017), a lawyer recently found himself suspended from the practice of law for one year for his inattentive failure to follow court orders and proper trust accounting, related to a marital dissolution. Brutus was retained to represent a wife in a divorce case, where the only asset was a shared dwelling. Unfortunately, the husband had secured a \$100,000 equity loan against the residence and had squandered \$40,000 of the funds. Brutus attempted to preserve the marital funds from the shared asset and upon a motion to the trial court, the "presiding judge issued an order

directing that the remaining funds, approximately \$60,000, be deposited into Brutus's trust account."<sup>2</sup> In March, 2008, Brutus received \$60,000 from the husband and immediately "began disbursing the funds – he disbursed \$46,128.55 to the client, \$12,475 to himself in attorney fees, and the remainder to pay costs."<sup>3</sup>

Eighteen months later, the quarreling spouses authorized a settlement agreement, which required the wife to return \$12,000 to the husband. The \$12,000 repayment would not require a monetary disbursement, as the balance would be "applied as a credit toward the former husband's child support obligations."<sup>4</sup> Brutus was not required to replenish the trust account for any mishandling of the marital funds, rather, the trial court referred Brutus to The Florida Bar for his financial activities in this marital dissolution.

The Florida Bar required that an auditor investigate Brutus's trust account and found that the trust

account was not in compliance with The Bar's trust accounting rules. Importantly, "[T]he Bar's investigation revealed eight different occasions during [the dissolution] period when the balance in the trust account was less than the amount that should have been held just for this client."<sup>5</sup> Further negligence was discovered by Brutus's comingling his funds with client funds and the execution of three overdrafts from the trust account.

Subsequent to Brutus's disciplinary hearing, the referee found that Brutus was guilty of violating Bar Rule 4–3.4(c) for disobeying the court's order to maintain the funds in Brutus's trust account; Rule 5–1.1(a) for comingling client and attorney funds; and Rule 5–1.1(b) for utilizing trust funds for financial purposes unrelated to the specific requirement of the funds in trust. Importantly, the referee found that Brutus had "(1) no prior disciplinary record; (2) good character and reputation in the community; and (3) [had engaged in] interim rehabilitation."<sup>6</sup>

## MEDIATION

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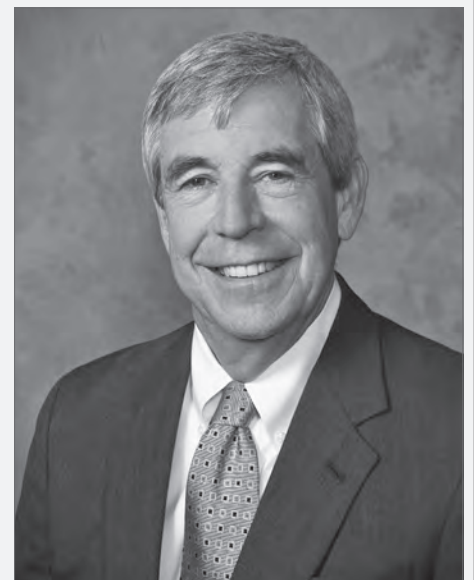
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The Florida Supreme Court will not frequently “second-guess the referee’s recommended discipline as long as it has a reasonable basis in existing case law and the Florida Standards for Imposing Lawyer Sanctions.”<sup>7</sup> However, the Florida Constitution vests the ultimate power to sanction attorneys in the Supreme Court.<sup>8</sup> While the Supreme Court did not find that Brutus was selfish or dishonest in his handling of the trust funds, the “Court has long held that the misuse of client funds ‘is one of the most serious offenses a lawyer can commit.’”<sup>9</sup> Importantly, in “imposing discipline for trust account violations, [the] Court’s case law suggests a clear distinction between cases where the lawyer’s conduct is deliberate or intentional and cases where the lawyer acts in a negligent or grossly negligent manner.”<sup>10</sup>

Unfortunately for Brutus, nine years after his negligent accounting activities in a divorce case, the Supreme Court imposed a severe

sanction because “even negligence in maintaining a trust account warrants a length[y] suspension requiring proof of rehabilitation.”<sup>11</sup> Frequent auditing of a firm’s trust account may be the best practice to avoid an excruciating sanction for ethical lawyers.

---

*Caroline Johnson Levine is the former Chair of The Florida Bar’s Committee on Professionalism and served on the Florida Supreme Court Commission on Professionalism.*

1. It is legally noteworthy that the term “congruence” operates as both a linguistic term and a mathematical equation: “1. the quality or state of agreeing or corresponding and 2. a relation between two numbers in which the numbers give the same remainder when divided by a given number.” See <http://www.thefreedictionary.com/congruency> (last visited October 1, 2017).

2. *Id.* at 1287.
3. *Id.*
4. *Id.* at 1288.
5. *Id.*
6. *Id.*
7. *Id.* at 1290; see also *The Florida Bar v. Temmer*, 753 So. 2d 555, 558 (Fla. 1999).
8. *Id.*; see also art. V, § 15, Fla. Const.; see also *The Florida Bar v. Anderson*, 538 So. 2d 852, 854 (Fla. 1989).
9. *Id.* quoting *The Florida Bar v. Weiss*, 586 So. 2d 1051, 1053 (1991).
10. *Id.*; see also *Weiss*, 586 So. 2d 1051.
11. *Id.* at 1291; see also *The Florida Bar v. Mason*, 826 So. 2d 985, 986–87 (Fla. 2002) (imposing a two year suspension for trust accounting errors absent intentional misappropriation); see also *The Florida Bar v. Neu*, 597 So. 2d 266, 266–67, 270 (Fla. 1992) (imposing a six month suspension for comingling client funds without dishonest or deceitful conduct).

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# Salute a Veteran on Veterans Day

By Ronald “Rocky” Roodhouse and Stacey-Rae Simcox



On the eleventh hour of the eleventh day of the eleventh month of 1918, fighting between Germany and the Allied nations came to an end. After over four years of fighting and the deaths of 16 million people, both military and civilian, the world concluded what it hoped would be “the war to end all wars.” On May 13, 1938, Congress passed a law making the 11th of November in each year a legal holiday: “a day to be dedicated to the cause of world peace and to be thereafter celebrated and known as ‘Armistice Day.’”

World peace proved to be an elusive aspiration. Within the first 15 years of observing Armistice Day, World War II and the Korean War had taken the lives of 460 thousand United States servicemembers. In 1954, President Dwight D. Eisenhower signed a law renaming Armistice Day to Veterans Day, “to pay appropriate homage to the veterans of all its wars who have contributed so much to the preservation of this [n]ation.”

Everyone who joins a military service understands they will be asked to sacrifice their personal aspirations and career goals, and possibly even their lives, for the higher calling of their country. As Veterans Day draws near, take time to consider what you can do in your local community to honor the service of those who gave so much.

As we contemplate the past year and the service Stetson University College of Law has provided for our local veterans, we are amazed at the passion of our student body to help our nation’s heroes.

Stetson Law’s Veterans Advocacy Clinic helped several underserved veterans this past year receive Department of Veterans Affairs (VA) benefits for disabilities they incurred during their service. I refer to disabled veterans as underserved in this area of law because federal statutes severely limit the right of veterans to hire attorneys to help them when applying for VA benefits.

Disabled veterans must often collect evidence that meets labyrinthine statutory and regulatory requirements without legal representation. Veterans Service Officers from organizations such as the American Legion and Disabled American Veterans may assist the veteran at no cost, but many cases are so complex that legal representation is essential. That is why having law students providing *pro bono* legal assistance is so important.

The students and their veteran clients are good reminders why many of us entered our profession – to make a positive difference in someone’s life. For many veteran clients, our clinic was the last stop before giving up hope that anyone would listen to their plight.

One local veteran is a single father suffering from post-traumatic stress disorder stemming from combat service in the Middle East. Our students’ arguments in a legal memorandum and at a hearing convinced a review officer to award the veteran almost \$100,000 in back pay and a monthly stipend into the future.

Another local veteran suffering from coronary artery disease due to Agent Orange exposure in Vietnam had been fighting for his benefits since 2008. Our students’ advocacy before the Board of Veterans’ Appeals (BVA) led to the VA granting his disability and awarding approximately \$92,000 in back payments.

A third local veteran is a young father who experienced chronic fatigue and pain after a tour of duty in the second Iraq war. Our students gathered enough medical evidence to persuade the BVA that he suffers from a severe form of Gulf War Veterans’ Medically Unexplained Illness that justifies 100% VA disability.

Stetson Law is not the only community partner reaching out to assist local veterans in need. A few months ago, Stetson Law, Bay Area Legal Services, Gulf Coast Legal Services, and the Bay Pines VA Medical Center announced a medical-legal partnership initiative to provide free civil legal services to veterans. Under this agreement, the VA provides the facilities along with logistical and administrative support, Stetson Law provides law student volunteers, and Lisa Brody, Cherilyn Hansen ’16, and Julie Ann Embler ’14 from Bay Area Legal Services oversee the legal assistance.

The response from our veteran community has been overwhelming. In its first nine months, this partnership has already assisted 461 veterans who would not have been able to afford representation through any other means. While many of these veterans sought only cursory legal information and other referrals, a whopping 266 veterans have been retained as clients and provided legal representation on non-criminal offenses to include family law, housing problems, consumer issues, bankruptcy, advanced medical directives, and licensing. If you are motivated to help veterans in your

field of law, Bay Area Legal Services could use more attorneys taking pro bono referrals in these veterans' cases.

If you wish to show appreciation for our heroes in your time away from your office, you can easily find opportunities outside the legal arena. Our partners at the MyVA Community Engagement Board developed an online Pinellas County Veteran & Military Resource Guide that lists scores of local organizations that serve our veterans in the local community. For example, you can assemble a group to serve meals or stock supplies at one of the several local homeless shelters that house numerous veterans. Or you can become involved with a charity that brings awareness to the terrifyingly high suicide rate amongst our veterans – 22 veterans a day take their own lives. Or you could simply take a moment to thank a veteran for his or her service. No matter how you choose to celebrate November 11<sup>th</sup>, please take a moment to let these veterans and servicemembers know that you understand what Veterans Day is all about.

*Professor Stacey-Rae Simcox is the Director of the Veterans Law Institute and Veterans Advocacy Clinic at Stetson University College of Law. Mr. Ronald "Rocky" Roodhouse (LL.M '17) is the Staff Attorney in the Veterans Advocacy Clinic. Professor Simcox and Mr. Roodhouse are veterans of the US Army and US Air Force respectively.*



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By William H. Walker

## Your Foundation's Social Calendar Revised

**"The best-laid plans of mice and men often go awry."<sup>1</sup>**

Many of those reading this line are familiar with this quote; everyone has experienced it. I don't know why Mr. Burns chose mice, I would think that ants or bees would make a better choice. The reason he chose men is probably based on his personal experience, as well as observation. In any event, one could add "organizations" to this list without affecting its truthfulness.

I mentioned our plans for a three-part monument on the campus of Stetson University College of Law, honoring past Liberty Bell Award recipients, Heroes of the St. Petersburg Bar Association, and outstanding students at Stetson in my article last month. We laid our plans as best we could to have the monument up and a nice event to celebrate it sometime this fall; however, it takes longer to plan, order, erect and engrave something than we imagined. And, of course, Hurricane Irma played a role as well. We will still have our monument, and our very nice event to celebrate its opening, but it will be in 2018 – and well worth the wait when we get there!

While on the subject of the Liberty Bell Award, we have been working to refine the system used for recognizing non-attorneys in our community who perform outstanding community service and contribute to our system of justice, particularly the greater public understanding of how it works and access to it. This highly prestigious award has been endorsed by the American Bar Association since 1964, and is traditionally awarded as a part of the ABA's Law Day celebration.

In our area, the Liberty Bell Award is a project of the St. Petersburg Bar

Foundation, and is awarded by the St. Petersburg Bar Association at our annual Law Day Celebration. There are two committees involved in the selection process. The first is the Liberty Bell Selection Committee, chaired by Judge Jack Helinger, and comprised of a group of judiciary members and lay persons. This Committee selects three persons from Pinellas County and forwards their names as nominees to the Liberty Bell Nomination Committee, chaired by Attorney Kelly Crabb, which makes the final selection.

Both committees are guided by the same set of criteria:

- Outstanding public service in keeping with the spirit of the Constitution;
- Influencing an appreciation for the law and the court system;
- Promoting service by others, contributing to our legal system and government;
- Improving the public's understanding of the rule of law and duties of citizenship; and
- Volunteering through community service in the promotion of our system of justice.

We are very grateful to the people who serve on these committees for their time and effort. Our community has many deserving people, yet only one person each year can be selected as the Liberty Bell Award Recipient. Much time and thoughtful consideration is given by everyone involved, as reflected in the special people who have received this award over the years.

As I also mentioned in my prior article, your Foundation Board is in the process of re-evaluating our activities

and projects, the purpose being to spend our resources, time, and effort on those things which will best accomplish our objectives, including the social opportunities we offer to our members. In line with this process, we have reached a decision to bring our annual Oktoberfest to a close, at least for the time being. Oktoberfest was originally created as a simple event, one designed primarily for colleagues to meet, share conversation and enjoy friends among the Bar. As time passed, however, it has become more elaborate and therefore expensive and time consuming for our Board and the volunteers who dedicate much time and effort to it. Attendance also has dropped off somewhat lately, due in large part to the encroachment of so many things occurring now in October. With the revised Rays Event we are planning and the Liberty Bell Event coming on line next fall, we are excited about our new social calendar, offering these new occasions for the enjoyment of our members.

I hope everyone has recovered from Hurricane Irma and is now getting ready for the Thanksgiving season and all the wonders that December brings. My best wishes to all for a happy and successful 2018.

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*William H. Walker has practiced law in St. Petersburg since 1973, focusing on corporate law and commercial litigation. He is a AV rated attorney by Martindale Hubble and has a "10" rating by AVVO. He is a past president of the St. Petersburg Bar Association and was a founding Trustee of the St. Petersburg Bar Foundation.*

1. Burns, Robert, *To a Mouse, on Turning Her Up In Her Nest With a Plough*, November 1985.

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# Sailing Through Your Law Practice

By Eric E. Ludin



## The Importance of a Properly Tied Knot

Sailing 30 miles off the coast of Florida in the Gulf of Mexico, my wife and I enjoyed a lovely sunset. We barbecued a freshly caught grouper and finished off a bottle of Pinot Noir. We were heading south and expected by sunrise to reach the sea buoy marking the entrance of the Northwest Channel leading to Key West.

The winds were calm and the seas were smooth. As the light turned to darkness, there were no other boats to be seen or light pollution to blot out the stars. It was truly a perfect evening. The calm conditions did not last long. By midnight, the 10 knot<sup>1</sup> winds picked up to 20 knots. The boat heeled onto its side and the rail was in the water. It was time to reduce sail.

Reducing sail is an important skill for a sailor since too much sail can be both uncomfortable and dangerous. But, a well-founded sailboat should

have no trouble handling strong winds after the sails are reefed.<sup>2</sup> I had done this many times. It required tethering my harness to the jack lines<sup>3</sup> and going up on deck. I would need to do it in the pitch black night with the deck violently heaving up and down in the waves. The first step to reducing sail is to release the halyard and lower the sail toward the boom.<sup>4</sup> The halyard, which is the line that lifts the sail up the mast,<sup>5</sup> is tied securely to a cleat<sup>6</sup> attached close to the deck.

Thankfully, the halyard released quickly and I was able to pull the sail down low enough to secure the lower part of the sail which made for a much calmer, more relaxing night sail. As I re-tied the halyard to the cleat, I thought of my father who, when I was just ten years old, emphasized the importance of learning important knots and being able to tie them properly with my eyes closed.

The ability to tie a knot correctly is critical to good seamanship. It can make the difference between losing or saving your boat and your life. A properly tied knot will hold under load and not slip. Some are designed to be releasable under load like the halyard or mainsheet holding a sail in a strong blow. Others, like the bowline, cannot release under load. The bowline has many purposes. Importantly, it is the knot you would use to make a loop to go around the chest of an unconscious sailor who fell overboard and needed to be lifted out of the water. Probably the most important knot anyone should know, the bowline should not slip nor should the loop tighten under stress.

Learning these knots taught me a lot about life and the practice of law. Just like tying a knot, what we do must be done properly or not done at all. Just like law, selecting which knot to use can be an art. But, once you have decided

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what is needed, you must tie the knot correctly with utmost attention to detail.

Sailing taught me that once you do select a course of action, you must have an escape plan if you later learn the original plan will not work. How often does a lawyer recommend filing a lawsuit, only to find that they guided their client into a rabbit's hole that they cannot escape? The right knot will not slide or come undone when you do not want it to, but may still be easy to reposition, adjust or untie. That is why learning to use the right knot for the job is so important.

When a lawyer files suit for a client or takes any action on their behalf, it is important to have a back-up plan. You should always consider whether your course of action can be repositioned, adjusted or untied. If not, you better have a sharp knife nearby!

On my boat, I keep a sharp knife in close reach on my belt or next to the companionway steps to cut a line that cannot be untied quickly. In my office, I never suggest a course of action without warning my client of the risks

and suggestions for how to respond if things do not go as planned.

I encourage you to sail through your law practice. Learn your knots and apply them to your career. Our clients are counting on us to throw them the line when they fall in the water. Make sure there is a loop on the end secured with a properly tied bowline. Tell them to put their arms through the loop so that the loop is around their chest. Practice the knot with your eyes closed. If you do, you will know with confidence that the loop will not tighten around their chest as you pull them to safety.

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*Eric E. Ludin is the founding partner of the Tucker & Ludin law firm located in St. Petersburg. He is a past President of the St. Petersburg Bar Association and past President of the St. Petersburg Bar Foundation. Mr. Ludin has an active litigation practice and is a Florida Supreme Court Certified Circuit Civil Mediator and Certified Mediator for the Middle District of Florida. He is an avid sailor spending much of his free time on his 35 foot Catalina Sailboat with his wife, Judy.*

1. Windspeed can be measured in knots not to be confused with the subject of this article. A knot when referencing speed, is actually a nautical mile on charts. There are 60 nautical miles in one degree of latitude. Not enough space here to explain why it isn't spelled "nauts," but the reason is a good one. Ask me at a bar luncheon.
2. Bringing in sail so less of it is exposed to the wind. This is similar to taking your foot off your cars gas pedal when rolling downhill.
3. Jacklines are straps that can be run from the bow to the stern. If a person is attached to them by a tether, it should prevent the embarrassment (and certain death) of falling overboard.
4. The boom is a horizontal pole perpendicular to the mast upon which the lower portion of the mainsail is attached. It is also the sound that is made when the boom swings across the boat striking the head of the person who didn't duck.
5. The mast is the tall vertical pole from which the sails are hung. Male sailors brag about the length of their masts. Those with short masts tend to focus on their sail handling skills.
6. A cleat is a T-shaped piece of metal or wood to which ropes are attached. Since they are often mounted on the deck, they are also known as toe breakers if you strike one walking barefoot on the boat. Because it is painful when you kick it, all sailing vessels travel with supplies of rum and other spirits to help relieve the pain.

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# Social Media Discovery in Injury Cases



By Jovita Kravitz

Many people believe that the photographs and comments they post on social media are not subject to discovery in litigation, especially if they have adjusted their settings to hide their posts from public view. That assumption is no longer true (at least in part). In a rising amount of jurisdictions throughout Florida and other states, social media content is discoverable. Notwithstanding, requests for social media data remain subject to traditional discovery rules and must be limited in relevance and scope. This article explores the ever-evolving law of electronic discovery in the context of social media sites and summarizes the current status of such law in Florida.

## Privacy, Federal, and Constitutional Arguments Are Routinely Overruled

According to an article in *Small Business Trends*, “The first recognizable social media site, Six Degrees, was created in 1997.”<sup>1</sup> In the past 20 years of social media, the law on discovery of such content has been slow to evolve, with widely divergent opinions throughout the country.

As recently as two years ago in Florida, objections to requests for any content from a party’s social media page were frequently sustained on the grounds of privacy, particularly if the party had set his or her settings to prevent anyone except approved friends from viewing such content. Likewise, successful arguments could be made that social media discovery violated the Stored Communications Act, 18 U.S.C. §§ 2701-2712, which “prevents ‘providers’ of communications services from divulging private communications to certain entities and/or individuals.”<sup>2</sup>

In 2015, however, Florida’s Fourth

District Court of Appeal in *Nucci v. Target* denied certiorari relief to a circuit court decision ordering the plaintiff in a personal injury case to disclose photographs she had posted within two years of incident.<sup>3</sup> The court found that irrelevance and overbreadth alone were not bases for certiorari jurisdiction. Additionally, the court held that the relevance of the photographs outweighed the plaintiff’s constitutional privacy interests, regardless of her privacy settings. Finally, the court rejected the plaintiff’s argument that the Stored Communications Act precluded discovery, finding that “[t]he act does not apply to individuals who use the communications services provided.”<sup>4</sup>

## Social Media Discovery Still Limited by Relevance, Context, and Scope

Notwithstanding the expanded scope of social media information that is now subject to discovery under *Nucci*, requests for social media data are still subject to traditional discovery rules including relevance and scope. Importantly, “[I]tigators are not entitled to carte blanche discovery of irrelevant material.”<sup>5</sup>

The court in *Nucci* specifically recognized that the photographs at issue were particularly relevant to the extent of the plaintiff’s injuries, where Target’s surveillance showed the plaintiff carrying shoulder bags and jugs of water. Thus, the defendant had a reason to request the plaintiff’s photographs based on specific evidence. Likewise, to be discoverable, the photographs had to be of the plaintiff.<sup>6</sup>

Additionally, the content requested was within the context of plaintiff’s claim for injuries resulting from the incident. Further, the scope of the requests at issue was limited to photographs

taken two years before the incident and following the incident. It did not encompass the wide swath of content sought by the defendants in *Root v. Balfour Beatty Construction*,<sup>7</sup> including without any temporal limitation, all posts, statuses, likes, and other content that did not relate to the plaintiff’s injuries.

While the body of law on the subject of social media discovery continues to evolve and adapt to new and ever-changing online platforms, Florida law on the issue remains consistent with the Rules of Civil Procedure and caselaw concerning non-electronic discovery. As with traditional discovery, requests for social media in personal injury litigation must be narrowly tailored to the subject and context of a litigant’s claims, and it must be properly limited in scope and time to the incident.

---

*Jovita Kravitz is a partner at Kravitz Law Group, P.A., representing personal injury and medical malpractice clients throughout the Tampa Bay area. Jovita also serves as Secretary of Community Law Program and Warehouse Arts District Association’s boards of directors. She may be reached at [jovita@kravitzlawgroup.com](mailto:jovita@kravitzlawgroup.com).*

1. Drew Hendricks, *Complete History of Social Media: Then And Now*, *SMALL BUSINESS TRENDS*, May 8, 2013.
2. *Nucci v. Target Corp.*, 162 So. 3d 146, 155 (Fla. 4th DCA 2015) (citing *Quon v. Arch Wireless Operating Co., Inc.*, 529 F.3d 892, 900 (9th Cir. 2008)).
3. *Nucci*, 162 So. 3d at 155.
4. *Id.*
5. *Life Care Ctrs. of Am. v. Reese*, 948 So. 2d 830, 832 (Fla. 5th DCA 2007) (quoting *Tanchel v. Shoemaker*, 928 So. 2d 440, 442 (Fla. 5th DCA 2006)).
6. *Nucci*, 162 So. 3d at 149.
7. 132 So. 3d 867 (Fla. 2d DCA 2014).



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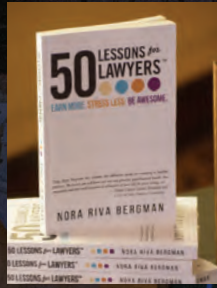
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# Legally Fit

## Wellness for the Legal Profession



By Rachel L. Drude

### BOOK REVIEW:

## 50 Lessons for Lawyers

*There are no magic wands, no hidden tricks and no secret handshakes that can bring you immediate success, but with time, energy and determination, you can get there.*

– Darren Rowse

I've never been someone who had "a case of the Mondays," but I've certainly had "a case of the Sundays" – it's like the workweek hasn't even started, yet I'm already feeling consumed by it. Nora Riva Bergman's book, *50 Lessons for Lawyers*,<sup>1</sup> nails these types of emotions on the head and provides practical, easy to apply solutions for lawyers to stress less and earn more by running healthy, balanced practices.

Have you ever read a self-improvement book or heard a "life coach" rattle on and thought, "What makes you so knowledgeable? What have you *actually* accomplished?" Bergman's book is the opposite of that. A Stetson Law Alumna and past Executive Director of the St. Petersburg Bar Association, Bergman practiced as an employment law attorney and certified mediator before launching a career as a law firm coach. She genuinely appreciates the challenges and frustrations lawyers experience every day, because she has experienced them first-hand.

*It's not enough to be busy. So are the ants.*

*The question is: What are we busy about?*

– Thomas A. Edison

What I like most about Bergman's book is that each lesson gets straight to the point in less than five pages, so there's nothing stopping even the busiest lawyer from applying a new lesson each week. Each lesson opens with a poignant quote (the book is absolutely teeming with them, and I've included a selection herein) and ends with a bulleted list to implement new good habits and eliminate bad ones. One of the overarching themes throughout the book is that

we are "mere bundles of habits."<sup>2</sup> Bergman asserts, in fact, that 90 percent of our behavior is based on our habits. Another spin on this theme is "TANSTATM!", short for, "There ain't no such thing as time management!" Rather, there is only "self-management."<sup>3</sup>

*The dread of doing a task uses up more time and energy than doing the task itself.*

– Rita Emmett

With Bergman's advice, I was able to alleviate Sunday stress by spending about one or two hours every Sunday planning the week ahead. For me, this now includes:

- Identifying critical deadlines and anticipating potential roadblocks<sup>4</sup> (e.g., re-arranging non-critical appointments, which otherwise would prevent me from completing an important task on time).
- Making a master "To Do List" for Monday through Friday – and actually keeping the list "do-able," meaning not more than three work tasks and three personal tasks per day.
- Blocking out "Do Not Disturb" time on my Outlook calendar to actually do the work.
- Exercising – Sunday used to be my "day off," but it's clear to me now that this is the most important day for me to break a sweat. Now I take Monday mornings off from the gym and get to the office about an hour earlier than usual.
- First thing Monday morning, sharing and coordinating my weekly plan with key support staff, incorporating the following statements:
  - If we do nothing else today, we must ...*
  - If we do nothing else tomorrow, we must ...*
  - The single most important thing we must do this week is ...*<sup>5</sup>
- Blocking out time for marketing, e.g., planning and scheduling social media posts or time to write blog articles.

About one-third of the book is dedicated to the importance of marketing, which Bergman compares to brushing your teeth (you should do it every day). Lesson 22 suggests doing

at least three specific things each day to market your firm. Simple examples include making a phone call to check in with a client “just because,” sending a lunch invitation via email to a referral source, writing a blog post, or updating social media.

To be successful in the 21<sup>st</sup> century, Bergman says, you must create a marketing mindset for the entire firm: “Let everyone know that every time they interact with someone, it’s an opportunity to market the firm.”<sup>6</sup> Bergman advocates encouraging even young associates to become expert marketers, and if you’re worried they may become so good, they leave and start their own firm, get over it. I once heard the same sentiment expressed as: “What if I spend the money to train them and they leave?” effectively countered by “But what if you don’t and they stay?”

Bergman further expounds upon personal branding, building relationships, creating an authentic, engaging, and powerful “elevator pitch,” and the art of expressing thanks.<sup>7</sup> She emphasizes the importance of insisting on only “A+ Players” in the orchestra composing your office,<sup>8</sup> while cautioning against insidious time and money “thieves,” also known as “D Clients.”<sup>9</sup> Yes, we all know these things, but are we really making them our truth? And that’s what’s at the heart of Bergman’s book: This is your life, live it! Don’t let it live you.

*Time = Life. Therefore, waste your time  
and waste your life, or master your time  
and master your life.*

– Alan Lakein

As part of this year’s wellness initiative, the St. Petersburg Bar Association is offering copies of Bergman’s book at an exclusive discounted member price of \$20. One of our firm’s partners circulated portions of the book for a firm-wide marketing discussion. We encourage you to do the same, or even start a weekly book club at your firm!

1. Nora Riva Bergman, 50 LESSONS FOR LAWYERS (2016).
2. See Lesson 4, p. 15 (citing Williams James, 19<sup>th</sup> Century Philosopher).
3. See Lesson 3, p. 10 (emphasis added).
4. See Lesson 7, p. 31.
5. *Id.* at p. 32.
6. See Lesson 21, p.87.
7. See Lessons 18-24, pp. 74-102.
8. See Lesson 43, p. 193.
9. See Lesson 25, p. 103

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# Substance Use and Mental Health; a Concern for the Law Profession

By Kent Runyon, MS



Recently, I was in a conversation with the St. Petersburg Bar Association Executive Director, Melissa Byers, and President Bill McQueen. We discussed the theme of wellness within the law profession and a book that I had been reading titled *The Addicted Lawyer*, by Brian Cuban, brother of Mark Cuban. We noted in our past experiences the tendency for attorneys to show almost a deliberate disinterest in discussing addiction, alcoholism, and substance abuse. In my experience, it begins with the glossy twinkle across the eyes, which is frequently followed by an abrupt disconnection with the conversation.

Knowing this to be true, I may have lost some readers at this point. For the rest of us, let's begin with the facts. A 2016 study published in the *Journal of Addiction Medicine* surveyed nearly **13,000 licensed and working attorneys**.<sup>1</sup>

## A few important results emerged from the study:

- 20.6% of the lawyers screened positive for hazardous, harmful, potentially alcohol-dependent drinking. This is a notably higher rate than found in other professions.
- 28% reported mild or higher levels of depression.
- There were also significant findings related to the use of stimulants and sedatives in the study.

The study also identified the two most likely barriers within the profession for someone who determined that they needed help:

- Not wanting others to know that they needed help.
- Concerns about privacy and confidentiality.

The data above presents the legal profession with a challenging situation to consider. It suggests that as a profession, it is more likely than many other professions to have colleagues suffering from some form of use disorder and/or depression. It also suggests that your colleagues are particularly unlikely to confide in a fellow colleague for help. To the contrary, they would be much more inclined to hide their problem and do everything in their power to keep it a secret, even if to the harm of themselves and their loved ones.

My goal by sharing this information is to expose the elephant in the law firm, the board room, judicial chambers, and our elected officials' offices. When you have a use disorder or are suffering with depression, it is impossible to be at your best for clients, community, and most certainly for your family. I have worked with hundreds of people struggling with addiction. One common theme is that the addiction is always in the driver's seat and addiction demands your attention. It is even more all encompassing when you have the additional burden of putting on the constant cover of professionalism

and hiding the problem from those closest to you.

I have seen extreme measures to hide addiction. One retired executive shared with me that he would take his wife to their members-only golf club for lunch. He would excuse himself to use the restroom, order his favorite alcoholic beverage at the bar out of sight of his spouse, and drink it quickly before returning to the table. He would repeat this a few times over the course of the meal, making excuses for each departure, all the while making his spouse believe he was still sober. I remember a middle-aged housewife, soccer mom of two, and church choir member who shared with me her out of control exploits, which included travelling out of state doctor shopping for opioids without her husband's knowledge. For her, it all started with a legitimate prescription for an opioid following a medical procedure.

I frequently hijack a famous quote by Ravi Zaccharias, a Christian author. I exchange his use of the word "sin" for the word addiction and I think it depicts it well.

"Addiction will take you farther than you want to go, keep you longer than you want to stay, and cost you more than you want to pay."

**So what can leaders in the law profession do to begin shaping a healthier future? Leaders of the profession can promote education to help identify a problem along with how to get help. Such as:**

- The National Council on Alcoholism and Drug Dependence (NCADD) says the following symptoms are associated with alcohol use disorder:
- Temporary blackouts or memory loss.
- Recurrent arguments or fights with family members or friends as well as irritability, depression, or mood swings.
- Continuing use of alcohol to relax, to cheer up, to sleep, to deal with problems, or to feel "normal."
- Headache, anxiety, insomnia, nausea, or other unpleasant symptoms when one stops drinking.
- Flushed skin and broken capillaries on the face; a husky voice; trembling hands; bloody or black/tarry stools or vomiting blood; chronic diarrhea.
- Drinking alone, in the mornings, or in secret.

**Signs of addiction according to NCADD to alcohol or drugs, include the following:**

- Loss of Control: Drinking or drugging more than a person wants to, for longer than they intended, or despite telling themselves that they wouldn't do it this time.
- Neglecting Other Activities: Spending less time on activities that used to be important (hanging out with

family and friends, exercising, pursuing hobbies, or other interests).

- Risk Taking: More likely to take serious risks in order to obtain one's drug of choice.
- Relationship Issues: Acting out against those closest to them; complaints from co-workers, supervisors, teachers, or classmates.
- Secrecy: Hiding the amount of drugs or alcohol consumed; unexplained injuries or accidents.
- Changing Appearance: Serious changes or deterioration in hygiene or physical appearance – lack of showering, slovenly appearance, unclean clothes.
- Family History: A family history of addiction can dramatically increase one's predisposition to substance abuse.
- Tolerance: Needing more of a substance to have the same reaction.
- Withdrawal: Symptoms such as: anxiety or jumpiness; shakiness or trembling; sweating, nausea and vomiting, insomnia, depression, irritability, fatigue, or loss of appetite and headaches.
- Continued Use Despite Negative Consequences: Despite causing problems (on the job, in relationships, for one's health), a person continues drinking and drugging.

**According to the Mayo Clinic even though depression may occur only once during a person's life, people most often have multiple episodes. At the time of these episodes, symptoms occur during much of the day, nearly every day and frequently include:**

- Feelings of sadness, tearfulness, emptiness, or hopelessness.
- Angry outbursts, irritability or frustration, even over small matters.
- Loss of interest or pleasure in most or all normal activities, such as sex, hobbies, or sports.
- Sleep disturbances, including insomnia or sleeping too much.
- Tiredness and lack of energy, so even small tasks take extra effort.
- Reduced appetite and weight loss or increased cravings for food and weight gain.
- Anxiety, agitation, or restlessness.
- Slowed thinking, speaking or body movements.
- Feelings of worthlessness or guilt, fixating on past failures, or self-blame.
- Trouble thinking, concentrating, making decisions, and remembering things.
- Frequent or recurrent thoughts of death, suicidal thoughts, suicide attempts or suicide.
- Unexplained physical problems, such as back pain or headaches.
- For many people with depression, symptoms usually are severe enough to cause noticeable problems in day-to-day activities, such as work, school, social activities or relationships with others. Some people may feel generally

miserable or unhappy without really knowing why.

#### **Find Treatment:**

- Do your research. There are many treatment providers with a wide variety of services, specialties, levels of care, modalities and amenities. Things to consider when selecting a provider;
  - How much experience do they have as a provider?
  - Are they accredited by an organization such as the Joint Commission or CARF?
  - See for yourself, go for a tour and ask lots of questions.
- <https://findtreatment.samhsa.gov/>

#### **Leaders can also:**

#### **Change the culture.**

- Support those who elect not to consume alcohol.
- Stop associating alcohol with routine business activities.
- Promote healthier alternatives within the profession's culture.
- Ask a colleague how they are doing if you recognize signs listed above.

#### **Help to remove the stigma of reaching out for help.**

- Reaching for help is a sign of strength, not weakness.
- Substance use disorders are not reflective of a moral failing. Good people struggle with addiction and depression. Highly intelligent people struggle with addiction and depression. Shame is killing people.

I applaud the plans of the St. Petersburg Bar Association to promote wellness and to begin unmasking some of the known issues affecting so many. I believe most change begins with recognition that change is needed. That initial step is happening right now, here with your Association. It takes courage to talk about what no one wants to talk about. Let's no longer ignore those who are suffering in silence among us. Let's all talk openly about the elephant in the profession!

---

*As the VP of Community Relations for Novus Medical located in New Port Richey, Kent is a noted public speaker and a frequent contributor for news media on issues related to substance use disorders. The mission of Novus Detox is to help others navigate obstacles vital to understanding sobriety. Kent has over 20 years of executive level experience developing and leading accredited social services programs including addiction, homelessness, poverty, trauma, and family reunification.*

1. Patrick K. Krill, Ryan Johnson, and Linda Albert, *The Prevalence of Substance Abuse and Other Mental Health Concerns Among Attorneys*, JOURNAL OF ADDICTION MEDICINE (FEB 2016), URL: [http://journals.lww.com/journaladdictionmedicine/Fulltext/2016/02000/The\\_Prevalence\\_of\\_Substance\\_Use\\_and\\_Other\\_Mental.8.aspx](http://journals.lww.com/journaladdictionmedicine/Fulltext/2016/02000/The_Prevalence_of_Substance_Use_and_Other_Mental.8.aspx)

# Community Law Program



is a non-profit corporation formed in 1989 by members of the St. Petersburg Bar Association concerned about the civil legal needs of low income residents of Southern Pinellas County, Florida. Over the years, CLP has recruited a panel of approximately 400 St. Petersburg area attorneys who provide free assistance to thousands of people in need of civil legal assistance each year. To volunteer for pro bono service, contact Community Law Program at 727-582-7480.



By Linda Friedman Ramirez

## Finding The Right Pro Bono Case Just Got Easier, And We Love It!

FloridaProBonoMatters.org is an exciting new tool that helps match volunteer attorneys to clients in need of pro bono assistance, and we are excited about the potential this has to improve and broaden our reach for case solicitations! This new website, funded by The Florida Bar Foundation, allows Community Law Program and other organizations to publicize cases, through a sophisticated, user friendly website. Whether you are an attorney who has worked with Community Law Program in the past or you want to know what kind of opportunities are available, this website is for you.

Do you want to help victims of Hurricane Irma? Veterans? The elderly? It's all there and organized by practice area. The website will also allow us to keep attorneys abreast of the newest cases and latest legal needs of clients that we anticipate due to Hurricane

Irma. These include controversies regarding home repair, consumer protection, landlord tenant, and other disaster-related related issues.

Although this website has been online for some months, Pinellas County was just "launched" on August 24, 2017. Representatives of the Community Law Program and other organizations in Pinellas and Hillsborough counties met for that purpose at the Tampa office of Carlton Fields P.A. and to also train managers and representatives on the 21<sup>st</sup> century marketing approach to pro bono.

What are the best features of the website? It is easy on the eyes and simple to navigate. It is designed for use on desktops, laptops, and smartphones. It is set up in such a way that an attorney can "shop" for pro bono cases, not only in their own county, but throughout the state of Florida. Social media platforms such as Twitter and Facebook have clearly influenced the design and the result is that it is attractive to young attorneys and user-friendly for those who were late to the digital age.

Each case listed on Florida Pro Bono Matters has been submitted by a qualified non profit organization. While the information displayed gives a volunteer attorney a sense of the case, it is only after the attorney contacts the organization that posted the summary that the specifics of the case are provided. The case description also advises whether mentoring and training are provided.

What is my favorite feature of this website? There are no time-consuming preliminaries for attorneys to review available cases. That means there is no user account and no password to remember! The case summaries that are posted are generic enough to protect client confidentiality, while having the widest possible reach for a potential volunteer attorney placement. Once an attorney finds a case of interest, there is a simple online form to submit name, email, and phone number. There is also something else you might never expect. An attorney can forward a case description to a colleague by text. Yes, that's right, by text!

Probably the best feature of this website is that FloridaProBonoMatters.org allows organizations to recruit attorneys as the needs arise. Once a case is accepted for placement, qualified organizations such as the Community Law Program can publicize them. That means there is no lag time in trying to recruit an attorney. This is particularly helpful to the Community Law Program as we seek to recruit attorneys for more time sensitive matters such as eviction cases and family law disputes.

Want to try it out, but feel unsure? Contact me at 727-582-7837 or [LRamirez@lawprogram.org](mailto:LRamirez@lawprogram.org) and I will be happy to walk you through it. I know you will love it too!

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*Linda Friedman Ramirez, Esq. is the Pro Bono Manager at the Community Law Program. She was previously in private practice, emphasizing criminal defense.*

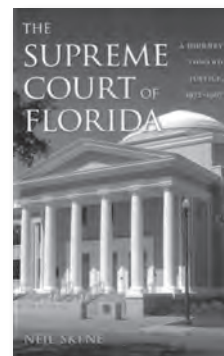


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## BOOK RECOMMENDATION

# ***The Supreme Court of Florida – A Journey Toward Justice, 1972-1987***

By Charles M. Samaha



*The Supreme Court of Florida – A Journey Toward Justice, 1972-1987* was favorably reviewed in *The Florida Bar News* (August 15, 2017) and in *The Florida Bar Journal* (September/October 2017) and is recommended, especially for its numerous Pinellas County connections.

Neil Skene, an attorney and former reporter for *The St. Petersburg Times* wrote this engaging monograph. Skene opens with the 1975 investiture of Joseph Hatchett, the first African American to sit on the Florida Supreme Court and who was raised in a segregated neighborhood in Clearwater.

In 1974, when Chief Justice Carlton resigned, Governor Askew appointed Judge Ben Overton, from St. Petersburg, as his replacement using the new merit-selection process. Justice Overton restored credibility during the court's dark days. In 1975, when Justice Dekle resigned, Governor Askew appointed

Alan Sundberg from St. Petersburg in his stead. Skene refers to Overton and Sundberg as the “four horsemen of the reformation,” with the other two horsemen being Arthur England from Miami and Joseph Hatchett. Skene details biographic accounts of all of them.

Other Pinellas County notables mentioned throughout the tome are Judge Paul Roney, State Attorney James T. Russell, Public Defender Robert Jagger, Congressman William “Bill” C. Cramer, Judge David Patterson, Judge Robert “Bob” Shingler, and Richard “Dick” Earle, who was also one of the driving forces in the court's reformation.

As chairman of the Judicial Qualifications Committee (JQC), Dick's committee brought charges against three sitting Florida Supreme Court justices, while another (Dekle) resigned. I had the pleasure of interviewing Dick in 1998 and even though 25 years had

passed since his involvement, he still had a serious and pensive demeanor when he touched upon the subject. Four vacancies on the court were created as a result of Dick's investigation – hence, the four horsemen of the reformation. I would like to have seen an in-depth discussion on the JQC's investigations which Skene could have nailed more forcibly in his text – but, a minor squabble.

Skene discusses around 300 cases that the court decided, including family law, constitutional rights, public records, family tort, sovereign immunity, and death penalty cases. He writes like a well-oiled journalist, yet the text is scholarly without the dryness. The book should appeal to lawyers and to non-lawyers, which bespeaks its first-rate quality. The University Press of Florida has published another winner.

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Gina Pellegrino

# These Diamonds Were Not Forever – Tiffany Is Awarded Over \$19 Million In Trademark Infringement Suit Against Costco

By David Roy Ellis



Recently, a federal judge in New York awarded the luxury jeweler Tiffany & Company (Tiffany) over \$19 million in damages from the big box retailer Costco Wholesale Corporation (Costco) for illegally selling counterfeit diamond engagement rings bearing the Tiffany name.<sup>1</sup>

The judge, Laura Taylor Swain, ruled that Tiffany was entitled to \$11 million, representing three times Costco's profits from selling counterfeit rings, plus \$8.25 million in punitive damages awarded by a jury in 2016. The judge also enjoined Costco from selling Tiffany branded products not made by Tiffany, unless it made clear that they were in a Tiffany "setting," "set," or "style."

Tiffany sued Costco on Valentine's Day in 2013, and the court ruled in Tiffany's favor more than two years later.<sup>2</sup> According to the judge, Costco sold counterfeit diamond engagement rings bearing the Tiffany name and confused relevant consumers by using the word "Tiffany" in display case signage. The judge rejected Costco's fair use defense in which it argued that it was using the term in good faith because it had not actually adopted the Tiffany mark but simply used the term as a generic description of a type of pronged diamond setting for the rings it sold.

Tiffany is the owner of almost 100 trademark registrations for "Tiffany" in the United States, first using the name a century and a half ago. Its complaint included claims for trademark infringement, dilution, counterfeiting, unfair competition, injury to business reputation, false and deceptive business practices, and false advertising under Federal and New York state law. Costco counterclaimed,

seeking a declaratory judgment that Tiffany's federal trademark registrations are invalid because they aim to exclude others from using the term "Tiffany" generically to describe a distinctive type of ring setting.

According to the judge, in order to succeed on its claim of trademark infringement, Tiffany needed to demonstrate that it owned a legally protectable trademark, and that Costco's use of Tiffany's mark was likely to cause consumer confusion. Costco did not challenge the validity of Tiffany's trademarks except to argue that the term "Tiffany" had become generic in the context of a specific style of pronged ring setting.

As to the issue of likelihood of confusion, the judge said that courts in the federal Second Circuit adhere to a set of factors first articulated in a case involving Polaroid Corporation. The Polaroid factors include the strength of the plaintiff's mark; the degree of similarity between the plaintiff's and defendant's marks; the proximity of the products or services in the marketplace; evidence of actual confusion; the defendant's good faith in adopting its own mark; the quality of the defendant's product; and the sophistication of the relevant population of consumers.<sup>3</sup>

As for the first factor, the judge found Tiffany's trademark very strong, quoting an earlier case attesting to Tiffany's fame: "Over its 170-year history, Tiffany has achieved great renown as a purveyor of high quality and luxury goods under the Tiffany marks, including jewelry, watches, and home items such as china, crystal, and clocks. The Tiffany marks are indisputably famous, and are a valuable asset owned by Tiffany."<sup>4</sup>

As for the similarity of the marks, the judge found them identical. With regard to the proximity of the products, the judge said this factor focuses on whether the two products compete with each other, in which case similar names are more likely to cause confusion. Here, the products were clearly in competition with each other, and were nearly identical in their "content."

In support of the fourth factor, actual customer confusion, Tiffany had submitted depositions from six customers alleging that they were confused by Costco's signage. Tiffany also submitted the results of a consumer confusion survey conducted by its expert, who found that a significant number of prospective purchasers of diamond engagement rings at Costco had likely been confused into believing that Tiffany was the source of the rings.

For the fifth factor, whether Costco had acted in good faith, the judge considered whether Costco adopted its mark with the intention of capitalizing on Tiffany's reputation and goodwill, thereby deceiving purchasers as to the source of the goods. The judge rejected Costco's argument that it had not adopted the Tiffany mark at all, but simply used the generic term "Tiffany" to describe a particular type of pronged diamond setting on the unbranded rings that it sold.

The sixth factor, the quality of the defendant's product, is primarily concerned with whether the plaintiff's reputation could be jeopardized by the fact that the defendant's product is of inferior quality. Tiffany had submitted evidence that it maintained comprehensive standards and specifications for diamond quality and jewelry manufacturing, as contrasted

with Costco's substandard products and quality control. This demonstrated the superior quality of Tiffany products and the likelihood that Tiffany's reputation could be compromised by Costco's sale of inferior rings under the Tiffany mark.

Regarding the seventh factor, the sophistication of the relevant consumer population, the judge said she had to decide whether ordinary prudent purchasers would likely be misled or confused as to the source of the product in question because of the defendant's conduct. The more sophisticated the purchaser and the greater the value of the product, the less likely he or she will be confused. The judge said that Tiffany's survey evidence showing that actual ring buyers were confused by Costco's signage supported its arguments here.

The judge went on to reject Costco's fair use defense based on her finding that Costco had failed to establish that

it acted in good faith when it adopted the Tiffany mark. She also dismissed Costco's claim that the Tiffany mark as applied to the relevant goods was generic, finding that a high percentage of the relevant public considered "Tiffany" to be a strong brand name and that its primary significance to consumers was as a source identifier of Tiffany, not merely a generic descriptive term for its products.

The judge concluded by ruling that Costco was liable for trademark infringement and dilution and that Tiffany was entitled to an accounting for profits, damages, and a jury trial. A year later, the jury awarded Tiffany \$5.5 million in damages, plus an additional \$8.25 million in punitive damages. The judge later reduced the damage award to \$3.7 million based on Costco's actual profits, but tripled that to \$11.1 million due to Costco's willful infringement. She then added in

the punitive damages, awarding Tiffany a total amount of \$19.4 million.

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*David Roy Ellis is a Largo attorney practicing trademarks, copyrights, patents, trade secrets, and intellectual property law; computer and cyberspace law; business, entertainment and arts law; and franchise, licensing and contract law. A graduate of M.I.T. and Harvard Law School, he is a registered patent attorney and Board Certified in Intellectual Property Law by The Florida Bar. He can be reached at ellislaw@alum.mit.edu.*

1. *Tiffany & Company v. COSTCO Wholesale Corp.*, 127 F.Supp.3d 241 (S.D.N.Y. 2015).
2. *Id.*
3. *Id.* at 247
4. *Id.* at 248 (citing *Tiffany N.J., Inc. v. eBay, Inc.*, 576 F.Supp.2d 463, 471 (S.D.N.Y. 2008)).

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# PFAWL



PFAWL members have enjoyed fantastic programs and events over the past few months! In early October, PFAWL partnered with the Tampa Bay Chapter of the Federal Bar Association in commissioning the Joint CLE Program: Immigration Law for the Non-Immigration Practitioner. PFAWL would like to thank our speaker panel of Adriana Dinis and Kathlyn Mackovjack of the Immigration Law Group of Florida, P.A. and Maria del Carmen Ramos of Shumaker, Loop & Kendrick, LLP for their time and informative program! PFAWL would also like to thank the Platinum Sponsor of the CLE: **MileMark Media**. Thank you for your support!



PFAWL members also enjoyed networking and fantastic food at PFAWL's member appreciation event, the Annual Shrimp Boil in October! Many thanks to Elise Winters for hosting the wonderful event. PFAWL would like to thank the following Gold Sponsors of the Shrimp Boil: **Compass Land & Title, LLC, Jenny Martin Insurance Agent of State Farm** and **Elise K. Winters, P.A.** Thank you for your support!

Thank you to all who donated

to PFAWL's October Clothing Drive, benefiting Dress for Success Tampa Bay and St. Petersburg Free Clinic! Your support is appreciated!

Mark your calendar for the **PFAWL Paddleboarding CLE on November 4, 2017** and the **PFAWL Holiday Party on December 5, 2017** at the Clearwater Yacht Club! Check out our website to learn more [www.pfawl.org](http://www.pfawl.org).

Don't miss these great events – Join Now! If you would like to join PFAWL or renew your membership, please visit [www.fawl.org/](http://www.fawl.org/). For membership inquiries, please contact Megan Hurchalla at [pfawlmembershipdirector@gmail.com](mailto:pfawlmembershipdirector@gmail.com).



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# Evelyn Flathmann Kuttler – A Trailblazer

## 50 Year Member Profile

By Charles M. Samaha

In October 2017, Evelyn Flathmann Kuttler celebrated her 50th year as a member of The Florida Bar.

In 1942, Evelyn was born in Brooklyn to Edward and Erna Flathmann. Erna emigrated with her parents from Germany at the age of 8 and became a pioneering chiropractor at the age of 20 when the practice in New York was not accepted. Edward was an innovative air conditioning engineer. In 1939, Erna's parents moved to John's Pass at Treasure Island and bought Plantation Cottages. Evelyn and her parents joined them in 1944. Evelyn grew up helping with the family business until she went to Florida State University in 1960. Her parents retired from the business in 1969.

Evelyn spent her first two years of education in a small private school known as Sunny Hours Beach School, which was near the TradeWinds Resort on St. Pete Beach. The children rode horses on the beach, sailed prams, and did woodworking. For third grade she switched to Gulf Beaches Elementary School, which had just opened. She was also in the first class of students at Tyrone Junior High School for 9th grade. In 1960, Evelyn graduated from Boca Ciega High in the top 10% of her class.

Evelyn seriously studied ballet for ten years, but decided to attend Florida State University's School of Education over a professional career in ballet. However, she put her skills to use as she performed in FSU's Flying High Circus. In December 1963, she graduated with honors and married Carl Kuttler, Jr.

In January 1964, she began teaching in the Pinellas County public school system and supported Carl as he attended Stetson College of Law.



Carl encouraged Evelyn to further her education and to apply to Stetson in the summer of 1964. She was one of two women in the freshman class of 140 students. She was first in her class at the end of her first year and was second in her graduating class of 42 students in May 1967. She received the Overseers Scholarship each year due to her excellent academics, which allowed both her and Carl to attend simultaneously.

When Evelyn became pregnant during law school with their first child, Cindy, her fellow male students threw her a baby shower on campus and presented her with a gift certificate. However, a couple of her professors were not as accepting and made it known to Evelyn that a "woman's place was in the home." The St. Petersburg Times ran a human-interest story which mentioned her pregnancy during law school and the Times received several letters to the editor that echoed her professor's sentiments.

Evelyn was pregnant with their son, Carl III, when she took The Florida Bar

examination in the summer of 1967. She was one of the four best scorers on the exam and in the fall of 1967 she was asked to give the speech on behalf of the inductees at the investiture ceremony at the Second District Court of Appeal in Lakeland while pregnant.

Evelyn then assumed Carl's estate planning practice and he returned full-time to education. Carl's experienced paralegal, Joanna Storer, continued with Evelyn for the next thirty years. Joanna had a daughter the same age as Cindy and their children were often together as they worked from the home offices. Evelyn made house calls to clients' homes and sometimes took her children with her, including Erika, who was born in 1972. Some clients initially thought Evelyn was the secretary, but were happy with her as their female attorney.

She continued as a solo practitioner until 1977, when she and Joanna joined Harris, Barrett, Mann & Dew, P.A. Her focus remained estate planning. She enjoyed being in a full-service firm, which was the oldest in St. Petersburg. John Dew, the son of one of the founders, was instrumental in recruiting Evelyn. In 1982, Evelyn became a partner, which made her one of the first women partners in a large law firm in St. Petersburg. In 1999, the firm began to downsize, yet Evelyn continues to guide the firm with its 100 plus years of integrity and compassionate legal services. She has done so despite Carl's divorcing her in 2010 and the tragic suicide of their son, Carl III, six months thereafter. The pioneering spirit of Evelyn's mother and Evelyn's strong faith have guided her through the heartrending times, along with the support of John Dew and John Lavery, who are now of counsel to the firm.

Evelyn's most recent paralegal, Tiffany Cerniglio, joined the firm in 2003 and has since graduated from law school with honors and has been practicing with Evelyn full-time since April 2016. While Evelyn has no intention to retire any time soon, they are both preparing for Tiffany to lead the firm into its second century.

In 1977, the governor appointed Evelyn to the District V Nursing Home Ombudsman Committee. In 1978, Evelyn became the first woman member of the Board of Trustees of Asbury Theological Seminary in Wilmore, Kentucky, and she was involved in establishing a satellite campus in Orlando. She was also one of the founding members of the St. Petersburg Chapter of the National Christian Legal Society and a member of the Board of Directors for several local Christian ministries. She was an adjunct professor of Wills and Estate Planning at Stetson and served on the Ethics Committee of The Florida Bar.

Evelyn credits her current husband, Andy Hines, her parents, her former husband, Carl, her daughter Cindy Mercer, her daughter Erika, and her husband Andy Shannon and their children, Sean and Carmen, her legal colleagues, clients, friends, and her extended family members for giving her fifty years of joy and support.

She enjoys the practice of law and loves serving her clients through all stages of their lives. The 'teacher' in her relishes educating them about their estate plans.

Her daughter, Cindy, graduated from Stetson Law School and became a Florida Bar member 25 years after Evelyn and manages a foundation dedicated to conservation. Her youngest daughter, Erika, enjoys being a stay at home mother.

Hats off to you, Evelyn Kuttler, for being a trailblazer and for being a wonderful model for all attorneys!

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# Young Lawyers' Corner



by Lauren Christ Rubenstein

## Back to the Beginning

This fall I had the privilege of attending the Swearing In Ceremony for 12 new members of The Florida Bar. As part of the ceremony, all attorneys stand up and take the "Oath of Admission" with the new candidates. It was a wonderful experience, led by Chief Judge Rondolino, that brought me back to when I first became an attorney.

I think it is a valuable exercise, whether a relatively new attorney or an established attorney, to think back to the first time you took the Oath of Admission to The Florida Bar. What were your dreams, goals, and aspirations? What has your path as an attorney looked like so far? Have you abided by the promises you made when you took that Oath?

Chief Judge Rondolino took his time to go through the Oath and emphasize to the new attorneys the different promises they were making when they raised their right hand and repeated after him. One of the things that really hit me this time, in the wake of current

events, was the phrase "I will maintain the respect due to courts of justice and judicial officers." It is our duty as attorneys to make sure that we not only respect the judicial system, but in doing so, help maintain the respect that others have for the system. If we, as officers of the court, don't defend and protect the judicial system, why would anyone else? If we don't speak highly of the judiciary, and show them respect in both our words and actions, how can we expect others to do so? In a time where it almost seems unpopular to support the system, we need to remember that this is something we swore to do. I am willing to bet that when most of us became attorneys, our hearts were full of pride and respect for the branch of government we were becoming a part of. Take a minute and reflect - make sure you are continuing to fulfill that promise you made to respect the courts of justice and the judicial officers. Not just when you are in the courtroom, but when talking to friends and neighbors, when discussing a new case with a

client, and perhaps most importantly, when a case doesn't go your way.

I encourage all attorneys, both new and old, to go back and read the Oath of Admission to The Florida Bar. Every phrase is important, each word so meaningful. Some things will mean more now than they did when you first took that oath. You will have a better understanding of what was meant by the language and promises contained therein. Other phrases will take you back to the basics and remind you of the simple, but essential principles that should guide you and your practice of law.

---

*Lauren Christ Rubenstein is a Partner at the Law Offices of James W. Denhardt. She focuses on civil litigation, trust and probate law, and municipal law. She is currently appointed as the Assistant City Attorney for Pinellas Park, the Assistant Town Attorney for Redington Shores, and serves as an alternate Special Magistrate for the City of Seminole and North Redington Beach.*

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# Bar and Court NEWS

## ASSOCIATION OF LEGAL ADMINISTRATORS – SUNCOAST CHAPTER

The ALA Suncoast Chapter general membership meetings are usually held on the 2nd Wednesday or Thursday of the month in Tampa or St. Petersburg/Clearwater as indicated. For more information please contact Meetings/Education Chair, Terri Johnson [terri@mcintyrefirm.com](mailto:terri@mcintyrefirm.com) or visit the ALA website at <http://alasancoast.org/> for more information.

**Date:** Thursday, November 8, 2017  
**Time:** 11:45 a.m. – 1:15 p.m.  
**Speaker:** Nathan J. Paulich, Esq., Thompson, Sizemore, Gonzalez & Hearing, P.A.  
**Program:** Sensitivity/Harrasment in the Workplace  
**Location:** Season's 52  
204 N. Westshore Blvd.  
Tampa, FL 33609

**Date:** Thursday, December 14, 2017  
**Time:** 11:45 a.m. – 1:15 p.m.  
**Program:** Holiday Luncheon  
**Location:** The Rusty Pelican  
2425 N. Rocky Point Dr.  
Tampa, FL 33607

## PINELLAS COUNTY CHAPTER OF THE FLORIDA ASSOCIATION FOR WOMEN LAWYERS

PFAWL meets on the 1<sup>st</sup> Tuesday of each month at 6:00 p.m. at different locations each month unless otherwise noted. No RSVP is needed. For more information on events contact Membership Socials Director, Nicole Bell, at [pfaw-socialdirector@gmail.com](mailto:pfaw-socialdirector@gmail.com). For membership inquires, contact Membership Director, Megan Hurchalla, at [pfawmembership-director@gmail.com](mailto:pfawmembership-director@gmail.com). The next social is:

**Date:** Saturday, November 4, 2017  
**Time:** 9:00 a.m.  
**Program:** Paddleboarding CLE  
**Location:** Crisp Park  
37th Ave. NE. and Poplar St. NE.  
St. Petersburg, Florida 33704

**Date:** Tuesday, December 5, 2017  
**Time:** 6:00 – 8:00 p.m.  
**Location:** Clearwater Yacht Club  
830 Bayway Blvd.  
Clearwater, FL 33767

## PINELLAS ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

The PACDL meets the third Thursday of each month at the Pinellas County Justice Center from 12:00 to 1:00 p.m. Lunch is provided for members. Meetings are open to members and those who come to join. We usually have one hour of CLE. Memberships are also available for law students. For more information on PACDL please contact Chris Westmoreland, PACDL President at [chrisw@thewestmorelandlawfirm.com](mailto:chrisw@thewestmorelandlawfirm.com) or (727) 725-5297. Visit: [PACDL.com](http://PACDL.com) for more information.

## PINELLAS COUNTY CHAPTER OF THE PARALEGAL ASSOCIATION OF FLORIDA

Monthly meetings for the Pinellas County Chapter of PAF, Inc. are on the second Tuesday of each month. Paralegals, student paralegals, non-members and attorneys are always welcome. To make reservations, please email Ellie Glenn, Vice President at [pafpinellas@gmail.com](mailto:pafpinellas@gmail.com). For more information on the local chapter contact Kaila Glaros, President at [kglarospaf@gmail.com](mailto:kglarospaf@gmail.com) or visit the Paralegal Association of Florida website at <http://pinellas.pafinc.org>.

**Date:** Tuesday, November 14, 2017  
**Time:** 5:30 p.m. Networking – 6:00 p.m. Dinner  
**Speaker:** Jaime A. Girgenti, Esq., Koch & Hoffman  
**Topic:** Ethics – Family Law  
**Location:** Crafted Plate at the Marriott  
12600 Roosevelt Blvd. N.  
St. Petersburg, FL 33716

**Date:** Tuesday, December 5, 2017  
**Time:** 5:30 p.m. – 7:30 p.m.  
**Location:** Sheraton Sand Key Resort,  
Clearwater Beach, FL 33767  
**Program:** Seventh Annual Holiday Charity Event  
benefitting Community Law Program  
**Location:** Crafted Plate at the Marriott  
12600 Roosevelt Blvd. N.  
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## ST. PETERSBURG ASSOCIATION OF LEGAL SUPPORT SPECIALISTS (SPALSS):

Please join us for dinner and camaraderie at our next meeting. For more information about the meetings or SPALSS, or to RSVP, please contact Debora Shirley, President, at (727) 417-0524.

# The 2<sup>nd</sup> Annual Law Firm 500 Award Honorees Includes Two St. Petersburg Bar Members



On Tuesday, September 19 2017, the Law Firm 500 Award committee announced the list of 2017 Honorees. Two of our St. Petersburg Bar Association members, *Legacy Protection Lawyers* and *The Fleming Law Group*, were included on its 2nd Annual Law Firm 500 Honorees List. Legacy Protection Lawyers is owned by St. Petersburg Bar President Bill McQueen and The Fleming Law Group is owned by past President Lucas Fleming.



SPBA past President Lucas Fleming and President Bill McQueen

among the nation's fastest growing law firms based on their 2014-2017 revenues.

The Law Firm 500 Conference & Awards Gala was held on October 19-21, 2017 at the Boca Raton Resort & Club in FL. The Award Ceremony began with a powerful keynote presentation by pioneer entrepreneur, NY Times Best-Selling Author, and investor on ABC's Shark Tank, Daymond John. Daymond translated his \$6 billion business success into success for law firms.

The published list recognizes law firms that have achieved significant growth in revenues. Each nominee was verified by the outside accounting firm, Kahuna Accounting. The award honorees are chosen as a beacon of light for the legal industry demonstrating innovation, operational excellence, and a commitment to client service.

The 2017 Law Firm 500 Award Honorees list showcases the top two-hundred fastest growing law firms in the United States. *Legacy Protection Lawyers* and *The Fleming Law Group* respectively ranked #12 (667% growth rate) and #168 (48% growth rate)

We invite you to congratulate and follow the progress of these law firms and their industry peers for their dedication to success and innovation. The full list of Law Firm 500 Award Honorees can be found at <https://lawfirm500.com/2017-award-honorees/>.

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20<sup>th</sup> Annual  
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Thursday, November 2, 2016  
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